

Co-Debtor Stays

The co-debtor stay automatically prohibits any act or civil action to collect any consumer debt from an individual liable with the Chapter 13 Debtor, or against an individual who has secured the debt. Any act to collect from a co-debtor can even include actions such as placing a negative mark in the co-debtor's credit report.

There are some notable exceptions to the co-debtor stay. The stay does not prevent collection efforts against a co-debtor who became liable for, or secured a consumer debt of the debtor, in the ordinary course of business of the co-debtor. The co-debtor stay only bars creditor action against individual co-debtors, and only in connection with consumer debts. A consumer debt is a debt "incurred by an individual primarily for a personal, family, or household purpose." Most courts have held that tax debts are not consumer debts; therefore, the co-debtor stay would not apply.

The co-debtor stay automatically takes effect upon entry of the order for Chapter 13 relief, and continues until the case is closed, dismissed or converted to a Chapter 7 or 11. Like the automatic stay, the co-debtor stay is a statutory injunction enforceable by the court. One who knowingly violates the co-debtor stay is in contempt of court, which is punishable by monetary damages and attorneys' fees. Any actions taken in violation of the co-debtor stay are void.