



TAMPA BAY BANKRUPTCY CENTER, P.A.

PHONE: (813) 200-4133

TOLL FREE: (800) 965-5074

**October 12, 2011**

## **Homeowner Association Danger in Bankruptcy**

If you are a homeowner association member filing for bankruptcy, there is an obscure provision in the law you must be aware of. The Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) passed in 2005 allows these associations to impose fees and other costs on you even though you are struggling financially. And since it is quite common for certain home development areas to make it compulsory to join their homeowner associations, this provision in the law directly affects you.

Even if you have filed for bankruptcy protection, the BAPCPA contains an explicit provision that prevents you from escaping any fees that are incurred during the bankruptcy process. Before the law was passed, bankruptcy courts had more freedom to excuse bankrupt homeowners. But the BAPCPA has made such fees “non-dischargeable,” and this means the judge cannot forgive the debt.

Even selling your property and filing for bankruptcy does not absolve you from paying home association fees and other related charges. As long as the ownership of the home is still under your name, you are liable regardless of whether it has been foreclosed or is due for auction. Failure to pay up may result in legal action against you.

Homeowner associations assess fees to finance amenities, and typically establish rules on home maintenance and related matters. And they impose monthly fees on every

homeowner member. When the BAPCPA was drafted in 2005, some lobbyists in Washington must have spoken up for homeowner associations, which explains the provision in the law to protect their interests.

The best way to preempt this type of situation is for you to consult an experienced bankruptcy lawyer before filing for bankruptcy. More often than not, careful planning of a bankruptcy filing can help you overcome the problems related to homeowner association fees.

Jeanne Ketley, president of the nonprofit advocacy group Maryland Homeowners' Association (MHA) said, "It's a story that needs to be told as a warning to homeowners. The terrible thing about it is that it is all legal." Although the homeowner associations have the legal right to press charges for its dues, it also has the discretion whether to initiate a lawsuit or negotiate other means of settlement with the homeowner. The MHA advocates for the rights of individual homeowners against the overbearing homeowner associations, but does not involved itself in bankruptcy cases.

If you want to consult a bankruptcy attorney on filing for bankruptcy or to discuss homeowner fees in your situation, call us at (813) 200 4133 for a free consultation.association member filing for bankruptcy, there is an obscure provision in the law you must be aware of. The Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) passed in 2005 allows these associations to impose fees and other costs on you even though you are struggling financially. And since it is quite common for certain home development areas to make it compulsory to join their homeowner associations, this provision in the law directly affects you.

Even if you have filed for bankruptcy protection, the BAPCPA contains an explicit provision that prevents you from escaping any fees that are incurred during the bankruptcy process. Before the law was passed, bankruptcy courts had more freedom to excuse bankrupt homeowners. But the BAPCPA has made such fees "non-dischargeable," and this means the judge cannot forgive the debt.

Even selling your property and filing for bankruptcy does not absolve you from paying home association fees and other related charges. As long as the ownership of the home is still under your name, you are liable regardless of whether it has been foreclosed or is due for auction. Failure to pay up may result in legal action against you.

Homeowner associations assess fees to finance amenities, and typically establish rules on home maintenance and related matters. And they impose monthly fees on every homeowner member. When the BAPCPA was drafted in 2005, some lobbyists in Washington must have spoken up for homeowner associations, which explains the provision in the law to protect their interests.

The best way to preempt this type of situation is for you to consult an experienced bankruptcy lawyer before filing for bankruptcy. More often than not, careful planning of a bankruptcy filing can help you overcome the problems related to homeowner association fees.

Jeanne Ketley, president of the nonprofit advocacy group Maryland Homeowners' Association (MHA) said, "It's a story that needs to be told as a warning to homeowners. The terrible thing about it is that it is all legal." Although the homeowner associations have the legal right to press charges for its dues, it also has the discretion whether to initiate a lawsuit or negotiate other means of settlement with the homeowner. The MHA advocates for the rights of individual homeowners against the overbearing homeowner associations, but does not involved itself in bankruptcy cases.

If you want to consult a bankruptcy attorney on filing for bankruptcy or to discuss homeowner fees in your situation, call us at (813) 200 4133 for a free consultation.