

United States Bankruptcy Court
District of Vermont

**SYNOPSIS OF U.S. BANKRUPTCY CODE AND RULES REGARDING
CONVERSION AND DISMISSAL OF CHAPTER 7 AND 13 CASES**

CONVERSIONS

FROM CHAPTER 7 TO CHAPTER 13 (11 U.S.C. § 706)

1. **By the Debtor.** Debtor can convert from Chapter 7 to 13 only if Debtor is eligible for Chapter 13 relief, and in particular upon a demonstration that such conversion is in good faith.
 - a. Done by MOTION (Rule 1017(f)(2)); default procedure can be used. Minimum 20 days' notice to be provided to all parties and creditors (Rule 2002(a)(4)).
 - b. No fee.

By a Party in Interest. Under § 707(b)(1) a party in interest may move to dismiss a ch 7 case “or, with debtor’s consent” to convert the case to Chapter 13 based on Chapter 7 Debtor’s alleged abuse of the system.

- a. Done by MOTION.
- b. Notice to all creditors; debtor must consent.
- c. No fee.

FROM CHAPTER 7 TO CHAPTER 11, or 12 (11 U.S.C. § 706)

1. **By the Debtor.** Debtor has an absolute right to convert from Chapter 7 to Chapter 11, or 12 **at any time** *PROVIDED* that the case has not been previously converted and the individual is eligible to be a debtor under that chapter (per §§ 706(d) and 109).
 - a. Done by MOTION (Rule 1017(f)(2)); default procedure can be used where there has NOT been a previous conversion.
 - b. No hearing required, but the United States Trustee (UST), and Chapter 7 Trustee are to be served.
 - c. No fee.
2. **By a Party in Interest.** The only relief available is to seek conversion to Chapter 11; conversion to Chapter 12 is available only at the request of the debtor (under the procedure set forth above).
 - a. Done by MOTION (Rule 1017(f)(1)); default procedure can be used.
 - b. 20 days' notice required to all parties and creditors (Rule 2002(a)(4)).

FROM CHAPTER 13 TO CHAPTER 7 (11 U.S.C. § 1307)

1. **By the Debtor.** Debtor can convert from Chapter 13 to Chapter 7 **at any time.** Debtor has absolute right to this relief (*no exceptions in this District*).
 - a. Done by NOTICE OF CONVERSION (Rule 1017(f)(3)).
 - b. No order required (Court issues an order regarding debtor’s duties upon conversion; that order does not *per se* approve or grant conversion).
 - c. \$15 conversion fee paid at time of filing of the notice. Clerk’s Office will issue a bill if the fee is not paid with the filing.

FROM CHAPTER 13 TO CHAPTER 7 (11 U.S.C. § 1307) – (Cont’d.)

2. **By a Party in Interest.** After notice and hearing, case may be converted from Chapter 13 to Chapter 7 upon motion of UST or party in interest for cause (10 examples set forth in 11 U.S.C § 1307(c)), *EXCEPT* that a farmer may not be forced from Chapter 13 to Chapter 7.
 - a. Done by MOTION; default procedure can be used per Vt. LBR 9013-1(f)(1)(J).
 - b. 20 days’ notice required to all parties and creditors (Rule 2002(a)(4)).
 - c. \$15 conversion fee paid at time of filing of the MOTION (fee is due upon filing; must be paid regardless of whether motion is granted).

Note: If multiple motions to convert are filed, the \$15.00 fee is due for each motion. However, if several parties join in a single motion to convert, only one fee is due.

DISMISSALS

Note: *There is no fee due for the filing of a motion to dismiss.*

CHAPTER 7 CASE (11 U.S.C. § 707)

Case can be dismissed only after notice and a hearing, and only for cause (3 grounds are set forth in § 707(a)); or for substantial abuse, as set forth in 11 U.S.C. § 707(b).

- Done by MOTION; default procedure can be used per Vt. LBR 9013-1(f)(1)(J).
- 20 days notice required to all parties and creditors, except if motion is brought under § 707(b) or based upon failure to pay filing fee. (Interim Rule 2002(a)(4))

minimum notice requirement waived if seeking dismissal for:

- 1) Failure to pay filing fees (11 U.S.C. § 707(a)(2));
- 2) Failure to file schedules and statements (11 U.S.C. § 707(a)(3));
- 3) UST’s motion for abuse of system (11 U.S.C. § 707(b)).

CHAPTER 13 CASE (11 U.S.C. § 1307)

1. **By the Debtor.** Debtor can dismiss his/her Chapter 13 case **at any time**. Debtor has absolute right to this relief *PROVIDED* that the case has not been previously converted.
 - a. Done by MOTION (Rule 1017(f)(2)).
 - b. No hearing required, but UST and Chapter 13 Trustee are to be served (Rule 1017(a)).
2. **By a Party in Interest.** On the motion of the UST or party of interest, the case may be dismissed for cause (10 examples set forth in § 1307(c)) after notice and hearing, if the Court deems it to be in the best interest of the creditors.
 - a. Done by MOTION; default procedure can be used per Vt. LBR 9013-1(f)(1)(J).
 - b. 20 days’ notice required to all parties and creditors (Rule 2002(a)(4)).