

LBR 3015(b).1

**CHAPTER 13 PLAN AND PRE-CONFIRMATION
ADEQUATE PROTECTION PAYMENTS**

(a) Filed with Petition. A Chapter 13 plan filed with the petition will be served, together with notice of the time for filing objections and the hearing to consider confirmation, by the Bankruptcy Noticing Center ("BNC").

(b) Filed after Petition. A plan filed after the petition must be served, together with notice of the time for objections and the hearing to consider confirmation, by the debtor's attorney, or the debtor if not represented.

(c) Failure to File. Unless an extension was obtained, failure to file a plan, together with a certificate of service, prior to the first scheduled meeting of creditors held pursuant to § 341 will result in dismissal of the case for unnecessary delay without further notice to the debtor or debtor's attorney.

(d) Treatment of Real Estate Mortgage Arrearage Claims and Continuing Payments. A timely claim for mortgage payments or mortgage arrearages will be paid by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation, or specific language in the Order of Confirmation directs otherwise.

(e) Treatment of Priority Claims. A timely priority claim will be paid in full by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation or specific language in the Order of Confirmation directs otherwise.

(f) Objection to claim. Nothing in this Rule alters the right of the debtor, trustee or other party in interest to object to any claim.

(g) Plan Payments; Adequate Protection Payments under § 1326(a)(1)(C):

(1) Pre-confirmation § 1326(a)(1) Payments to Trustee. Unless the court orders otherwise, debtors must pay directly to the trustee all pre-confirmation adequate protection payments payable to creditors whose claims are secured by purchase money security interests in personal property. The trustee must promptly distribute those payments to the secured creditors whose interests are being protected, except the trustee may retain the portion of the payment representing the statutory percentage trustee fee.

(2) Plan Payments. The Chapter 13 plan must specify the amounts to be paid to each allowed secured claim treated under the plan. The total amount of the plan payment the debtor must make pursuant to § 1326(a)(1) must include:

- (i) an amount equal to the proposed adequate protection payment of each secured creditor whose claim is secured by a purchase money security interest;
- (ii) the variable percentage fee under 28 U.S.C. § 586(e); and

(iii) any other amounts to be paid to the trustee under the plan.

(3) *Amount of Adequate Protection Payments under § 1326(a)(1)(C).* Unless the court orders a different payment amount, the debtor must pay adequate protection payments equaling the payment provided in the debtor's Chapter 13 plan pursuant to subsection (g)(2) of this Rule plus statutory percentage trustee fees required when that payment is made to the trustee.

(4) *Direct Payment Opt-Out.* Secured creditors eligible for direct payment of adequate protection under § 1326(a)(1) may opt for direct payments by filing a motion and noticing it for objection in accordance with these rules and the procedures of the division where the case is pending. If no timely objection is filed, the court may enter an order requiring direct payments without further hearing. In the event such an order is entered, the debtor must make the payments directly to the secured creditor, and file a certification of the payments in accordance with § 1326(a)(1)(C).

(5) *Pre-confirmation Disbursements of Adequate Protection Payments to Secured Creditors by Trustee.* Pre-confirmation disbursements of adequate protection payments under § 1326(a)(1) are authorized without further order, but no disbursement may be made unless the secured creditor has filed a proof of claim. Pre-confirmation disbursements under § 1326(a)(1) may be made to creditors within 35 days of the filing of the proof of claim, unless, within 7 days prior to the end of the 35-day period, the trustee has not received sufficient, cleared funds to make the payment. The trustee is authorized to deduct from an allowed claim all § 1326(a)(1) pre-confirmation disbursements.

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As amended 3/17/20, 3/17/15, 3/17/10, 3/17/07, 10/17/05.