

Basic Terms for Creditors: Automatic Stay of Enforcement

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In bankruptcy law, an automatic stay is an injunction that impacts both debtors and creditors: it halts actions by creditors to collect from a debtor who has declared bankruptcy.

Under Federal Bankruptcy Code section 362, the stay begins at the moment the bankruptcy petition is filed. The stay protects the debtor against certain actions by creditors, including:

- Actions to obtain debtor's property
- Actions to create, perfect, or enforce a lien against a debtor's property
- Reduction or discharge of debts owed to the debtor before bankruptcy proceeding began
- Judicial proceedings against the debtor such as:
 - Foreclosures
 - Evictions
 - Repossessions
 - Collections
 - Garnishments
 - Lawsuits

There can be exceptions to an automatic stay. The court may give a secured creditor relief from the stay, if the creditor can show that the stay does not give the creditor "adequate protection", or if the stay jeopardizes the creditor's secured interest in certain property. Relief also may take the form of cash payments or an additional or replacement lien on the property in question. Other exceptions to an automatic stay allow landlords' eviction proceedings to move forward if a judgment of possession was obtained before the bankruptcy petition was filed, or if the proceeding involves evicting tenants believed to be endangering the property.

For creditors, timing is everything. The sooner a creditor retains an experienced bankruptcy lawyer who can file the relevant motions to lift the automatic stay, the sooner the creditor's rights can be protected and enforced. However, if a creditor pursues actions against a debtor that violate the automatic stay, and without filing the proper motions, the court may choose to sanction the creditor by assigning damages and attorneys' fees.

If you would like more information about automatic stay of enforcement in bankruptcy, creditors' rights, or if you need assistance from an attorney, **contact [Windtberg & Zdancewicz](#) to schedule an initial consultation.** *The attorneys at [Windtberg & Zdancewicz, PLC](#), provide clients with experienced legal representation in all collection matters. We are experienced in creditor's rights including garnishments, charging orders, attachment, property execution, trustee's sales, foreclosures, judgments, judgment collection, domestication of foreign judgments, and creditor's issues in bankruptcy cases. If you need assistance with your collection matters, please contact us at [\(480\) 584-5660](#).*