

**RIGHTS OF SECURED CREDITORS WITH REGARD TO FIXTURES  
LIKE PLUMBING, POOLS AND SOLAR PANELS, REVIEW OF  
CURRENT CASE LAW, HOW TO PERFECT YOUR LIEN, HOW TO  
SURRENDER FIXTURES ATTACHED TO THE HOME, RIGHT OF  
REDEMPTION AND RIGHT OF REAFFIRMATION AND  
APPLICATION OF  
BANKRUPTCY RULES.**

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## I.

### **PROPERTY OF THE ESTATE**

The term "property of the estate" under the Bankruptcy Code is a foundational concept that encompasses a broad array of debtor assets. By clearly defining what constitutes the estate, the Bankruptcy Code aims to balance the interests of debtors seeking a fresh start with the rights of creditors. Understanding these provisions is essential for navigating the bankruptcy process effectively and protecting one's legal and financial interests.

11 U.S.C. §541 provides:

(a) The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is--(A) under the sole, equal, or joint management and control of the debtor; or(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 329(b), 363(n), 543, 550, 553, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5) Any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires

or becomes entitled to acquire within 180 days after such date--(A) by bequest, devise, or inheritance;(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or (C) as a beneficiary of a life insurance policy or of a death benefit plan.

(6) Proceeds, product, offspring, rents, or profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7) Any interest in property that the estate acquires after the commencement of the case.

\Under the Bankruptcy Code, the term "property of the estate" refers to all legal or equitable interests of the debtor in property at the time of the bankruptcy filing, along with certain interests acquired by the estate after the filing. This concept is crucial because it determines what assets are available to satisfy the claims of creditors.

The Bankruptcy Code was intended to create a more uniform and comprehensive scope to “property of the estate” which is subject to the reach of debtors' creditors than had previously existed under the old Bankruptcy Act. *Matter of Goff*, 706 F.2d 574, 578 (C.A.5 (Tex.), 1983). The scope of what is considered “property of the estate” is deliberately broad. *Matter of Swift*, 129 F. 3d. 792 (5<sup>th</sup> Cir. 1997).

My basic rules regarding property of the estate:

- (a) Avoid the “Self-Fulfilling Prophecy”!
- (b) If a debtor lists an interest in property in their schedules, let the court decide!

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