

## Chapter 13

# Rejection of Leases and Executory Contracts in Bankruptcy: What Does It Mean?

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### § 13.01. Overview.

Section 365 of the Bankruptcy Code governs the assumption and rejection of executory contracts and unexpired leases. The Code specifies that the rejection of an executory contract or lease constitutes a breach of the agreement. It further specifies that the rejected contract or lease shall be treated as if the debtor had breached the agreement immediately before the date of filing of the petition. The Code does not, however, fully delineate the consequences of rejection, particularly with regard to the rights and remedies available for non-debtor parties to the agreements. Where the Code is silent, courts have attempted to clarify what rejection means for the contract or lease at issue and what rights the other party to the agreement has upon rejection.

### § 13.02. Plain Language of the Statute.

It is commonly known that a trustee or debtor-in-possession can assume or reject an executory contract or unexpired lease. Section 365(a) provides: