

Bankruptcy Court Procedures Re: Requests for Non-Judicial Relief from the Automatic Stay as to Secured Collateral in Chapter 7 Cases

Basic Procedure. If you are interested in expediting relief from the automatic stay of 11 U.S.C. § 362(a) as to property in which you hold a security interest, you must:

1. furnish the trustee a statement of the balance due and estimated property value;
2. attach a copy of your security agreement and other documents required for perfection (e.g., if the security is an automobile, a copy of the certificate of title showing your security interest);
3. attach Local Bankruptcy Form (LBF) [LBF 750](#), completely filled out except for signatures; and
4. include a self-addressed, stamped envelope.

Do not file the request with the court. You are not required to file the completed LBF 750 with the court to make this relief effective.

Applicable Law. Under 11 U.S.C. § 522(f) the debtor may request that a judicial lien or a non-possessory, non-purchase-money security interest on certain exempt property be voided to the extent the exemption is impaired by the lien or security interest. Under 11 U.S.C. § 722 the debtor may request the court determine the value of certain personal property and permit the debtor to redeem the property from any lien against it by paying that value to the lienholder. Because of these two sections, the consent of both the trustee and the debtor is required to permit a repossession or foreclosure without court order.

Request Made At, or Within 15 Days Prior To, Meeting of Creditors. The request must be in writing and contain all the information required in the basic procedure above. Copies of all documents must be submitted to the debtor and any debtor's attorney prior to that meeting.

Request Made After, or More than 15 Days Prior To, Meeting of Creditors. The request must be in writing and contain all the information required in the basic procedure above.

Stipulation by the Debtor. If the request includes a signed debtor stipulation, nothing further is required, and the trustee may immediately process the request.

No Stipulation by the Debtor. If the request does not include a signed debtor stipulation, then it must:

- (1) certify that copies of all documents were simultaneously served on (e.g., mailed to) the debtor and any debtor's attorney; and

(2) clearly set out the following notice:

By way of this letter the debtor is informed that the trustee may grant non-judicial relief from the automatic stay as to the property unless the trustee is notified in writing within 15 days after the service of this request that the debtor objects to such relief. Such relief will constitute a termination of the stay provided by 11 U.S.C. § 362(a) and will permit this creditor to foreclose his lien or security interest by repossession or as otherwise provided by law.

Objections. Objections to non-judicial relief from the automatic stay, unless made at the meeting of creditors, must be in writing, with copies simultaneously served on the debtor, the creditor making the request, trustee, and their respective attorneys of record. The objection must be post-marked by the 15th day after the request was served, and received by the trustee within 20 days, or the trustee may grant the request.

If the trustee receives a timely objection from the debtor, the trustee shall not grant non-judicial relief or consider repetitive requests by the same creditor unless the debtor withdraws such objection in writing.

Trustee Action. The trustee will grant non-judicial relief from the automatic stay if the above requirements are met, the debtor either does not timely object or stipulates in writing to the relief, and there appears to be no equity in the property for the benefit of creditors.

Effect of Non-Judicial Relief. Signing of [LBF 750](#) by the trustee granting non-judicial relief will constitute a termination of the stay of an act against the property under 11 U.S.C. § 362(a). The trustee, however, will not be deemed to have abandoned his/her interest in the property, nor have waived any other rights as to the property. Any non-exempt equity in the property remaining after disposition will be immediately returned to the trustee.

Procedure if Non-Judicial Relief Not Granted. If either the trustee or the debtor will not agree to such relief for any reason, you must file a motion for relief from stay under § 362(d). Instructions and forms may be obtained from the court's website at <https://www.orb.uscourts.gov>.