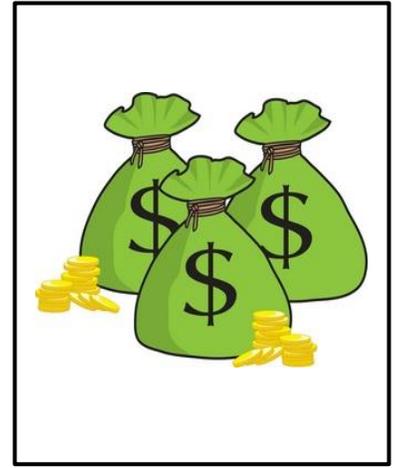


KREKELER LAW REPORT



AUGUST 2017

VOL. 3 NO. 7

THE PROS AND CONS OF A 30-YEAR MORTGAGE

My daughter and her husband are purchasing their first home this month. As first time homebuyers, they had questions and concerns regarding their mortgage financing.

I often discuss the pros and cons of a 30-year mortgage loan with my clients. They are often shocked by the amount of interest they will pay over a span of 30 years. My suggestion, though, is to get the longest possible amortization.

The longer the amortization, the lower the required payment. This does not mean that you should make the minimum required payment. Virtually all home mortgage loans allow pre-payment without penalty.

What it does mean is that most homeowners can have the benefits of a long amortization and still pay the loan off over a much shorter span of time. Having the lower required payment can help when financial problems arise. Whether it be a layoff or a permanent job loss, a health issue, or even just a major car repair, the lower required payment can help avoid a default.

We deal with many loans which are already in default, and sometimes assist clients in obtaining a mortgage

loan modification. We've seen modifications re-amortize the debt over 40 years. This provides an even lower payment.

Unless the borrower is certain that future events cannot jeopardize the ability to pay, and so long as the borrower has the ability to prepay without penalty, the longest possible amortization period is best.

The only disadvantage to a 30-year mortgage loan is that the borrower might have a slightly higher interest rate. Even this can be avoided, though, by having a shorter term loan with a 30 year amortization.

If you have questions about mortgage loan terms, or anything related to financial problems, contact us for a conversation.

In This Issue:

- *Pros and Cons of a 30-Year Mortgage*
- *Distressed Retailers May Provide Fall and Holiday Bargains*
- *Reader's Question: Protection of IRA*
- *Check Your Airbags*
- *Student Loans and Chapter 13*
- *Where's Krekeler?*
- *What is an Auto Accident Worth?*

DISTRESSED RETAILERS



MAY PROVIDE FALL and HOLIDAY BARGAINS

The number of U.S. retailers in the lowest and distressed tier of the Moodies' Investment Service rating spectrum has tripled and is now the highest percentage it has been since the 2008 recession. The list includes Sears Holdings, Nieman Marcus Group, and Claire's Stores.

What does this mean for you? Probably more competition and lower prices. As these lower-rated retailers feel more stress, they will likely push promotional pricing. This provides consumers with sale offers. But just as importantly, these sales in turn force healthier retailers to decide whether to compete in such pricing or give up sales in order to preserve their profit margins.

Under-stress retailers who may liquidate and go out of business nearly always have sales in such events. As we head into the back-to-school time of year, followed closely by the holidays, consumers may have plenty of bargain hunting to engage in.



READER'S QUESTION

"I have heard that IRA accounts are protected in bankruptcy. My account, though, is a rollover from my former employer's pension plan.

How can I protect it if I file bankruptcy?"

Answer: Rollover IRAs, like other IRAs, are exempt and should be protected from the claims of creditors or the bankruptcy trustee. The U.S. Supreme Court addressed this issue in a 2005 case, *Rousey v. Jacoway*. The Court noted that the Internal Revenue Service encourages rollovers by making those transfers non-taxable. The Court also found that IRAs are similar to other plans which provide income as a substitute for wages or other compensation. As a result, the Court held that IRAs can be exempted under the bankruptcy exemptions available under federal law.

Not all IRAs are exempt, though. Inherited IRAs might not be exempt, and the standard for all IRA accounts could be different under state law. It is therefore best to have your accounts reviewed by an expert before getting too far along in your bankruptcy planning.

CHECK YOUR AIRBAGS

Takata Corporation recently filed for Chapter 11 bankruptcy protection. You may never have heard of Takata before, but chances are you or someone you know has a Takata product nearby. Takata supplies airbags to different car companies, including Ford, Honda, Toyota and Chrysler.

In some model years from around 2002-2015, Takata airbags had a propellant that could cause metal shreds to launch at drivers and passengers if the airbag deploys. High heat and humidity, as well as the age of the airbag, could determine how dangerous the airbag is.

The National Highway Traffic Safety Administration set up an easy way to search for recalls, just using your car's vehicle identification number, or VIN. Plug it in at <https://vinrcl.safercar.gov/vin/> and see if there are any open recalls.

Takata's bankruptcy has a new twist to it. People who have been hurt by its air bags are being represented by an official committee. This committee is different than the committee representing the car companies and other vendors and suppliers. The injured drivers committee will have money to investigate Takata and seek a large pool of money for injured people.

Estimates are that there may be 69 Million vehicles with defective or questionable airbags. Check your car to see if you need to take it in for a free recall, and be aware of possible funds to pay injured drivers who were hurt by bad Takata airbags. We will be monitoring the Takata bankruptcy for our clients. Please let us know if you have any questions.



STUDENT LOANS



and CHAPTER 13

Student loans are a major problem in our country. We have discussed student loan issues a number of times in this newsletter. Today we'll discuss the problems and possible solutions of student loans and Chapter 13 cases.

Student loans are generally not dischargeable in bankruptcy. Most debtors who file Chapter 13 pay very little upon their unsecured debt. Usually that debt is discharged upon completion of payments under the 3-5 year Chapter 13 plan. But student loans are almost never dischargeable. This means that the interest has continued to accrue during the life of the Chapter 13 case. As a result, many Chapter 13 debtors owe much more student loan debt upon completion of their plan than they did before the case was filed.

Typically, all unsecured debts must be treated the same. This means they each much receive the same percentage of repayment, and this rule prevents Chapter 13 debtors from paying more upon the student loan without paying the other unsecured creditors at that same rate.

But there are solutions. One method is to treat the student loan debt as a long-term payment. Most student loans qualify for this treatment, as they are repaid over an extended period of time, usually much longer than the 3-5 year Chapter 13 plan.

By using this special statutory treatment available only for long-term debts, a Chapter 13 debtor can continue to make the regular student loan payments while still paying little or nothing upon the other unsecured debts. Every Chapter 13 debtor with student loans should make sure that his or her attorney is considering these options.

WHERE'S KREKELER ?

David Krekeler participated in the 2017 WILMIC (Wisconsin Lawyers Mutual Insurance Company) Summer Seminar. David's presentation was on debt collection and bankruptcy work:

- Ethical Issues in Collections
- What to Know Before You Sue
- Regulations of Debt Collection Activity (FDCPA and WCA)
- What to Know During Suit and Post-Judgment
- What Bankruptcy Impacts Collection Activity

If you would like to discuss any of these issues, or if your organization would like a speaker on these or related topics, please contact us.

The American Board of Certification, the premier certification organization for bankruptcy and creditors' rights attorneys, has published its 2017 Directory. Ryan Blay and David Krekeler are again certified as Consumer Bankruptcy and Business Bankruptcy specialists, respectively. We are the only law firm in Wisconsin with two Board Certified attorneys in Bankruptcy.

WHAT IS AN AUTO ACCIDENT WORTH?

We study auto accidents. We try to keep track of what awards juries make and what settlements are reached. The following is a fairly recent list of such awards and settlements.

<u>2011 Milwaukee red light violation</u> An uninsured motorist ran a red light and hit the plaintiff's vehicle causing neck, shoulder, and lower back injuries to Plaintiff.	\$45,869.31 after jury verdict	Net to client: \$30,273.74
<u>2013 SUV vs. Shopping Cart</u> The jury found the SUV was 60 percent negligent and the woman who slipped when the SUV hit her grocery cart to be 40 percent negligent.	\$78,717.88 after jury verdict	Net to client: \$51,953.80

KREKELER STROTHER, S.C.

ATTORNEYS AT LAW

We Help Quickly.

2901 W. Beltline Highway, Suite 301
Madison, WI 53713

Phone: 608/258-8555

Fax: 608/258-8299

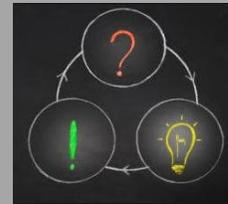
www.ks-lawfirm.com

WE SOLVE FINANCIAL PROBLEMS.

This is an advertisement for legal services. We have been designated by Congress as a debt relief agency and can help people file for relief under the Bankruptcy Code.

WE HELP QUICKLY.

Copyright © 2016 KREKELER LAW, All rights reserved.



Have a question? Idea for a future article?

If you ask for it – we will write it!

Contact Deanna at

dgajewski@ks-lawfirm.com

to Request, Share, or Unsubscribe.