

COMMENTARY REGARDING NEW CHAPTER 13 DOCUMENTS:

I. TXEB Local Form 3015-a: Chapter 13 Plan Form

1. The new TXEB plan form for Chapter 13 cases utilized the new national form plan as its template. Its considerable length is required due to the inclusion of mandated provisions derived from the new national form plan and imposed by new BK Rule 3015.1. The Court's ultimate form, and that to be produced by bankruptcy software vendors, seek to have the capability of eliminating associated text & tables for any subsection which is marked as "none" and to populate only those rows necessary to present the information required by each particular debtor.
2. § 2.4: Standardizes the amount of any income tax refunds that a debtor is permitted to retain, provided that the debtor is current on her plan obligations at the time of its receipt.
3. § 3.1: The direct mortgage payment section emphasizes the importance of the fulfillment of all post-petition mortgage payments and gives the Trustee some basic information regarding that DPO so that compliance can be more easily monitored.
4. § 3.2: addresses cure claims, including the cure of any pre-petition mortgage claim (or other DPOs in need of cure payments), including any assumed executory contract/unexpired lease that is identified in § 6.1. Debtors will be required to be more proactive in this area since, under Part 6, all such obligations will be rejected unless specifically assumed.
5. § 3.3: addresses "910-day claims" protected from bifurcation under § 506.
6. § 3.4: addresses "506 Claims" in which the § 506 bifurcation of claims remains available to the debtor.
7. Adequate protection payments would be mandated from month 1 payments and any discretion to omit AP payments is eliminated. FYI, a new standardized initial AP calculation is included in the revision of LBR 3015(c).

8. Each of the primary secured claim treatment provisions [§§ 3.2-3.4] seeks to accommodate various timing scenarios so as to initiate payments to creditors at the earliest possible time. In the absence of an affirmative act by the Debtor to seek final value determination of allowed secured claims at the initial confirmation hearing under §3.10, the plan authorizes the Trustee “to initiate monthly payments on an interim basis based upon the projected amount...” of each claim . . . which is essentially what is occurring under present practice. To the extent that authority is invoked, the period should not be very long since the claims bar date for non-govt claimants is considerably shortened under the new national rule amendments [70 days from Petition Date].
9. § 3.6: addresses property to be surrendered at the Effective Date, at which time all stays shall be terminated and any deficiency balance must be reflected in a claim within 90 days after the Effective Date.
10. §§ 3.7 and 3.8: simply reflect existing requirements that protect the interests of secured claimants but are often omitted and therefore necessitate confirmation objections which should be unnecessary on these non-controversial subjects.
11. §§ 3.9, 3.10 and 3.11: are options required to be contained in any local plan form by the new national rules, but reflect that the invocation of any of these processes within the plan confirmation process will require strict compliance with applicable service and evidentiary rules.
12. § 4.3: simply implements the current compensation scheme from LBR 2016(h), but subordinates the initiation of those payments to fulfillment of all adequate protection payments. It further requires that the election between the “no-look” fee (now called the “Benchmark Fee”) and the presentation of a formal fee application is designated in the plan and is finalized upon initial plan confirmation. The provision also reflects the deadline for filing such a formal fee application.

II. *TXEB Local Form 3015-b: Initial Confirmation Order Form*

1. The initial confirmation order form is not designed to repeat the provisions of the proposed plan.
2. As with the plan form, the tables and associated text will appear only if invoked.
3. As the language on the top of page 2 indicates, the tables are designed only to reflect the changes to the proposed plan that do not mandate a denial... changes that can be implemented without necessity of further disclosure/notice.

III. *TXEB Local Form 3015-d: Modification Motion Form*

1. The form modification motion carries the same theme initiated by the national form plan — that the motion is designed only to modify particular provisions of the previously confirmed plan — and thus, the entirety of the plan need not be reproduced. Accordingly, the requirement that there be a completely-restated plan attached to the motion is eliminated.
2. § 3.2: To the degree that the modification seeks to insert post-petition mortgage arrearages into the plan, such insertions are allowed, but requires an amended proof of claim for such arrearages by the mortgage creditor and provides that, in the absence of an order to the contrary, the payment of such arrearage claim will be subordinated to the existing payment rights imposed by the current plan — subject, of course, to a feasibility analysis.
3. If the modification occurs after the expiration of the Benchmark Fee Period — which is the same chronological period as defined in prior years ... just now will have a title — this modification motion continues the local practice of allowing the debtor's attorney to request an additional award of attorney's fees, which would have the same priority as the original attorney's fee award.

IV. *TXEB Local Form 3015-e and -f: Form Modification Orders*

1. Form 3015-e should accompany the filing of the Motion ---- in the event that no objection is filed to the Motion and therefore the order would be signed when it emerges from negative notice suspense with no hearing being conducted.
2. Form 3015-f should be prepared when the Motion has been subjected to a hearing before the Court.