

Rule 4001-5

Voluntary Modification of Debt Secured by Debtor's Residence

(a) Definition of Mortgage Creditor

For purposes of this rule, the term “mortgage creditor” includes any creditor secured by a mortgage, deed of trust, or land sale contract on real property that was used as the debtor's principal residence at the time the petition was filed.

(b) Negotiation Does Not Violate Stay

A mortgage creditor is authorized to negotiate with the debtor for a modification of the secured obligation at any time during the pendency of the debtor's case. Any such modification is voluntary on the part of the mortgage creditor and the debtor. If the debtor is represented by counsel, that counsel may consent to allow the mortgage creditor to communicate directly with the debtor. A mortgage creditor's contact with the debtor and/or the debtor's counsel for the purpose of negotiating a loan modification shall not be considered a violation of the automatic stay imposed by 11 U.S.C. § 362. If a debtor consents in writing (through counsel if the debtor is represented), participation by a secured creditor in a mediation, either pursuant to state law or by agreement of the parties, shall not constitute a violation of the automatic stay imposed by 11 U.S.C. § 362.

(c) Court Approval

The terms of any agreement reached under this section are subject to approval by the court.

Related Provisions

11 USC 362 Automatic Stay

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