

Changes in the Bankruptcy Forms Effective 12/1/2011

The following amendments and new forms were approved by the Judicial Conference in September, 2011 and will take effect December 1, 2011.

Official Form 1 is amended to implement new Rule 1004.2, which requires an entity filing a chapter 15 petition to state the country of the debtor's main interests and to list each country in which a case involving debtor is pending.

Official Form 10 (Proof of Claim) is amended to clarify that, consistent with Rule 3001(c), writings supporting a claim or evidencing perfection of a security interest – not just summaries – must be attached to the proof of claim. The amended form includes a new section for reporting a uniform claim identifier which is used by some creditors and chapter 13 trustees to facilitate payments by electronic fund transfers. The signature box is revised to include a declaration under penalty of perjury by the person who completes the form.

Form 10 (Attachment A), Form 10 (Supplement 1), and Form 10 (Supplement 2) are three new forms for a claim secured by a security interest in the debtor's principal residence that take effect on December 1, 2011, along with pending amendments to Rule 3001 and new Rule 3002.1 which the forms implement.

Form 10 (Attachment A) would be filed with the proof of claim as required by new Rule 3001(c)(2). The form includes a statement of the principal and interest due as of the petition date; a statement of prepetition fees, expenses, and charges; and a statement of the amount necessary to cure a default as of the petition date.

Form 10 (Supplement 1) would be used by the holder of a home mortgage claim to provide the notice required by new Rule 3002.1(b) of any escrow account payment adjustment, interest payment change, and any other mortgage payment change while a chapter 13 case is pending.

Form 10 (Supplement 2) would be used in chapter 13 cases to provide notice of the date incurred and amount of any postpetition fees, expenses, and charges.

Official Form 25A is amended to change the effective date provision in the model small business plan to reflect the 2009 amendments that increased from 10 to 14 days the time to file a notice of appeal and the duration of the stay of a confirmation order.

Director's Form 240 A/B ALT to take effect December 1, 2011.

A technical amendment to Director's Procedural Form 240A/B ALT will take effect on December 1. (The amendment does not require approval by the Judicial Conference). The form is amended at page 5 to conform to an amendment to 11 U.S.C. § 524(k)(3)(J) by the Bankruptcy Technical Corrections Act of 2010, Pub. L. 111-327. The frequently asked question, "What if your creditor has a security interest or lien?" is amended as follows:

Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the ~~security~~ property securing the lien if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you must make a single payment to the creditor equal to the ~~current value~~ amount of the ~~security property~~ allowed secured claim, as agreed by the parties or determined by the court.