

**EXTERNAL INSTRUCTIONS RE:
REAFFIRMATION AGREEMENT**

(Rev. 4/09)

APPLICABLE ONLY TO CASES FILED ON OR AFTER 10/17/05

FEDERAL CODE, FEDERAL AND LOCAL RULES:

11 U.S.C. § 524

Federal Rule 4004 AND 4008

R.I. LBR 4008-1

Official Form 240A (1/07)

REQUIRED FORM FOR FILING A REAFFIRMATION AGREEMENT

A. For cases filed on or after 10/17/05 - Official Form 240A (1/07).

B. For cases filed pre 10/17/05 - R.I. Bankr. Form U.

REVIEW OF REAFFIRMATION AGREEMENTS

Cases filed on or after 10/17/05 -

A. REAFFIRMATION AGREEMENTS INVOLVING REAL ESTATE AND/OR CREDIT UNIONS do not require court approval, even when the debtor is pro se.

B. For all other Reaffirmation Agreements - The Court will review **“Part D: “Debtor’s Statement in Support of Reaffirmation Agreement”** to determine if a presumption of undue hardship arises. A presumption of undue hardship arises if, the stated monthly income, minus monthly expenses, is less than the amount of the monthly payment on the Reaffirmation Agreement.

(1) If a presumption of undue hardship has arisen:

The Court will review the Reaffirmation Agreement along with any explanation contained in Part D, and/or separately filed rebuttal.

(2) Where the debtor is represented by an attorney, the Court may approve the

Reaffirmation Agreement on the pleadings, or may schedule the Reaffirmation Agreement for hearing.

C. PRO SE REAFFIRMATION AGREEMENTS (not involving real estate or Credit Unions).

Note: These instructions apply whether or not the debtor is pro se for the entire case, or is proceeding pro se with regard to the RA only, i.e., no attorney signature on the RA.

- (1) Part E of the Reaffirmation Agreement entitled, “Motion For Approval” must be completed for all pro se Reaffirmation Agreements.
- (2) A hearing will be held on all pro se Reaffirmation Agreements regardless of whether the presumption of undue hardship has arisen.

DEFECTIVE REAFFIRMATION AGREEMENTS

A. A Reaffirmation Agreement will be deemed defective and will be stricken from the record if:

- (1) Official Form 240A (rev.1/07) is not used for cases filed *on or after* 10/17/05.
- (2) The debtor or creditor fails to sign any of the required parts of the reaffirmation agreement.

B. The Court will issue a Notice of Defective Pleading if:

Part E of the Reaffirmation Agreement entitled, “Motion for Approval” is not completed by a pro se debtor with respect to a Reaffirmation Agreement that does not involve real estate or is being entered into with a credit union. (**NOTE:** If the attorney fails to sign the Reaffirmation Agreement, the Agreement will be treated as if the debtor filed it pro se)

REAFFIRMATION AGREEMENT AND DISCHARGE

Whenever a Reaffirmation Agreement is filed where the presumption of undue hardship has arisen, the discharge will not enter in the case until the Court either approves or disapproves the Reaffirmation Agreement.