

REAL ESTATE



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Q | My commercial tenant has filed bankruptcy. Can I collect rent?

A | Once a tenant files a bankruptcy petition, the “automatic stay” goes into effect. If a landlord attempts to collect on certain pre-petition debts, it can be held liable for damages. But a tenant is also required to comply with its lease terms after filing bankruptcy, including making all required post-petition rental payments. Post-petition rental payments are entitled to “administrative priority,” so landlords should work with their counsel to ensure that they receive ongoing rent after a bankruptcy begins.

A jurisdiction’s treatment of partial monthly rent (or “stub rent”) may determine when a tenant files bankruptcy. Jurisdictions vary on whether a landlord is entitled to administrative priority for stub rent. Accordingly, in certain jurisdictions, tenants often choose to file bankruptcy in the early part of the month, leaving the landlord with an unsecured claim for the remainder of that month’s rent.