

ORDER CONFIRMING CHAPTER 13 PLAN

Applicable Law and Rules

Section 1321 of the Bankruptcy Code (11 U.S.C. § 1321) requires each debtor to file a plan. Fed. R. Bankr. P. 3015(b) provides that if the plan is not filed with the petition, it may be filed within 14 days after the petition is filed. The court may extend the time for cause shown and on notice as the court may direct.

Instructions

General

Many courts have developed their own form order for the confirmation of a chapter 13 plan. Before submitting a proposed confirmation order on Form 2300B, an attorney should inquire whether the court uses the form. Furthermore, the local rules or practice may require the standing trustee to prepare the confirmation order.

Caption

1. Identify the judicial district in which the bankruptcy case was filed.
Example: Eastern District of California.
2. “In re”: Insert the name of the debtor as it appears in the bankruptcy petition.
3. “Case No.”: Insert the bankruptcy case number assigned at the time of filing.

Line 1, first paragraph

Insert in first blank the date of filing of the plan. Insert in the second blank the date of filing of any modification.

Numbered section 1

Select the appropriate check boxes.

Line 2: insert the amount of each payment.

Line 3: insert the day of the month payment is due, or specify the alternative payment schedule, if any, in the blank on Line 4.

Line 5: insert the length of the plan in months, specify on Line 6 the total percent of dividend to be paid to creditors holding allowed unsecured claims, or fill in the blank on Line 8 with any other event which will terminate the plan.

Line 9: insert the name and address of the standing trustee.

Numbered section 2

Insert in the first blank the total amount paid and to be paid to the attorney for the debtor.

In the second blank indicate the balance to be paid to the attorney for the debtor through the plan, if any.

Numbered section 3

Set forth any additional provisions ordered by the court at the confirmation hearing. An order directing the debtor's employer or any other entity from which the debtor receives income to make all or part of the plan payments may be set forth in this section or as a separate order.

General Information for the Clerk

Form 2300B seeks a middle ground between two forms of confirmation orders used in the courts. The first is a "short form" order which merely recites that the court finds the plan to be in compliance with 11 U.S.C. § 1325 and decrees the plan to be confirmed. The second is a "long form" order which sets forth specific findings on each § 1325 requirement, as well as detailing the provisions of the confirmed plan. Form 2300B does not specifically list the findings required by § 1325 and summarizes the terms of the plan.

Clerks should review this form with the judges to determine whether the form should be adopted in their district.

Clerks may also wish to establish a policy fixing the party to be charged with the responsibility for submitting this form to the court for signature: the trustee, the debtor, or the clerk. There are arguments to be made in favor of each of these policies, and each is in use somewhere in the country.

An order directing the debtor's employer or any other entity from which the debtor receives income to pay all or part of the income directly to the trustee may be included in the confirmation order or it may be prepared as a separate order. If such a provision is included in the confirmation order, the caption of the order should be revised to reflect it.