

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

Procedure for Individual Debtors to Follow under Section 362(b)(22) and (1)

PLEASE BE ADVISED: The following procedures apply where -- *prior to an individual debtor's filing of a bankruptcy case – the debtor's landlord obtained a judgment for possession of the debtor's rented residence.*

- A. If the debtor seeks to have the automatic stay apply to the rented residence for the *thirty days* following the date of case filing, the debtor must do the following:**
1. **Complete *First Certification on Petition*:** When preparing your Voluntary Petition [Official Form 1] prior to filing, complete the certification – located on the bottom portion of the petition's second page – pertaining to landlord/tenant matters [*“Statement by a Debtor Who Resides as a Tenant of Residential Property”*]. You must provide the landlord's name and address in this section of the Voluntary Petition. [If you have already filed your Voluntary Petition without furnishing the information required at the bottom of the second page, you may file an amended Voluntary Petition that includes all of the required information.]
NOTE: *Your submission of this certification is under penalty of perjury and is dependent on whether applicable state and/or local law would permit, under certain circumstances, a residential tenant – after the landlord had already obtained a judgment for possession – to cure the entire monetary default that gave rise to the judgment for possession.*
 2. **Give Copy of Petition to Landlord:** Provide a copy of the your Voluntary Petition [with the completed certification] to the landlord at the time of filing.
 3. **Give Rent Check to Clerk:** Give the bankruptcy clerk a certified check, cashier's check or money order – *made payable to the landlord* – for any rent becoming due within thirty days of filing. Do not use a personal check or provide cash.
 4. **Give Copy of Judgment to Clerk:** Give the bankruptcy clerk a copy of the judgment for possession.
- B. If the debtor seeks to have the automatic stay apply beyond the thirty days for the duration of the case (or until such time as the automatic stay terminates), the debtor must take the following *additional* steps [these steps MUST be performed within the initial thirty-day period]:**
1. **Pay Landlord:** Pay the landlord, *within the 30-day period*, the entire amount owed to the landlord under the judgment for possession.
 2. **File *Second Certification with Clerk*:** *Within the 30-day period*, you must file with the court (bankruptcy clerk's office) a statement (certification) indicating that you have paid the landlord the entire amount owed under the judgment.
NOTE: You are submitting this statement (certification) to the court under the penalty of perjury.
 3. **Provide Copy of Statement to Landlord:** Provide a copy of the statement (second certification) to the landlord.

Hearing on Landlord's Objection: If your landlord objects to either your thirty-day possession or continuous possession under your lease, there will be a hearing. ***You must appear at the hearing if one is scheduled.*** The bankruptcy judge will decide if the automatic stay applies to your lease. After the bankruptcy judge has made a decision, the bankruptcy clerk's office will send a certified copy of the bankruptcy judge's order to you and the landlord.

Please Note: *Carefully follow the above steps. If you do not, the landlord may be able to proceed with obtaining possession of the rented premises without any further bankruptcy court involvement.* If the bankruptcy court has been made aware of the judgment for possession but you have failed to take all of the required steps (listed above), the bankruptcy clerk's office will send to you and the landlord a certified copy of the docket indicating that you did not follow the required steps as mandated by the Bankruptcy Code.*

* For more information, please see General Order M-385 (Amending General Order M-352) [attached] and section 362(b)(22) and (1) of the Bankruptcy Code [11 U.S.C. § 362(b)(22) and (1)].

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: :
: :
PROCEDURES FOR PAYMENT AND : Amending General Order M-352
CURE OF PRE-PETITION JUDGMENT :
OF POSSESSION INVOLVING : M-385
RESIDENTIAL PROPERTY :
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WHEREAS, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, as codified in 11 U.S.C. §§ 362(b)(22) and 362(l), creates certain rights and obligations with respect to the cure of a monetary default giving rise to a pre-petition judgment of possession regarding residential property in which the debtor resides as a tenant under a lease or rental agreement, it is hereby

ORDERED, that the debtor shall be deemed to have complied with 11 U.S.C. § 362(l)(1) by:

1. Making the required certification by completing the four check boxes, **including the landlord's name and address**, listed in the voluntary petition under the section entitled "Statement by a Debtor who Resides as a Tenant of Residential Property"; and
2. Delivering to the Clerk, together with the petition (or within one day of the filing, if the petition is filed electronically) (a) a certified or cashier's check or money order, made payable to the lessor, in the amount of any rent that would become due during the 30 day period after the filing of the petition, and (b) a copy of the judgment of possession; and it is further

ORDERED, that if the debtor complies with the preceding paragraph, the Clerk of the Court shall, within one day, send notice of compliance to the lessor who shall then have the option, exercisable within fourteen (14) days of the date of the notice, (1) to consent to receive the check in which event the lessor shall provide payment instructions, or (2) object to the debtor's certification, which objection shall constitute a request for a hearing; and it is further

ORDERED, that if the lessor does not respond within the fourteen (14) day deadline, the lessor shall be deemed to have consented to receive the check, and the Clerk shall send the check to the lessor at the address set forth in the debtor's certification.

ORDERED, this order shall apply to all petitions filed on or after December 1, 2009.

Dated: New York, New York
November 24, 2009

/s/ Stuart M. Bernstein
STUART M. BERNSTEIN
Chief United States Bankruptcy Judge