

Sheshunoff™

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Dear Customer,

With all the bad news surrounding the economy, it's no surprise that bankruptcies continue to increase. The enclosed new materials provide you with the latest information on protecting your credit union against bankruptcy-related losses. This first 2009 update to *NAFCU's Bankruptcy Guide for Credit Unions* covers:

1. **Trends in Bankruptcy.** Even some experts were surprised that the year over year bankruptcy filings are up almost 35 percent and they continue to climb! In addition, we have added recent bankruptcy statistics from the Administrative Offices of the U.S. Courts. (See the section on Trends in Bankruptcy in Chapter 1 and Appendix A.)
2. **How Much Bankruptcy Notice Is Enough?** You hear it all the time. But what should you do when members call and say they have filed bankruptcy? Well, according to a bankruptcy court, you had better stop all collections activity and confirm the bankruptcy status or you may be in big trouble. (See the section on What Should the Credit Union Do Once It Finds Out About the Filing? in Chapter 2.)
3. **Responding to Fraud.** Don't wait until a crook files bankruptcy to make an accusation of fraud. If you become aware of a fraudulent scheme involving a member, file a lawsuit against the member based on the fraud and watch it stick in bankruptcy! (See the section on Fraud Judgments before Bankruptcy in Chapter 3.)
4. **Cramdowns for Bankrupt Real Estate Loans?** Don't worry, no action has been taken yet. But with today's economic crisis and foreclosures on the rise, this issue continues to make its way through Congress. See what you need to be concerned about as we examine the possibilities in Real Estate Loans in Bankruptcy in Chapter 4.
5. **When Does Retaining a Bankruptcy Attorney Stop Collections Actions?** Fortunately the answer is NEVER! But, our members still call us the minute they leave an attorney's office even when they know they have not filed for protection. What are they thinking? We review best practices dealing with Bankruptcy Notification in Chapter 4.
6. **Privacy Traps with the Proof of Claim.** Every proof of claim must be accompanied by proper supporting documentation. But is that same documentation violating the member's privacy rights? (See Filing Proof of Claims in Chapters 4 and 6.)
7. **Beware of Postdischarge Business Transactions.** Remember the phrase "no good deed goes unpunished"? Well, that may very well apply to any transaction that attempts to refinance a discharged debt. See how these issues can sneak up on your credit union every day in our section on Postdischarge Injunction in Chapter 3.
8. **Delinquent Real Estate Loans in Chapter 13.** Nothing can make a bad situation worse like an erroneous proof of claim — the more money on the line, the greater the potential risk. We have added a section on Proof of Claims for Delinquent Real Estate Loans in Chapter 4.
9. **Means Test May Not Apply to Some National Guard and Reserve Units.** A recent federal law exempts some military units from the requirements of the means test. See Exemption for National Guard and Reserve Forces in Chapter 3.

10. **New Website Focused on Distressed Real Estate Loans.** The pressure to deal with members who are having problems paying their mortgage loans continues to put a strain on many credit unions. Fortunately, some automated relief has been developed by way of a web-based application. (See the section on Mortgage Loss Mitigation Web Portal in Chapter 4.)
11. **Who Files the Proof of Claim for a Secondary Market Real Estate Loan?** So you sold your loan on the secondary mortgage market. Now what? Do you know the difference between a servicer, originator, and holder for the loan? If you don't, you may be in for a big surprise if the loan goes into bankruptcy. (See the section Who Is the Creditor in a Mortgage Loan in Chapter 4.)
12. **Lending Compliance Violations Can Haunt You in Bankruptcy.** You need to make sure your lending program is operating in full compliance with all regulatory mandates. Why? Because any lien weakness, compliance irregularity, or consumer protection violation can be used as a defense to foreclosure actions and other collections processes initiated in bankruptcy. See the section When Lending Violations Can Be Used Against the Lender in Chapter 4.

Our goal with *NAFCU's Bankruptcy Guide for Credit Unions* is to provide you with the information and work tools you need to protect your credit union and maximize your recovery when a member files for bankruptcy. Please let us know how we are doing or if you have suggestions. Visit our web site at www.sheshunoff.com or call us at 1-800-456-2340.

Sincerely,

Catherine Dillon
Editor