

WHAT TO DO WHEN SURRENDERING YOUR HOUSE TO FORECLOSURE

If you cannot afford to continue making mortgage payments on your house, you may choose to stop making payments and surrender the house in bankruptcy, since by doing this, the lender can never sue you for any lack of payments. But this does not completely solve your problems with the house. Until such time as the lender actually forecloses *and* sells the house to someone else, *you* remain the legal owner, even though you may not have made a mortgage payment for a year or two.

It is not uncommon for a lender to wait from 4 months to a year or two to foreclose. Even after they foreclose, they may not record the deed for even longer after that. No one can make you move until they file a “Dispossessory Action” (eviction), and no one can do that until the house is actually foreclosed on *and* the deed is transferred to a new owner or back to the lender. (And this is often not done for months after foreclosure.)

If there are HOA or condo fees, as the owner *you are responsible* for them – the bankruptcy only wipes out the fees that were due *before* your case was filed, but not after. You will be billed (and probably sued) for them until a new deed is filed.

Also, if your HOA or condo or municipality requires you to keep the lawn mowed, and you don’t, it can do it and charge you for it. If the property deteriorates, the municipality might condemn the property and could even tear it down as a safety hazard...and charge you for the demolition.

And, if someone slips on an icy walkway, as the legal owner, you’re responsible; so keep it insured until the bank actually forecloses *and* the deed is actually transferred. If your insurance was paid along with the mortgage, contact the insurance company and tell them to bill you separately, or the bank may put into effect “forced placement” insurance at a much higher rate which they can collect from you after bankruptcy. Or, you may find it better to put a new, separate policy in place. (The bank’s forced placement insurance protects only the bank, not you.)

You can live in the property “rent free” until they foreclose and force you to move, and save up the money you would have paid for rent to give you a

financial head start with your new house later. Some people who already have plans to move just rent out the property for a low rent until the foreclosure occurs – just enough to pay the HOA or condo fees, keep it maintained, and pay the insurance.

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