

# The Real [Bankruptcy] Estate: *Bankruptcy Must Knows* for Real Estate Professionals

56th Annual Mortgage Lending and Servicing Institute  
September 29, 2022

© 2020 JACKSON WALKER LLP

1

11 U.S.C. § 363(h)

**Your client: but, my condo!**

**363(h): “our” condo**



2

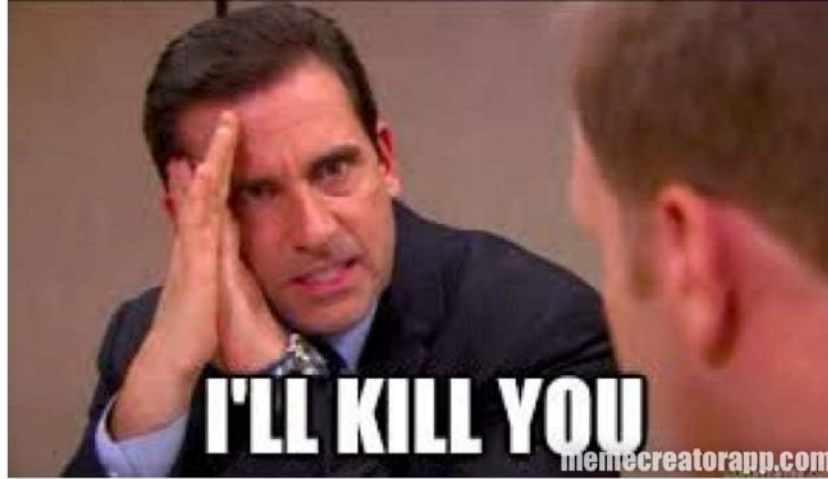
- **(h)** Notwithstanding subsection (f) of this section, the trustee may sell both the estate's interest, under subsection (b) or (c) of this section, and the interest of any co-owner in property in which the debtor had, at the time of the commencement of the case, an undivided interest as a tenant in common, joint tenant, or tenant by the entirety, only if--
  - **(1)** partition in kind of such property among the estate and such co-owners is impracticable;
  - **(2)** sale of the estate's undivided interest in such property would realize significantly less for the estate than sale of such property free of the interests of such co-owners;
  - **(3)** the benefit to the estate of a sale of such property free of the interests of co-owners outweighs the detriment, if any, to such co-owners; and
  - **(4)** such property is not used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light, or power.

## Bar Dates





Your client: I got a notice of bankruptcy filing in the mail but I'm going to foreclose anyway...  
362(a):



AUSTIN | DALLAS | FORT WORTH | HOUSTON | SAN ANGELO | SAN ANTONIO | TEXARKANA | JW.com

5

- **(a)** Except as provided in subsection (b) of this section, a petition filed under [section 301](#), [302](#), or [303](#) of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—
  - [Collection efforts as outlined 11 U.S.C. §§ 362(a)(1)—(8)]
  - Applies to nearly everything—very limited exceptions

AUSTIN | DALLAS | FORT WORTH | HOUSTON | SAN ANGELO | SAN ANTONIO | TEXARKANA | JW.com

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: The Real [Bankruptcy] Estate: Bankruptcy Must Knows for Real Estate Professionals

Also available as part of the eCourse

[2022 William W. Gibson, Jr. Mortgage Lending and Servicing eConference](#)

First appeared as part of the conference materials for the  
56<sup>th</sup> Annual William W. Gibson, Jr. Mortgage Lending and Servicing Institute session  
"The Real [Bankruptcy] Estate: Bankruptcy Must Knows for Real Estate Professionals"