

# RENTING AFTER FILING A BANKRUPTCY

By Mark E. Henze

One of the questions that we commonly get is: Will I be able to find a rental residence / apartment after I have filed a bankruptcy case. Often, a bankruptcy debtor decides (and with good reason) to let their mortgage and residence go at the same time that they file their bankruptcy case. In other cases, the property was foreclosed on shortly before they filed their case and they will soon need to find a replacement residence. Still, in Chapter 13 cases, the Debtor may find that they can simply no longer afford the residence and mortgage that they were trying to save and eventually decide to give it up and allow it to be foreclosed. Will the bankruptcy filing or the foreclosure preclude them from finding a place to rent?

It is true that there are a number of apartment complexes that have a policy to deny leases to those who have recently had either a foreclosure or bankruptcy. However, these are normally the big corporate complexes such as Carmel Properties, Prudential, Aimco, etc. (with pools, a workout room, and other amenities) with more than 100 apartments in the development. However, even this is changing as these complexes realize how many people now have foreclosures and bankruptcies on their record. They are recognizing that the idea that a foreclosure or a bankruptcy indicates that you don't have the ability or character to pay for a lease is simply incorrect. Instead, they now tend to be more interested in any prior apartment evictions that you may have been through or if you show any bad credit since your foreclosure or bankruptcy was completed. Many landlords now understand that a foreclosure and/or a bankruptcy actually leaves you in a better position to pay your rent.

Even if the big complexes aren't willing to consider you, most of the owners of smaller complexes, single building apartments, and rental condos and townhouses will gladly consider you. You may be better off looking on Craig's List or in the Classifieds than going to a large complex. Still, be careful. There are still a lot of rental fraud schemes out there, mostly dealing with parties who are renting out properties that they really don't own (often in the process of foreclosure) or who are offering legally suspect "rent to own" contracts. If you are considering a "rent to own" offer, BE SURE to have the contract reviewed by an attorney!

## HERE ARE SOME THINGS THAT MAY HELP:

1. **Explain the situation ahead of time.** Tell the truth. Explain that you've been through a foreclosure or bankruptcy and ask what the owner's policy is before you pay money to have a credit check done. Better yet, find a complex that doesn't insist on a credit check. The smaller the complex, the fewer owners, the less likely that they'll have a problem with your credit after a bankruptcy.

2. **If necessary, get a co-signer.** WE NEVER SUGGEST getting a co-signer on a lease unless they will also be occupying the property with you. This is a great way to lose friends and make enemies. However, it may be the only way to get that luxurious apartment complex or bachelor pad that you really don't need.
3. **Don't let additional bad credit get on your record.** As I mentioned before, there is nothing that can hurt you more than having a credit record that shows new bad credit even after you've been through a foreclosure and/or bankruptcy.
4. **Use your new rental to help build new credit.** Most landlords (especially the small ones who don't check your credit) do not report your timely rental payments to the credit reporting companies. Unless the owner has hundreds of renters, it is difficult (and expensive) to become a member who is permitted to report to the credit reporting companies. In most cases, the only time your rental history gets on your credit report is if you are sued for eviction or you owe back rent that is sent to a collection company. But, at the same time, you don't want your good rental history to be wasted. A notation of good rental payments is very helpful to re-establishing credit.

One suggestion is to make your landlord aware of <http://www.rentalkharma.com> . This company allows landlords to sign up for free and will report good rental payments to TransUnion. This is the only one of the three (3) credit reporting companies that currently will show good rental payments. However, while the landlord can register for free, the tenant (you) will be required to pay \$45 per year to have the information put on your credit report. If this is the only thing you have building up new credit, this is definitely worth your while. When both you and the landlord are registered, they will e-mail the landlord each month asking him if your rent payment was timely and will then report it on your credit report. However, DON'T sign up if you have any chance of being late on your payments or later being evicted!

5. **Realize that renting is often better than owning.** Don't feel so bad if you are no longer an owner! Over the last few years, many people have come to realize that home ownership is not only a pain, but can actually be financially imprudent. There are many "calculators" available on the internet that will allow you to compare the costs of renting with the costs of residential ownership. Often, if you don't plan to stay at the same address for at least 5 years, if any mortgage you might obtain would have an interest rate that is above the normal market rate, or if you are not in a high tax bracket that can take advantage of the mortgage interest and property tax deduction, renting is better than ownership. After a foreclosure and/or bankruptcy, it may take several years before you become eligible again for a mortgage (or can get a reasonable interest rate). Use the time to rent, figure out what type of property and location is best for you and investigate the real estate market. For many people, renting is the better deal.