

2015 COMMITTEE NOTE

Official Form 108, *Statement of Intention for Individuals Filing Under Chapter 7*, is revised in its entirety as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. In addition, the form is renumbered, and stylistic changes are made throughout the form.

The form is derived from former Official Form 8, *Chapter 7 - Individual Debtor's Statement of Intention*. The new form uses language likely to be understandable to non-lawyers. In addition, the instructions are more extensive, advising an individual Chapter 7 debtor that the form must be completed and filed within 30 days and that the debtor must deliver copies of the form to creditors and lessors listed on the form.

Part 1, *List Your Creditors Who Have Secured Claims*, refers to entering into a "Reaffirmation Agreement" rather than asking whether the debtor intends to "reaffirm the debt." In addition, the debtor is asked if the property is claimed as exempt on Schedule C (Official Form 106C).

Part 2, *List Your Unexpired Personal Property Leases*, defines unexpired leases and explains that a debtor may assume an unexpired personal property lease if the trustee does not assume it.

HISTORICAL NOTES

2008 COMMITTEE NOTE

The form is amended to conform to § 362(h), which was added to the Code, and § 521(a)(2), which was amended, by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (April 20, 2005), by expanding the questions directed to the debtor regarding leased personal property and property subject to security interests. The form is also amended and reformatted to require the debtor to complete a series of statements describing the property and setting out what actions the debtor intends to take for each listed asset. The amended form is intended to elicit more complete information about the debtor's intentions with regard to property subject to security interests and personal property leases than has been obtained under the current version of the form.

In addition, the form is amended to specify that the debtor's signature is a declaration under penalty of perjury, as required by Rule 1008, and to provide space for the co-debtor's signature. A continuation page has been provided for use if necessary. The Declaration of Non-Attorney Bankruptcy Petition Preparer has been deleted from the form as duplicative of Form 19, Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer. Form 19 contains both the petition preparer's declaration and signature and the notice the petition preparer is required to give to the debtor under § 110 of the Code.

2005 COMMITTEE NOTE

The form is amended to conform to § 521(a)(6), which was added to the Code by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (April 20, 2005), by adding a section covering personal property subject to an unexpired lease and an option labeled "lease will be assumed pursuant to 11 U.S.C. § 362(h)(1)(A)" to the choices a debtor may make. The certification by a non-attorney bankruptcy petition

preparer in the form is renamed a “declaration” and is amended to include material mandated by the 2005 amendments to § 110 of the Code.

2003 COMMITTEE NOTE

Pursuant to § 110(c) of the Bankruptcy Code, the certification by a non-attorney bankruptcy petition preparer requires a petition preparer to provide the full social security number of the individual who actually prepares the document.

1997 COMMITTEE NOTE

The form is amended to conform more closely to the language of the Bankruptcy Code. The amendments also make clear that the form is not intended to take a position regarding whether the options stated on the form are the only choices available to the debtor. Compare Lowry Federal Credit Union v. West, 882 F.2d 1543 (10th Cir. 1989), with In re Taylor, 3 F.3d 1512 (11th Cir. 1993).

1995 COMMITTEE NOTE

This form is a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110, which was added to the Code by the Bankruptcy Reform Act of 1994; accordingly, a signature line for such preparer is added. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested.

1991 COMMITTEE NOTE

This form is derived from former Official Form No. 8A. Rule 1007(b)(2) requires the debtor to serve a copy of this statement on the trustee and all creditors named in the statement. In a joint case, if the property and debts of both debtors are the same, the form may be adapted for joint use. If joint debtors have separate debts, however, each debtor must use a separate form.

