

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

Request for Comments on Proposed Amendments to LBR 3001-2

To address the administrative challenges presented by home mortgages for which payment changes are frequent, as well as issues relating to the implementation of notices of a mortgage payment decrease, the Court is considering amending LBR 3001-2 by adding paragraphs (e) and (f) as provided below. No amendments to existing paragraphs (a) - (d) are proposed

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

(a) Creditor's Statement. A creditor with a claim under § 1322(b)(5) or (b)(7) 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 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 with a claim under § 1322(b)(5) or (b)(7) that is based on an open-end credit agreement, such as a home equity line of credit (HELOC), when compliance with the deadline in paragraph (a) is impracticable because the interest rate or payment term 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," which the creditor shall file as an attachment either to the creditor's proof of claim or to any statement of proposed

payment change filed under paragraph (a); and
(2) Upon the filing of a “Notice of Exception to the LBR 3001-2(a) Deadline,” the trustee shall thereafter immediately effectuate any payment change proposed in any statement of payment change that the creditor files.

(f) Notice of Payment Decrease. Notwithstanding paragraph (a), either a creditor or the debtor may file a notice of a payment decrease. Upon filing any such notice, the trustee shall effectuate the proposed payment decrease. If the notice proposes a retroactive decrease, the trustee shall effectuate the decrease retroactively in any appropriate manner.

Comments may be submitted in writing to:

Katherine Gullo, Clerk
U.S. Bankruptcy Court
Suite 2100
211 W. Fort St.
Detroit, MI 48226

Comments may also be submitted by email to:

mieb_lrcomments@mieb.uscourts.gov

The deadline for submitting comments is November 28, 2008.

Steven Rhodes
Chief Bankruptcy Judge

October 29, 2008