

Below is the exact language Judge Murphy requires for a strict compliance order (the "Delinquency Motion Procedure") that provides for modification of the automatic stay or dismissal pursuant to §109(g) following a postpetition delinquency by the debtor. Use of the Delinquency Motion Procedure is required in Chapter 7 and Chapter 13 consumer cases and in Chapter 11 cases of individuals. It may be used but is not required in business Chapter 11 cases.

The 10-day cure period accorded to the debtor may be lengthened, but not reduced, by consent of the parties (reduction may be allowed by the judge in appropriate circumstances, but not by consent without a hearing).

Please do not attach the language below to your original proposed order as an exhibit; instead, please incorporate it within an order.

Do not change "may" to "shall"; do not single space the order or the Delinquency Motion Procedure.

Upon delinquency by Debtor in the payment of [any sum specified herein] or [in any regular monthly mortgage payments which come due according to Movant's Note and Deed] ...
[specify the circumstances, for example:

- while the existing arrearage remains uncured,
- for a period of one year from the date of entry of this order, or
- while this Chapter 13 proceeding is pending].

[this case may be dismissed pursuant to §109(g)] or [Movant may be permitted to recover and dispose of the Property (or Vehicle; do not use "Collateral") pursuant to applicable state law] only after submission of a **Delinquency Motion** (as more particularly described below) in the following manner:

- (A) Counsel for Movant shall serve the Trustee, Debtor and Debtor's counsel of record with written notice of the specific facts of the delinquency (the "**Delinquency Notice**"); said notice may be contained in a letter but shall
 - (1) state that Debtor may cure the delinquency within ten (10) calendar days of receipt of said notice, and
 - (2) provide the correct street address for mailing or delivering such payment;

Pursuant to this Order, Debtor shall be presumed to have received the Delinquency Notice on the fifth (5th) calendar day following the mailing of said notice by Counsel for Movant; provided, however, that

- (a) the Delinquency Notice is properly addressed to Debtor at the address set forth on the Distribution List attached to this Order pursuant to BLR 9013-3 NDGa, unless Movant or Counsel for Movant receives notice in writing of a change in Debtor's address within a reasonable time prior to mailing of the Delinquency Notice; and
 - (b) the Delinquency Notice is not returned to Counsel for Movant by the U.S. Postal Service as undeliverable by reason of improper address.
- (B) If Debtor fails to cure the delinquency within ten (10) days of receipt of said written notice, Counsel for Movant may file, after service on both Debtor and Debtor's counsel:
 - (1) **a motion**, which must contain allegations of the specific facts of the delinquency; provided, however, that, instead of alleging the facts of the delinquency in the motion (the averments of which are subject to Rule 9011), the motion may be accompanied by an affidavit **from Movant**¹ setting forth the specific facts of the delinquency;
 - (2) a copy of the **Delinquency Notice**; and
 - (3) **a proposed order** (the motion, affidavit, copy of the Delinquency Notice and the proposed order are herein collectively referred to as the "**Delinquency Motion**").

Upon filing of said Delinquency Motion, the Court may enter an order [use if sought in Motion: dismissing this case pursuant to §109(g), or] modifying the automatic stay without further notice or hearing.

¹ However, where the Delinquency Notice states that the delinquency may be cured by payment to Movant's attorney, Movant will not have the personal knowledge sufficient to support an allegation that Debtor failed to cure the delinquency.