

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

INSTRUCTIONS RE: LOSS MITIGATION PROGRAM AND PROCEDURES
General Order 13-002 Amending Appendix IX of the Local Rules

I. Effective Date, Chapters Affected, Eligibility, and Deadlines:

1. Effective Date: November 1, 2009, amended June 3, 2013

2. Chapters Affected: 7, 11, 12 or 13

3. Eligibility:

- (A) **Property:** Individual debtors with real property used as a principal residence.
- (B) **Financial Management:** In Chapter 7 cases, Debtor must timely file a Financial Management Course Certificate within 60 days of the initial date set for the §341 Meeting. If not timely filed, Loss Mitigation may be terminated.
- (C) **Adequate Protection Payments:** During the loss mitigation period, the Debtor must make monthly adequate protection payments as provided in Section VI.B.F of the program equal to 31% of the debtor's gross monthly income to the Creditor at the Creditor's loss mitigation contact address, or such other address as the Creditor may direct. Such payments must commence within 30 days of the entry of the loss mitigation order or within 10 days of the creditor providing contact information, whichever occurs later.
- (D) **Legal Fees:** In order to participate in loss mitigation, the Debtor must consent to the payment of legal fees to Debtor's counsel and Lender's counsel in an amount up to \$2,000 each, or such additional amount as the Court may allow. Lender's counsel may not require payment of such fee during the loss mitigation process or as a condition of participation in loss mitigation and may only assess the fee to the Debtor's Loan account.

4. Deadlines:

(A). Initiation of Loss Mitigation (LM):

In Chapter 7 cases, Debtor or Creditor may initiate loss mitigation within 60 day of case filing by filing a Notice Request for Loss Mitigation (Form A or Form B). *See, Section V of 7Th Amended LM Program.*

In Chapter 13 cases, Debtor or Creditor may initiate loss mitigation at any time by filing a Notice Request for Loss Mitigation (Form A or Form B). *See, Section V of 7th Amended LM Program.*

(B). Opportunity to Object: A Creditor has fourteen (14) days to object to LM. A Debtor has seven (7) days to object to LM.

(C). Other Deadlines: Upon entry of a Loss Mitigation Order, the remaining deadlines – for designating contact information; initial contact; document production requests; conducting the LM sessions; and appearing at a status conference hearing will be set forth in the LM Order. *See attached timeline for general timeframes involved.*

5. Initial Status Hearing: The Court will conduct an initial status hearing approximately 45 days after the loss mitigation order is entered. Counsel for the Debtor and Creditor shall each appear at said hearing unless a Status Report (Form E) and a proposed Consent Order (Form F) are filed by 3:00 PM, two days prior to the scheduled hearing date.

II Treatment of Other Case Matters:

Upon entry of an Order granting loss mitigation, all pending matters (i.e., objection to claim; avoidance of lien; valuation of loan or property; confirmation of plan) are continued to a date after the loss mitigation concludes except for relief from stay actions. A motion for relief from the automatic stay filed by the loss mitigation creditor will be scheduled for hearing at the initial status hearing and continued to each successive status hearing.

III. Bankruptcy Court Approval:

- 1. Chapter 7 Cases:** The Loss Mitigation Parties are not required to seek court approval of any resolution or settlements reached during the loss mitigation process, but are still required to file the Form D outlining the terms of the resolution or settlement.
- 2. Chapter 13 Cases:** The Loss Mitigation Parties shall file a written request for court approval of any resolution or settlement reached during the loss mitigation process, which shall be accompanied by a signed and completed Form D, Proposed Loss Mitigation Agreement.

IV. Post Approval Duties:

- 1. Amended Schedules and Chapter 13 Plan:** Within fourteen (14) days after Court approval of a loss mitigation resolution, the Debtor shall file amended Schedules I and J and an amended Chapter 13 Plan, if applicable.

2. **Previously Filed Objection to Chapter 13 Plan:** The Creditor shall update any previously filed objection to the Chapter 13 Plan, if applicable, at least seven (7) days before the rescheduled confirmation hearing date. If an updated objection is not filed, the Court will deem the original objection to have been withdrawn.

V. New Forms:

1. **Joint Loss Mitigation Status Report (Form E):** To be jointly filed by Debtor and Creditor in lieu of appearing at status hearing, if filed by 3:00 PM at least two days before hearing date.
2. **Proposed Consent Order (Form F):** To be jointly filed by Debtor and Creditor as an attachment to the filing of Form E – Joint Loss Mitigation Status Report -- in lieu of appearing at status hearing.

VI. Website Enhancements:

1. The **Loss Mitigation Page** has been updated on the Court's website (located under Programs and Services on right side of the Home page) to include updated program documents and forms, flow charts, frequently asked questions, best practices, service tips and this attorney instruction document. Access to the DMM Portal remains available but is no longer a requirement for participation in loss mitigation.
2. **Links to the Government sponsored Loss Mitigation Programs** (Making Homes Affordable) materials and the Home Affordable Modification Plan (HAMP) website remain available on the Loss Mitigation Page, including the HAMP document checklist.