

Here's what's happening	Here's the guidance	Here's what we do
<p><b>Step 1 for the debtor:</b> Debtor certifies entitled to cure default; deposits with clerk rent due within 30 days; clerk transmits to landlord.</p> <p>Debtor also required to serve the statement on the lessor; certification must be made under penalty of perjury (which is done by signing petition).</p> <p>With step 1, automatic stay is in effect for 30 days after filing of petition.</p>	<p>11 U.S.C. § 362(l)(1)</p>	<p>The customer service clerk checks "Statement by a Debtor Who Resides as a Tenant of Residential Property" on p. 2 of petition. If <u>no</u> boxes checked, that's it. If first box, second box, and third box checked, <u>and</u> if petition is accompanied by the deposit of rent form, proceed. If not, alert the case manager to go to page 3 of this procedure, and read the section which starts with, "There is some indication, . . . ."</p> <p>A deposit of rent can only be presented in the form of a cashier's check or a money order (or via an attorney's credit card). If the deposit of rent is presented in the form of cash, ask the customer to obtain a cashier's check or a money order <u>made payable to the landlord</u>. The post office downstairs issues money orders.</p> <p>If the deposit of rent is made payable to the landlord, the deposit usually can be transmitted to the landlord on the same day. If the deposit of rent is made payable to the clerk, the process can take 5-7 days.</p> <p><b>Situation 1</b> (deposit of rent is payable to the landlord):</p> <p><b>CS:</b> Log deposit for rent and make a copy of the check. Write case number on copy of check. Deliver the check, the <u>copy</u> of the check, and the case to case opener for immediate processing.</p> <p><b>CO:</b> Immediately open the case.</p> <p>Docket Certification by Debtor Under 11 U.S.C. § 362(l)(1) of Circumstances for Post-judgment Cure of Monetary Default and of Deposit of Rent with Clerk using the code <i>crtrent</i>. (This certification comes from page 2 of the petition.) The event will refer to the petition document for the image and will set a deadline of 30 days after the filing of the petition for the debtor to cure the entire monetary default. Answer "Y" to "Shift to a working day?" E-mail quality clerk with the case number and the 30-day deadline date so that they can track it.</p> <p style="text-align: center;">* * * CONTINUED ON NEXT PAGE * * *</p>

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<p><b>Step 1 for the debtor,</b> continued</p>		<p>Prepare the certificate at K:\new law\forms\draft\clk cert transm rent to landlord by ops.wpd), attaching the copy of the check to the original certificate. Mail the check and a copy of the certificate to the landlord, and send a copy of the certificate to the attorney for the debtor (or self-represented debtor). <b>NOTE</b> on rent log the case number, date mailed, and your name as mailer. These steps should be completed within two hours of the filing of the case; seek assistance from a supervisor if necessary.</p> <p><b>Situation 2</b> (deposit of rent is payable to the clerk):</p> <p><b>CS:</b> Prepare separate receipt for rent deposit, using cash register code <i>rent</i>. (This deposit may be made via the attorney's credit card – read the "deposit of rent with clerk" form carefully.)</p> <p><b>CO:</b> Immediately open the case and provide the case number to Financial.</p> <p>Docket the receipt as Deposit of Rent Pursuant to 11 U.S.C. § 362(l)(1)(b), using the code <i>rent</i>. The event will call for a receipt number and will place a "MONEY" flag on the case. These steps should be completed within two hours of the filing of the case; seek assistance from a supervisor if necessary.</p> <p>Docket Certification by Debtor Under 11 U.S.C. § 362(l)(1) of Circumstances for Post-judgment Cure of Monetary Default and of Deposit of Rent with Clerk using the code <i>crrent</i>. (This certification comes from page 2 of the petition.) The event will refer to the petition document for the image and will set a deadline of 30 days after the filing of the petition for the debtor to cure the entire monetary default. Answer "Y" to "Shift to a working day?" E-mail quality clerk with the case number and the 30-day deadline date so that they can track it.</p> <p><b>Financial</b> promptly transmits rent per 11 U.S.C. § 362(l)(5)(D), preparing and mailing the certificate at K:\new law\forms\draft\clk cert transm rent to landlord per 362(l)(5)(D).wpd. <b>NOTE</b> on rent log the case number, date mailed, and your name as mailer.</p> <p><b>CM:</b> Docket the certificate using the code <i>crsvcrent</i>. This event will clear the "MONEY" flag.</p>

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<p>There is some indication that the debtor believes there is entitlement to cure the default but some requirement in the process is not met. If the situation is specifically as described in the "here's what we do" box to the right, follow those instructions. If the situation is otherwise problematic, check with your supervisor.</p>	<p>11 U.S.C. § 362(l)(4)(B)</p>	<p><b>CM:</b> If first box is checked, and second and third boxes are not <u>both</u> checked, prepare the certificate at K:\new law\forms\draft\clk cert of svc of dkt per 362(l)(4)(B) - (l)(1) failure.wpd. Docket using the code <i>crtsvcLI</i>.</p>
<p>Clerk's office monitors 30-day deadline for possible filing of debtor step 2 certification</p>	<p>11 U.S.C. § 362(l)(4)(B)</p>	<p><b>QC:</b> Quality clerk receives e-mail from case opener advising of existence of <i>crtrrent</i> deadline. The deadline is entered in the Ops Organizer: "Check case # _____ for expiration of stay." The day after the deadline arrives, the quality clerk ensures that the case manager has followed through as indicated in the "Date that is 30 days . . ." row of this table.</p>

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<p><b>Step 2 for the debtor:</b> Certification by debtor/adult dependent that entire monetary default has been cured, within 30 days after filing petition.</p> <p>With step 1 and 2, automatic stay is in effect beyond the first 30 days after filing of petition, and it continues until such time as the court may determine that it is not in effect (i.e., there would have to be an order).</p> <p>If both steps were not properly taken, then the automatic stay will not have been in effect.</p>	<p>11 U.S.C. § 362(1)(2)</p>	<p><b>CM:</b> If you receive this document, first check to see if a deadline for debtor to cure the entire monetary default was set in the case (which indicates to us that the required first step – a certification per 362(1)(1) – was completed). If so, then the case manager docket the certification of cure of default using the code <i>crtcuredflt</i>. This event will terminate the 30-day deadline.</p> <p>If there is no such deadline on the case, then it would be unusual for this second certificate to have been filed. So the case manager double-checks the petition to be sure that all 3 boxes under "Statement by a Debtor Who Resides as a Tenant of Residential Property" on p. 2 were <u>not</u> checked, and double-checks to be sure that there is no receipt for rent deposit. If this is the situation, then docket the certification of cure of default using the code <i>crtcuredflt</i>, and that's it. If this is not the situation, then check with your supervisor and we'll figure out what to do.</p>
<p>Date that is 30 days after filing of petition arrives and there is <u>no</u> certification by debtor/adult dependent that entire monetary default has been cured within 30 days after filing petition.</p>	<p>11 U.S.C. § 362(1)(4)(B)</p>	<p><b>CM:</b> Expiration of the 30 days after petition deadline without a certification of cure of default indicates to us that the required second step – a certification per 362(1)(2) – was <u>not</u> completed. This situation requires that we prepare and electronically file the certificate at K:\new law\forms\draft\clk cert of svc of dkt per 362(1)(4)(B) - (1)(2) failure.wpd. Docket using the code <i>crtsvcl2</i>. This event will terminate the 30-day deadline.</p>

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Because the required second step wasn't completed, the automatic stay does not continue beyond the first period of 30 days after filing of the petition.	11 U.S.C. § 362(1)(4)(A)	Nothing.
<b>Additional possibilities:</b>		
Landlord (lessor) objects to certification by debtor under 11 U.S.C. § 362(1)(1) and serves objection on debtor.	11 U.S.C. § 362(1)(3)(A)	Case manager docketts the objection using the code <i>objcrt</i> . Court holds hearing within 10 days of filing/service of objection to determine if certification is true. <b>Send an e-mail to the appropriate chambers to let them know that this objection has been filed.</b>
Landlord (lessor) objects to certification by debtor under 11 U.S.C. § 362(1)(2) and serves objection on debtor.	11 U.S.C. § 362(1)(3)(A)	Case manager docketts the objection using the code <i>objcrt</i> . Court holds hearing within 10 days of filing/service of objection to determine if certification is true. <b>Send an e-mail to the appropriate chambers to let them know that this objection has been filed.</b>
Court upholds objection of landlord	11 U.S.C. § 362(1)(3)(B)(i)	The judge enters an order, and the case manager docketts it using the code <i>oobjcrt</i> . This event will display a message directing the case manager to determine if the objection has been <u>upheld</u> . If the objection has been upheld, the case manager will prepare a certified copy of the order and serve it as indicated below. If the 30-day deadline for curing the default still shows on the case, it should be terminated. Automatic stay is determined to not be in effect; no specific additional request/order for relief from stay is required.
	11 U.S.C. § 362(1)(3)(B)(ii)	Clerk immediately serves upon the lessor and the debtor a <u>certified</u> copy of the court's order. The case manager prepares the certificate at K:\new law\forms\draft\clk cert of svc of ord per 362(1)(3)(B)(ii).wpd. Docket using the code <i>crtsvc</i> .

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Court dismisses objection of landlord		The judge enters an order, and the case manager docket it using the code <i>oobjcrt</i> . This event will display a message directing the case manager to determine if the objection has been <u>upheld</u> . In this case, the objection has been dismissed, so a certified copy of the order does not need to be served . If the 30-day deadline for curing the default still shows on the case, it should be terminated unless there are different provisions in the court's order. Nothing else needs to be done at this point – other events will dictate our actions.
It is the end of the month		Financial takes the log of rent deposits received by clerk and starts a new log for the next month. Financial maintains the logs as required.

**Key:** CS = Customer service clerk  
CO = Case opening clerk  
CM = Case manager  
QC = Quality clerk

K:\new law\procedure\dep of rent w clerk\rent deposit revised 10-20-05.wpd