

United States Bankruptcy Court
District of Vermont

**SYNOPSIS of U.S. BANKRUPTCY CODE and RULES REGARDING
CONVERSION and DISMISSAL of CHAPTER 7 and CHAPTER 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 Chapter 13 only if Debtor (i) is eligible for Chapter 13 relief and (ii) can demonstrate that the conversion is sought in good faith.
 - a. Done by MOTION (*see* Rule 1017(f)(2)); default procedure can be used;
 - b. Minimum 20 days' notice required to all parties and creditors (*see* Rule 2002(a)(4));
 - c. No fee required.

2. **By a Party in Interest.** A party in interest may not request conversion from Chapter 7 to Chapter 13 UNLESS Debtor consents to conversion and is eligible to be a debtor under Chapter 13. If such criteria are met, the following procedures apply:
 - a. Done by MOTION ;
 - b. Notice to all creditors;
 - c. Debtor must consent;
 - d. No fee required.

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

1. **By the Debtor.** Debtor has an absolute right to convert from Chapter 7 to Chapter 11 or Chapter 12 at any time PROVIDED that the case has not been previously converted and the Debtor is eligible to be a debtor under Chapters 11 or 12 (*see* §§ 706(d) and 109).
 - a. Done by MOTION (*see* Rule 1017(f)(2)); default procedure can be used *if* there has NOT been a previous conversion;
 - b. Notice to Office of U.S. Trustee (UST) and Chapter 7 trustee, but no hearing required;
 - c. Fee required (refer to “Bankruptcy Court Fees” under the “Legal Resource Page” on the Court’s website, <http://www.vtb.uscourts.gov>).

2. **By a Party in Interest.** Practically speaking, the only available relief to seek is conversion to Chapter 11 since conversion to Chapter 12 is available at the Debtor’s request or upon Debtor’s consent. (Refer to procedure outlined in previous paragraph.)
 - a. Done by MOTION (*see* Rule 1017(f)(1)); default procedure can be used;
 - b. Minimum 20 days' notice required to all parties and creditors (*see* Rule 2002(a)(4));
 - c. Fee required (refer to “Bankruptcy Court Fees” under the “Legal Resource Page” on the Court’s website, <http://www.vtb.uscourts.gov>).

FROM CHAPTER 13 to CHAPTER 7 (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; *there are no exceptions in this District.*
 - a. Done by NOTICE OF CONVERSION (*see* Rule 1017(f)(3));
 - b. No order required (*n.b.*, the order issued by the Court addresses the Debtor's duties upon conversion; it is not an approval or granting of conversion);
 - c. Fee required (refer to "Bankruptcy Court Fees" under the "Legal Resource Page" on the Court's website, <http://www.vtb.uscourts.gov>).

2. **By a Party in Interest or UST.** Party seeking conversion must demonstrate cause for conversion (*see* § 1307(c) (providing non-exclusive list of examples of cause)), EXCEPT that a farmer cannot be forced from Chapter 13 to Chapter 7.
 - a. Done by MOTION; default procedure can be used;
 - b. Minimum 20 days' notice required to all parties and creditors (*see* Rule 2002(a)(4));
 - c. Fee required (refer to "Bankruptcy Court Fees" under the "Legal Resource Page" on the Court's website, <http://www.vtb.uscourts.gov>).

Note: If multiple motions to convert are filed, each movant is required to pay the conversion fee. However, if several parties join in a single motion to convert, only one fee is due.

DISMISSALS

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

CHAPTER 7 CASE (11 U.S.C. § 707)

Case can be dismissed only after notice and hearing and only for (i) cause (*see* § 707(a) (setting forth three grounds for dismissal), or (ii) substantial abuse (*see* § 707(b)).

- Done by MOTION; default procedure can be used;
- Minimum 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 (*see* Interim Rule 2002(a)(4)).
- Waiver of minimum notice if seeking dismissal for:
 - failure to pay filing fee (§ 707(a)(2));
 - failure to file schedules and statements (§ 707(a)(3));
 - motion based on UST's § 707(b) motion.

CHAPTER 13 CASE (11 U.S.C. § 1307)

1. **By the Debtor.** Debtor can dismiss his/her case at any time; this is an absolute right PROVIDED the case has not been previously converted.
 - a. Done by MOTION; default procedure can be used; the Chapter 13 Trustee must be noticed (*see* Rule 1017(a)).*
 - b. May also be done by Stipulation: requires the consent of the Chapter 13 trustee.

2. **By a Party in Interest or UST.** After notice and hearing, the case may be dismissed for cause (*see* § 1307(c) (providing non-exclusive list of examples of cause)) PROVIDED the Court deems it to be in the best interest of the creditors.
 - a. Done by MOTION; default procedure can be used;
 - b. Minimum 20 days' notice required to all parties and creditors (*see* Rule 2002(a)(4)).

* The U.S. Trustee has waived notice under Rule 9034(c) of Chapter 13 dismissal motions in this District.