What is a deficiency judgement? How can this be waived?

A **deficiency judgment** is a court order that holds a borrower personally liable for the remaining balance on a loan when the sale of the collateral (such as a foreclosed home) does not cover the full debt owed. This "deficiency" typically includes the unpaid principal, accrued interest, and costs related to the foreclosure process.

Once granted, a lender can use aggressive collection methods like **wage garnishment**, **bank account levies**, or placing **liens** on other property you own.

How a Deficiency Judgment Can Be Waived

A waiver is an agreement—often in writing—where the lender gives up their right to collect the remaining debt. It can be obtained through the following methods:

- **Short Sale Negotiation:** If you sell the home for less than the mortgage balance (a short sale), you can ask the lender to include a deficiency waiver in the approval letter.
- **Deed in Lieu of Foreclosure:** You voluntarily transfer the property title back to the lender to avoid foreclosure. While often satisfying the debt, you must ensure the agreement explicitly includes a written waiver of any deficiency.
- **Consent Foreclosure:** You agree not to contest the foreclosure process in court in exchange for the lender waiving their right to pursue you for the remaining debt.
- **State Law Protections:** Some states (such as **Alaska, California, Oregon, and Washington**) prohibit deficiency judgments after most residential foreclosures. Other states, like **Arizona**, restrict them for specific property sizes or types.
- **Bankruptcy:** Filing for **Chapter 7** or **Chapter 13** bankruptcy can discharge or restructure a deficiency judgment, making it legally uncollectible.
- **Fair Market Value Defense:** Some states require the deficiency to be calculated based on the property's fair market value rather than a low auction price; if you prove the value was higher, the deficiency may be eliminated.
-

Note on Tax Consequences: If a lender waives or forgives a debt, the IRS may treat the forgiven amount as taxable income, potentially resulting in a tax bill.

www.jpregroup.com www.elkrivercommunity.com

256.469.3099 jprealestate2014@yahoo.com