

**United States Bankruptcy Court
Eastern District of Michigan**

In re:

Amendment of Local Rule 3001-2

No. 09-4

To clarify the procedures for administering post-confirmation changes in mortgage payments in chapter 13 cases, it is hereby ordered that, effective immediately, Local Rule 3001-2 is amended to provide as follows:

Rule 3001-2 Adjustment in a Periodic Payment on a Secured Claim in Chapter 13

(a) Creditor's Statement. In a chapter 13 case, a creditor with a claim secured by a mortgage on real property shall file and serve on the debtor a statement of any proposed increase or decrease of periodic payments and file a certificate of service. The deadline to file this statement is 45 days before the proposed effective date of the adjustment of the payment amount. The statement shall fully disclose the calculations on which the adjustment is based.

(b) Objection. The deadline to file an objection to the creditor's statement under paragraph (a) is 21 days after the statement is filed. If an objection is filed, the court will schedule a hearing with notice to the debtor, the creditor and the trustee.

(c) Trustee's Analysis. Within 14 days after the later of the deadline in paragraph (b) or the date that the court enters an order resolving any objection under paragraph (b), the trustee shall file a notice stating whether the plan will still be adequately funded with the current plan payment amount and if not, stating the necessary increase in plan payments.

(d) Debtor's Proposed Plan Modification. Within 21 days after the trustee files the notice under paragraph (c), the debtor shall file a plan modification under Local Rule 3015-2(b), if necessary to assure adequate funding of the plan.

(e) Exception to the Deadline in Paragraph (a) for Certain Creditors. This exception applies to a creditor secured by a mortgage for which the amount of the debtor's payment obligation is subject to change more frequently than once every six months. When this exception applies to a creditor:

(1) The creditor shall file a "Notice of Exception to the LBR 3001-2(a) Deadline" as an attachment to any statement of proposed payment change filed under paragraph (a). This Notice of Exception shall certify that proposed payment change relates to a mortgage for which the amount of the debtor's payment obligation is subject to change more frequently than once every six months.

(2) Upon the filing of a Notice of Exception, the trustee shall thereafter immediately effectuate any payment change proposed in any statement of payment change that the creditor files. The trustee shall effectuate the payment change only prospectively.

(3) Subparagraphs (b), (c) and (d) of this rule shall apply.

(f) Notice of Payment Decrease. Notwithstanding paragraph (a), a debtor who has received a notification of a payment decrease from a mortgage creditor may file a notice of a payment decrease. The debtor shall serve the notice upon the mortgage creditor and file a proof of service.

(g) Effective Date of Proposed Change. A proposed payment increase shall be effective 45 days after filing and service under subparagraph (a), unless the court orders otherwise. The trustee shall effectuate a proposed payment decrease upon filing any such notice.

(h) Application. This rule applies only after confirmation of the debtor's plan, and only in a case in which the trustee makes the payment to the creditor.

/s/ Steven Rhodes
Steven Rhodes
Chief Bankruptcy Judge

March 24, 2009