

Landlord/Tenant Bankruptcy Issues

Presented By

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Bankruptcy Disclosures by the Debtor:

Schedules: detailed list of assets and liabilities, and executory contracts (e.g., leases)

Statement of Financial Affairs: details on the debtor's past financial activities

Section 341 Meeting of Creditors: usually held about one month after the case is filed, before an attorney from the U.S. Trustee's office. Any creditor may question the debtor's representative under oath.

Automatic Stay:

Prohibits a creditor from taking a variety of actions, including:

- filing/continuing litigation
- creating, perfecting, or enforcing liens
- setoffs
- terminating leases or contracts

A party may file a motion for relief from the stay "for cause." Absent grounds for emergency relief, it may take two months to get a full hearing on the motion.

Cash Collateral:

What it is: cash that is subject to creditor liens

Why it is important: Debtors cannot use cash collateral without

- consent of each creditor holding a lien on the cash
- or
- a court order authorizing the use of cash collateral

Claims:

Proof of Claim

A creditor should file one by the court-established deadline to participate in any distribution for unsecured claims in the case, either in a liquidation or reorganization of the debtor.

In some “no-asset” Chapter 7 cases, creditors are instructed not to file a proof of claim, because there will be no distribution to creditors.

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"Selected Landlord and Tenant Issues in Bankruptcy"