

# What Is A Bankruptcy Automatic Stay? How Do I Get One? Do I Want An Automatic Stay?

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If you are considering filing for consumer bankruptcy protection – you have probably discovered the little language that we bankruptcy attorneys like to throw around. Let's call it banklish, or perhaps boringlish is more fitting. Regardless, it can be quite confusing for debtors.

So, I have decided that being an experienced Phoenix bankruptcy attorney qualifies me to serve as your translator (you can thank me later). The bankruptcy 'term 'O the day? Automatic Stay.

As outlined by 11 U.S.C 362, the filing of a bankruptcy case triggers an injunction against the continuance of any action by any creditor against the debtor of the debtor's property.

"Huh," you may ask? What this means is that, from the moment your bankruptcy case is filed, you as the debtor are entitled protection from creditors. This means that all creditors are barred from pursuing action against you and your property.

If you think about this, it makes sense. See, the whole purpose of bankruptcy is to systematically address the liabilities you have with all creditors, so that the rights of all creditors are respected, while eliminating your debt burden. If one creditor was able to pursue action against you during the bankruptcy, say by repossessing your car, they would be getting a better deal than the others.

I bet at least a few of you sitting back and thinking, in the words of Chandler Bing, "Could you BE more vague?" So, what does 'barring action' refer to? While in effect, the automatic stay prevents the following:

- Beginning or Continuing Law Suits
- Garnishments
- Repossessions
- Foreclosures
- COLLECTIONS CALLS (Notice the shouty caps? This is a huge benefit for those facing creditor harassment.)

This sounds too good to be true, right? As they say, all good things must end – including the automatic stay (I added that last bit myself). The automatic stay only remains in effect until discharge, the property under question is excluded from the bankruptcy estate, or the judge lifts the stay at request of a creditor.

A big caveat is that last point – that a creditor is able to file a motion with the court to request a lift of the automatic stay. However, it is not a matter of just shooting off an email - "Hey Judge, Can you do me a favor....?"

The creditor must show cause for the granting of relief from the stay. This may include showing that the creditor's interest in particular property is not adequately protected, or showing that the debtor has no equity in the property. A situation that may be relevant to you is that of a secured creditor wanting relief to pursue a foreclosure or car repossession.

So, if you are facing foreclosure or repossession and would like to eliminate debt, perhaps it is time to consult a bankruptcy lawyer. I am an experienced bankruptcy lawyer that can help determine if bankruptcy is the right option for your financial situation.