

PROPOSED REVISIONS TO LOCAL BANKRUPTCY RULES AND FORMS

September 21, 2020

This document contains proposed revisions to the December 1, 2019, version of the Local Bankruptcy Rules for the District of Oregon and proposed revisions to various Local Bankruptcy Forms. Some of the proposed revisions were recommended to the court by the Oregon State Bar Debtor-Creditor Section Local Bankruptcy Rules and Forms Committee. Comments intended to explain the proposals follow each proposed change.

Text proposed to be added is double-underlined, and text proposed to be deleted is ~~struck through~~.

Please [click here](#) to submit comments concerning the proposed revisions or e-mail comments to LBRcomments@orb.uscourts.gov. Any comments must be received on or before October 21, 2020 to be considered. After reviewing any comments, the court will post the final revised rules and forms which will take effect on December 1, 2020, unless otherwise noted.

PROPOSED LOCAL BANKRUPTCY RULES REVISIONS	2
Rule 2002-1. Notices to Creditors and Other Interested Parties.	2
Rule 2015-1. Trustee—Reports, Accounts, Notices, & Destruction of Records.	2
Rule 3007-1. Claim—Objection.	3
Rule 3015-1. Chapter 12 or 13—Plan & Payments.	3
Rule 3016-1. Chapter 11.	4
Rule 4004-1. Grant or Denial of Discharge.	4
Rule 6007-1. Abandonment.	5
General Rule Proposal.....	5
PROPOSED LOCAL BANKRUPTCY FORM (LBF) REVISIONS	7
LBF 1190. Notice Re: of Order Confirming Chapter 11 Plan, Any Appropriate Injunction, and Discharge Compensation Applications.	7
LBF 1191.3. Individual Debtor’s Motion for Entry of Discharge and Statement re: 11 U.S.C. § 522(q)(1) Applicability, and Notice of Related Deadlines.	9
LBF 1195. Final Account; Payment of Allowed Attorney Fees; and Application for Entry of Final Decree and Closing Order.....	10
LBF 1300.17. Chapter 13 Plan.....	11
LBF 1367.92. Debtor’s Motion to Reopen Chapter 7 or 13 Case and, if Applicable, to Vacate Dismissal.	12
PROPOSED NEW LOCAL BANKRUPTCY FORM	14
LBF 1191.5. Chapter 11 Subchapter V Debtor’s Motion for Entry of Discharge.	14

PROPOSED LOCAL BANKRUPTCY RULES REVISIONS

Rule 2002-1. Notices to Creditors and Other Interested Parties.

[...]

- (j) **Chapter 7, 12 or 13 Case—Limited Notice.** Unless provided otherwise in an FRBP or LBR, after the deadline for filing each type of claim has expired, a party required to serve notice on all creditors need do so only on ~~the debtor,~~ a creditor~~s~~ that timely filed a proofs of claim, ~~and an entity that filed a request to receive a copy of all notices.~~

Comment. The final part of this rule is stricken because the court no longer accepts special notice requests. Anyone wishing to receive notice of all filings in a case may receive them by adding specific case numbers to the “Send notices in these additional cases” list in their PACER accounts or file notices of appearance through attorneys.

Rule 2015-1. Trustee—Reports, Accounts, Notices, & Destruction of Records.

[...]

- (b) **Chapter 11.**

[...]

- (2) **Final Account.**

- (A) **General.** ~~If the debtor will receive a discharge upon confirmation, or is an individual who will not request a discharge under LBR 4004-1, t~~The following entity must complete and file LBF 1195 no later than 120 days after entry of a plan-confirmation order: (i) a ~~plan agent~~ trustee or other agent, other than the plan proponent, appointed under the plan to serve after confirmation; or (ii) if no ~~plan agent~~ is appointed, the ~~debtor~~ proponent. If LBF 1195 is not filed by that deadline, that entity must file a status report no later than 120 days after entry of the confirmation order and every 180 days thereafter until application for a case-closing order.

Comment. To facilitate prompt closing of chapter 11 cases after the estate is fully administered per [11 U.S.C. § 350\(a\)](#), this proposed revision expands the requirement to file an LBF 1195 final account and application for closing order to all chapter 11 cases regardless of discharge timing or whether the debtor is an individual. See also proposed revisions to [LBF 1195](#).

If the case is not ready for closing, the proposed revision provides for twice-annual status reports.

Rule 3007-1. Claim—Objection.

(a) Objection to Allowance or Classification of Claim.

[...]

(2) LBF for Objection. Except for an omnibus claim objection. An objection and accompanying notice must be filed on LBFs 763.3 and 763.1. Any proposed order arising from an objection must be lodged on LBF 763.5. ~~Parties intending to file omnibus objections under FRBP 3007(d)-(e) should contact the clerk’s office for instructions.~~

(3) Notice of omnibus claim objection. An omnibus claim objection under FRBP 3007(d) - (e) must be accompanied by a notice that substantially conforms to LBF 763.1.

Cross-reference:

- Certificate of Service – LBR 7005-1, LBR 9013-1(a)(2).

Comment. The current LBR 3007-1(a)(2) directs parties to contact the clerk’s office for instructions on filing omnibus claim objections. This is unnecessary given the straightforward requirements and filing restrictions set forth in FRBP 3007(d)-(e). The term “substantially conforms” in the proposed LBR 3007-1(a)(3) is meant to suggest to filers that they should use LBF 763.1 as a template for notices and include a 30-day response period and certificate of service.

Rule 3015-1. Chapter 12 or 13—Plan & Payments.

[...]

(b) Chapter 13.

(1) Plan. In any case commenced on or after December 1, 2017, a single local plan form is adopted for this district, and, pursuant to FRBP 3015.1, the court opts out of the national chapter 13 plan form. A plan must be filed on LBF 1300.17 for cases commenced or converted to chapter 13 on or after December 1, 2017; and LBF 1300.14 for cases commenced or converted to chapter 13 from December 1, 2014 through November 30, 2017; ~~and LBF 1300.05 for cases commenced or converted to chapter 13 before December 1, 2014.~~ A plan must be signed and dated with the date signed by the debtor.

[...]

(6) Preconfirmation Adequate Protection Payments.

[...]

~~(C) Unless provided otherwise in the plan, a payment must be in the amount proposed in plan pt. 2(b).~~

Comment. LBF 1300.05 has been retired and the reference thereto is removed from subsection (b)(1). Subsection (b)(6)(C) is deleted because 11 U.S.C § 1326(a)(1)(C) requires that adequate protection payments be made by the debtor directly to the creditor.

Rule 3016-1. Chapter 11.

~~(a) **Accelerated Case.** The court will, if appropriate, enter an order designating a case for accelerated treatment.~~ [Reserved]

Comment. The current section (a) is stricken because the meaning of “accelerated case” is somewhat uncertain; the statutory small business designation or subchapter V election may afford more expedited treatment; and the subsection adds unnecessary complexity to chapter 11 options and procedures. Moreover, the designation is rarely used.

Rule 4004-1. Grant or Denial of Discharge.

[...]

(b) Chapter 11 Discharge for Individual under §§ 1141(d)(5) or 1192. To obtain a discharge, a debtor must file a motion for entry of discharge on LBF 1191.3 for discharge under § 1141(d)(5) or LBF 1191.5 for discharge under § 1192 ~~regardless of when discharge is sought.~~ If the case is closed, the debtor must contemporaneously file a motion to reopen the case and pay the required reopening fee.

[...]

Comment. This proposal expands the LBR 4004-1(b) requirement to file an LBF discharge motion to chapter 11 debtors that have elected subchapter V. See also proposed new form LBF 1191.5 and proposed revisions to LBF 1191.3.

Rule 6007-1. Abandonment.

- (a) **Trustee Abandonment/Motion to Compel Abandonment.** ~~A trustee must use the appropriate LBF when filing under § 554(a). Except as provided in (b), a party requesting relief under § 554(b) must give notice under LBR 2002-1(b) of its intent to submit a proposed order to compel abandonment and contemporaneously serve documents evidencing the interest of that party and any perfection of a security interest on the trustee and any creditors' committee.~~ Except as provided in (b), a trustee must use LBF 751 when giving notice of a proposed abandonment. A motion to compel abandonment by anyone other than the debtor must describe the movant's interest in the property to be abandoned, including documentation of any creation or perfection of a security interest.
- (b) **Trustee's Abandonment of Debtor's Residence in Chapter 7 Cases.** ~~At least five days before the meeting of creditors in a Chapter 7 case, any objection to abandonment of real property that is the debtor's residence must be filed and contemporaneously served on the debtor's attorney (if not an ECF Participant), or, if debtor is not represented by an attorney, on the debtor. If no timely objection is filed, the trustee can abandon the property at or after the meeting of creditors upon request of the debtor or mortgage creditor without any further notice requirement. If the trustee consents to the request, the trustee must file a Trustee's Abandonment of Debtor's Residence (Real Property) using LBF 751.5.~~ As early as practicable in a chapter 7 case, the clerk must give notice to all creditors that the trustee may abandon real property that is the debtor's residence unless, no later than seven days before the first date set for the meeting of creditors, a creditor files an objection to abandonment and serves its objection on the debtor. Absent a timely objection and on request of the debtor or a creditor with an interest in the real property, the trustee may abandon the real property by filing LBF 751.5.

Comment. This revision updates abandonment procedures to reflect current practice and use of applicable LBFs. It also changes the deadline for filing an objection to abandonment to a multiple of seven days and relates it to the first date set for the meeting of creditors because that date is more likely to be known and fixed than the date on which the meeting of creditors is actually held.

General Rule Proposal.

Remove all “[Reserved]” LBRs that do not contain cross-references, i.e., remove LBRs:

- 4003-1
- 5001-1
- 5005-2
- 5005-3

- 5072-1
- 7004-1
- 7024-1
- 9029-2

Comment. These rules add unnecessary length to the local rules. The proposal does not include changing the numbering of the remaining rules—the local rules follow the uniform numbering system and gaps should not cause confusion.

PROPOSED LOCAL BANKRUPTCY FORM (LBF) REVISIONS

LBF 1190. Notice Re: of Order Confirming Chapter 11 Plan, Any Appropriate Injunction, and Discharge Compensation Applications.

NOTICE IS SERVED by the undersigned (e.g., debtor's attorney) _____, whose name and service address are _____, of the following:

1.A. This court entered an order on _____ confirming the following plan:
Plan dated _____,
~~D~~Docket # _____,
filed by (e.g., debtor) Plan proponent: _____, and,
~~if~~ filed plan was proposed by debtor, the debtor's address and Taxpayer ID#(s) (last 4 digits) are: _____.

~~B.~~ The confirmation order is enclosed. Except as otherwise provided in the plan or order confirming the plan:

~~1.~~ Unless a debtor is an individual who filed this case on or after 10/17/2005, then the debtor is discharged as follows:

~~(a) The debtor is discharged from any debt that arose prior to the date of entry of the order confirming such plan and from any kind of debt specified in 11 U.S.C. §§ 502(g), (h) or (i), whether or not a proof of claim was filed or deemed filed, whether or not such claim was allowed, whether or not the holder of such claim accepted the plan and whether or not the right to payment was reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, secured or unsecured, except (i) for debts that are not discharged under 11 U.S.C. §§ 1141(d)(2) or § 1141(d)(6)(A) or (B), and (ii) if the plan liquidates substantially all estate property, the debtor does not engage in business after consummation, and a discharge would be denied under § 727(a) if the case were one under 11 U.S.C. Chapter 7.~~

~~(b) Any judgment is void to the extent it is a determination of the debtor's liability with respect to any discharged debt.~~

~~2.~~ If any debtor is an individual who filed this case on or after 10/17/2005, then the debtor shall not be discharged from any debt provided for in the plan until debtor completes all payments under the plan, unless the court orders otherwise for cause under 11 U.S.C. § 1141(d)(5)(A). The court may additionally grant a discharge to a debtor who has not completed plan payments if the court finds the debtor meets the criteria of 11 U.S.C. §§ 1141(d)(5)(B) or (C).

3. ~~The property revested in the debtor under the plan is free and clear of all claims and interest of creditors and equity security holders.~~
4. ~~Commencement or continuation of any action, or of employment of process or any act to collect, recover or offset any such debt as the debtor's personal liability, or from the debtor's property, is enjoined.~~
- C. ~~If applicable, the Order of Confirmation, in accordance with Federal Rule of Bankruptcy Procedure (FRBP) 3020, describes all acts enjoined by the plan that are not otherwise enjoined under the Bankruptcy Code.~~
- 2.D.** The confirmation order is enclosed. Unless a written request for a hearing objection, setting forth specific grounds for objections, is filed with the clerk at 1050 SW 6th Ave. #700, Portland, OR 97204 or 405 E 8th Ave. #2600, Eugene OR 97401, within 21 days of this notice's service date in paragraph ~~E~~3, the court will consider the following applications for compensation or administrative expenses, if any, without further notice:

Applicant	Total Amount of Final Request	Total Amount Paid to Date Including Retainers	Balance Due	Estimate of Case Related Post-Confirmation Compensation <i>(Indicate if Included in Total Amount of Final Request)</i>

3.E. On _____ this notice was served by mail on the debtor(s), all creditors, any trustee, the U.S. Trustee, ~~and their respective attorneys~~ equity security holders, other parties in interest, and, if known; all interested parties; and any identified entity subject to an injunction provided for in the plan against conduct not otherwise enjoined under the Bankruptcy Code. A list of the names, addresses, and methods for service of all parties served on paper is attached.

Signature & Relation to Case

Signature Date

Name

Relationship to Case

Service Address

* * * * *

Comment. As currently written, the form indicates that it is a discharge order, but discharge occurs either upon confirmation or upon entry of an order on the debtor’s motion for discharge. Thus, all the discharge language (current paragraph B) has been replaced with “The confirmation order is enclosed.”

Paragraph C has been removed because that information is contained in the confirmation order.

The service language has been modified to more closely mirror FRBP 3020(c)(2), the national rule requiring notice of entry of the confirmation order.

**LBF 1191.3. Individual Debtor’s Motion for Entry of Discharge and Statement re:
11 U.S.C. § 522(q)(1) Applicability, and Notice of Related Deadlines.**

~~I/We, the~~ Each undersigned debtor(s), moves the court for entry of a discharge in this case pursuant to 11 U.S.C. § 1141(d)(5). ~~I/We~~ and certifies under penalty of perjury that:

1. (Check one)

All plan payments have been completed.

The plan provides for entry of the discharge contemporaneously with the confirmation order.

[...]

3. Per Federal Rule of Bankruptcy Procedure (~~FRBP~~) 1007(b)(7), the debtor has either (check one): [...]

NOTICE IS GIVEN that if ~~a creditor or interested party~~ you objects to entry of a discharge in this case, ~~the creditor or interested party~~ you must, within ~~30~~ 14 days of the service date shown below, file a written objection with the clerk at 1050 SW 6th Ave. #700, Portland OR 97204 or

405 E 8th Ave. #2600, Eugene OR 97401 and include a certificate of service on the each debtor(s), the trustee (if any), and their attorneys.

On _____ I served this motion/notice was served on the trustee (if any) and ~~on the attached list of all creditors, interested~~ and other parties entitled to receive it., and their attorneys Attached is a list of the names, addresses, and methods for service of all parties served using paper.

Signature and Relation to Case

* * * * *

Comment. The revisions to this form are proposed in accordance with revisions to [LBR 4004-1\(b\)](#). The only substantive modification is changing the objection deadline from 30 to 14 days. See also the proposed new form [LBF 1191.5](#).

LBF 1195. Final Account; ~~Payment of Allowed Attorney Fees;~~ and Application for Entry of Final Decree and Closing Order.

The undersigned files this final account and represents that:

1. On _____, the court entered an ~~Order~~ confirming the ~~Chapter 11 P~~lan.
2. The ~~total (i.e., of what has and will be paid)~~ percentage dividend to be paid of unsecured creditors' claims that will be paid over the life of the plan is ____%. (*Enter "N/A" if percentage amount is not determinable at this time.*)
3. All administrative claims and expenses have been paid in full, or appropriate arrangements have been made for full payment.
4. All secured claims provided for in the ~~P~~lan have been paid or will be satisfied as provided in the ~~Order of Confirmation~~ confirmation order.
5. All objections to claims ~~in this case~~ have been resolved.
6. ~~All matters to be completed upon the effective date of the confirmed plan have been completed;~~ The plan has been substantially consummated, and application is therefore made for entry of a final decree and closing order pursuant to Fed. Federal Rule of Bankr. Proc. Bankruptcy Procedure (FRBP) 3022.
7. ~~On _____ copies of this final account were served on the U.S. Trustee; and the debtor(s), any trustee, the Creditors' Committee, and their respective attorneys.~~

8. ~~I understand that the appropriate attorney may be paid the amount originally allowed, but withheld, after the filing and service of this final account.~~

[...]

* * * * *

Comment. See also proposed revisions to [LBR 2015-1\(b\)\(2\)\(A\)](#).

Paragraph 7 was removed because there is no service requirement in the Bankruptcy Code or rules, and paragraph 8 was deemed unnecessary. The other changes are proposed for clarity.

LBF 1300.17. Chapter 13 Plan.

[...]

3. Payments to the Trustee. Debtor must pay to the trustee: [...]

- (c) ~~upon receipt, net tax refunds attributable to the following tax years:~~ with respect to the following tax years _____; [mark only one]: upon receipt, net tax refunds attributable to those tax years. no portion of net tax refunds attributable to those tax years. ~~Net tax refunds are those tax refunds not otherwise provided for in the plan, less (1) tax paid by debtor for a deficiency shown on any tax return for that same tax year or tax paid by setoff by a tax agency for a postpetition tax year; (2) any earned income tax credit; (3) if checked, child care credits; and (4) if checked, _____.~~

[...]

* * * * *

Comment. This revision is consistent with the court's ruling in *In re Orozco*, Case No. 19-60726-dwh13. Since paragraphs 3(c) and 10 are linked (with the paragraph 10 tax return reporting requirements tied to the return periods in paragraph 3(c)), these modifications allow for plans that do not commit tax refunds to the plan. It also streamlines exclusion of earned income credits, child-care credits (if sought by the debtor), and other amounts or categories that may be sought by the debtor.

LBF 1367.92. Debtor’s Motion to Reopen Chapter 7 or 13 Case and, if Applicable, to Vacate Dismissal.

Instruction to Filer: File this motion with the applicable motion-to-reopen fee, if required (exceptions are noted below), and any unpaid balance of the original filing fee. Fees are found at www.orb.uscourts.gov/court-fees.

~~1. The debtor moves the court for an order reopening the above-captioned case. (Note: in order for the court to accept and consider this motion, the debtor must pay the reopening fee, if applicable, and any unpaid balance of the original filing fee.)~~

~~2. [Check all applicable boxes]:~~

~~[] The court entered an order closing the case _____.~~

~~[] The court entered an order of dismissal in this case.~~

~~3.1.~~ The debtor moves the court for an order reopening the case for the following reason(s) *check each reason that applies*:

[...]

Note that the court will not reopen: (a) a case in which a discharge has been entered to accept or act upon a reaffirmation agreement without a motion explaining why court action is necessary; or (b) a no-asset case in order to add a creditor.

~~4.2.~~ The following grounds exist under FRBP 9024 for entry of an order reopening and, if applicable, an order vacating the dismissal *check at least one and provide details in paragraph 3*:

[...]

~~5.3.~~ The debtor offers evidence to support a finding that grounds exist as indicated above (*check one*):

[...]

Signature of Debtor’s Attorney, if any Date

I declare under penalty of perjury that the *foregoing is true and correct* ~~the information contained above is true and correct to the best of my knowledge, information and belief.~~

Submitted by — Date

Signature of Debtor (required)

Date

Signature of Joint Debtor (if applicable)

Debtor's Current Service Address

* * * * *

Comment. This revision removes paragraph 2 because the information is readily available on the docket and pro se debtors often do not complete it correctly.

A space was added to the signature block for the debtor attorney's signature if the attorney is the submitter. Changes were made to the declaration section to clarify who is making the declaration and to simplify the language.

PROPOSED NEW LOCAL BANKRUPTCY FORM

Note on formatting. This proposed new form is presented without the redline formatting of the proposed LBR and LBF revisions above; as the entire form consists of proposed new text, differentiation via double-underlining and red font is unnecessary.

LBF 1191.5. Chapter 11 Subchapter V Debtor’s Motion for Entry of Discharge.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re	Case No. _____ [] Amended
Debtor(s)	CHAPTER 11 SUBCHAPTER V DEBTOR’S MOTION FOR ENTRY OF DISCHARGE

Each undersigned debtor moves the court for entry of a discharge in this case pursuant to 11 U.S.C. § 1192 and certifies under penalty of perjury that:

1. The debtor has completed all payments due within the first three years of the plan or any later period fixed by the court for entry of discharge.

2. Per Federal Rule of Bankruptcy Procedure 1007(b)(7), the debtor (*check one*):

 has completed an instructional course concerning personal financial management and has separately filed the certification pertaining thereto.

 is not required to complete an instructional course concerning personal financial management.

3. The address(es) & taxpayer ID#(s) (last four digits) of the debtor(s) are:

_____.

Signature of Debtor	Date	Signature of Joint Debtor	Date
---------------------	------	---------------------------	------

NOTICE IS GIVEN that if you object to entry of a discharge in this case, you must, within 14 days of the service date shown below, file a written objection with the clerk at 1050 SW 6th Ave.

#700, Portland OR 97204 or 405 E 8th Ave. #2600, Eugene OR 97401 and include a certificate of service on each debtor, the trustee, and their attorneys.

On _____ this motion was served on the trustee and all creditors and other parties entitled to receive it. Attached is a list of the names, addresses, and methods for service of all parties served using paper.

Signature and Relation to Case