

IMPORTANT INFORMATION ABOUT HOMEOWNER'S ASSOCIATIONS

IF YOU HAVE ANY PROPERTIES THAT ARE SUBJECT
TO A HOMEOWNER'S ASSOCIATION: **READ THIS!**

If you currently own a home or rental property (whether it is already in foreclosure or not) and you have a homeowner's association (HOA), the association dues are your obligation until the home is sold to another person or a deed is transferred to a purchaser at the time of a foreclosure sale. It does not matter if you have moved out of the home, the dues are still owed by you until the property is sold to someone else. At that time, the new purchaser becomes obligated for future dues.

If you will be surrendering the home and allowing it to go to foreclosure, we can bankrupt any HOA dues that were owed up to the month in which your bankruptcy case is filed. However, homeowner's association dues are a bit like utility bills. The dues for each month (or quarter if paid quarterly) are a new debt owed each month. Thus, if the new debt is incurred for a month after your bankruptcy case is filed, it is a new post-petition debt that you will owe. The dues owed for months after your case is filed (up until the actual foreclosure sale of the property) will be your obligation. Homeowner's associations are currently facing hard times because of the economy and they will be quick to file a court lawsuit to collect these amounts if you do not keep them up to date. They will also add interest, late fees, lien fees, attorney fees and other costs permitted by the HOA documents up until the day that these newly owed amounts are paid. BE CAREFUL with the dues on any property that you still own when your bankruptcy case is filed.

If you will be keeping your real estate and continuing to make the payments on your mortgage, you must also keep up on all your homeowner's association dues. In this case, we cannot bankrupt the dues that you owe at the time the case is filed. These dues will be attached as a lien to your home and if you keep the home, you will eventually have to pay all of these dues (and all of the costs and fees that have been added). On the other hand, if you are surrendering the home, who cares if a lien is filed against the property ... the purchaser at the foreclosure sale will have to pay off the lien in this case (but remember that the HOA can still come after you for the dues incurred after filing up to the sale date).

A HINT: If you are surrendering a property, continue to live in it until as close to the actual foreclosure sale as possible. You will not be paying your mortgage, but you'll want to keep current on your HOA dues. If you think about it, this is cheap rent. If you have already moved out, remember that you still own the property until the sale occurs. After your bankruptcy is filed, rent the property to someone who can use a temporary home with cheap rent! BE SURE to fully inform them that the lease may be short term since they may need to move out quickly when the actual foreclosure sale occurs. Use the small rental amount to ensure that you get the HOA dues paid! Remember, of course, that any rent needs to be reported as income on your tax returns.