

NEBRASKA RULES OF BANKRUPTCY PROCEDURE

Adopted by the United States District Court
for the District of Nebraska
April 15, 1997

Effective Date April 15, 1997

RULE 3015-4. CHAPTER 13 - DISMISSAL OF CASE UPON PAYMENT DEFAULT.

A. Notice of Payment Default. The Chapter 13 trustee may provide a debtor with Notice of Payment Default. The notice shall state the amount of the existing payment default and the date on which the next scheduled payment is due under the proposed plan or confirmed plan. The notice shall further state that under this Local Rule, the bankruptcy case will be dismissed upon the filing of a declaration by the Chapter 13 trustee unless, within 20 days after the date of the Notice of Payment Default, the debtor either cures the payment default and makes all payments due before expiration of the 20 day period or requests a hearing on the Notice of Payment Default. The Notice of Payment Default shall state the specific calendar date by which either the payment default must be cured or a hearing must be requested. The Chapter 13 trustee shall file a copy of the Notice of Payment Default and proof of service with the Clerk of the Bankruptcy Court.

B. Cure Default or Request Hearing. Within 20 days of the mailing of a Notice of Payment Default, the debtor shall either:

1. cure existing payment defaults, make all payments due before expiration of the 20 day period, and file proof of payment with the Clerk of the Bankruptcy Court, or

2. file a motion with the Clerk of the Bankruptcy Court requesting that the Notice of Payment Default be set for hearing to permit the debtor to show good cause why the case should not be dismissed. If the motion sets forth facts in support of specific allegations of good cause, the Clerk of the Bankruptcy Court shall schedule the Notice of Payment Default for hearing upon affidavit evidence. The filing of a contested matter by the debtor, such as an amended or modified plan or motion to suspend payments, shall not constitute a request for hearing under this Local Rule and shall not, alone, preclude dismissal of the case.

However, any such contested matter or amended plan, if a basis for allegations that the case should not be dismissed, shall be filed within the 20 day period in compliance with Local Rule 9013-1.

C. Dismissal upon Payment Default upon Declaration of the Chapter 13 Trustee. A Chapter 13 case shall be dismissed upon the filing of an affidavit by the Chapter 13 trustee establishing that Notice of Payment Default was provided to the debtor and debtor's counsel and that the debtor did not timely cure the payment default or request a hearing. The affidavit shall state that the Chapter 13 trustee has complied with this Local Rule, has sent a copy of the Notice of Payment Default to the debtor, debtor's counsel, and the Clerk of the Bankruptcy Court, that the debtor has not timely cured the payment defaults or requested a hearing on the Notice of Default and that the case should be dismissed.

D. Chapter 13 Trustee to Submit Proposed Order. The Chapter 13 Trustee shall submit a proposed order of dismissal at the time the affidavit is filed under subsection C of this Local Rule.