

**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

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

1. **By the Debtor.** The debtor can convert their case from chapter 7 to 13 only if the debtor
 - (a) is eligible for chapter 13 relief, and
 - (b) demonstrates the conversion is in good faith.If the debtor satisfies these criteria, then the following procedures apply:
 - (i) the debtor must file a MOTION (Rule 1017(f)(2));
 - (ii) the debtor may use the default procedure (Vt. LBR 9013-4);
 - (iii) the debtor must give 21 days' notice to all creditors and parties in interest (Rule 2002(a)(4));
 - (iv) there is no fee for this motion.

2. **By a Party in Interest.** A party in interest's motion for conversion of a debtor's case from chapter 7 to chapter 13 will be granted ONLY IF they show
 - (a) the debtor consents to conversion, and
 - (b) the debtor is eligible to be a debtor under chapter 13.If the party in interest satisfies these criteria, then the following procedures apply:
 - (i) the party in interest must file a MOTION (Rule 1017(f)(2));
 - (ii) the party in interest (movant) may use the default procedure (Vt. LBR 9013-4);
 - (iii) the movant must give 21 days' notice to all creditors and parties in interest (Rule 2002(a)(4));
 - (iv) there is no fee for this motion.

CONVERSION OF CASE FROM CHAPTER 7 TO CHAPTER 11 OR 12 (11 U.S.C. § 706)

1. **By the Debtor.** The debtor has an absolute right to convert from chapter 7 to chapter 11, or from chapter 7 to chapter 12, **at any time, PROVIDED**
 - (a) the case has not been previously converted, and
 - (b) the debtor is eligible to be a debtor under chapter 11 or 12 (*see* §§ 706(d) and 109).If the debtor satisfies these criteria, then the following procedures apply:
 - (i) the debtor must file a MOTION (Rule 1017(f)(2));
 - (ii) the debtor may use the default procedure;
 - (iii) the debtor must give notice to the U.S. Trustee (UST) and chapter 7 trustee; and
 - (iv) the debtor must pay the required fee (www.vtb.uscourts.gov/bankruptcy-court-fees).

2. **By a Party in Interest.**
 - (a) a party in interest may file a motion to convert a chapter 7 case to chapter 11, at any time, if they demonstrate the debtor is eligible for chapter 11, but
 - (b) a party in interest's motion to convert a chapter 7 case to chapter 12 will be granted ONLY if the debtor consents.

If a party in interest seeks to convert a chapter 7 case to chapter 11 or chapter 12, the following procedures apply:

- (i) the party in interest must file a MOTION (Rule 1017(f)(1));
- (ii) the party in interest (movant) may use the default procedure (Vt. LBR 9013-4);
- (iii) the movant must give at least 21 days' notice to the debtor, all creditors, and parties in interest (Rule 2002(a)(4));
- (iv) the movant must pay the required fee (www.vtb.uscourts.gov/bankruptcy-court-fees).

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

1. **By the Debtor.** The debtor can convert from chapter 13 to chapter 7 at any time (§ 1307(a)). The debtor has an absolute right to this relief PROVIDED the conversion is made in good faith.

The following procedures apply:

- (i) the debtor files a NOTICE OF CONVERSION (Rule 1017(f)(3));
- (ii) the debtor need not file a proposed order;
- (iii) the debtor must pay the required fee (www.vtb.uscourts.gov/bankruptcy-court-fees).

2. **By a Party in Interest or the UST.** A party seeking conversion must

- (a) demonstrate cause for conversion (§ 1307(c)), and
- (b) affirm the debtor is not a farmer (a farmer's case may not be converted from Chapter 13 to Chapter 7 without the farmer's consent).

If such criteria are met, the following procedures apply:

- (i) the movant must file a MOTION;
 - (ii) the movant may use the default procedure (Vt. LBR 9013-4);
 - (iii) the movant must give at least 21 days' notice to the debtor, all creditors, and parties in interest (Rule 2002(a)(4));
 - (iv) the movant must pay a \$15 conversion fee with the notice of motion, plus a \$10 fee for a motion to convert a Chapter 13 case, EXCEPT, if the trustee files the motion, the fee is payable from the estate that exists prior to conversion;
 - (v) if multiple motions to convert are filed, the \$25.00 fee is due for each motion, however, if several parties join in a single motion to convert, only one fee is due.
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DISMISSALS*

DISMISSAL OF A CHAPTER 7 CASE (11 U.S.C. § 707)

By the Debtor, a Party in Interest, or the UST. A chapter 7 case can be dismissed only after notice and hearing and only for

- (a) cause (*see* § 707(a), setting forth three grounds for dismissal), or
- (b) substantial abuse (*see* § 707(b)).

To obtain this relief, the movant must comply with the following procedures:

- (i) the movant must file a MOTION;
- (ii) the movant may use the default procedure (Vt. LBR 9013-4) ONLY for a motion to dismiss for cause under § 707(a); and
- (iii) the movant must give at least 21 days' notice to the debtor, all creditors and parties in interest EXCEPT
 - (A) if the motion is based upon failure to pay filing fee, the movant must give at least 14 days' notice to the debtor and the trustee (Rule 1017(b)),
 - (B) if the motion is based upon failure to file schedules and statements under § 707(a)(3), the movant must give at least 14 days' notice to the debtor and the trustee (Rule 1017(c)), and
 - (C) if the motion is based upon a presumption of substantial abuse under § 707(b), the movant must give at least 14 days' notice to the debtor, the trustee and U.S. trustee, and use the conventional procedure (Vt. LBR 9013-3).

DISMISSAL OF A CHAPTER 13 CASE (11 U.S.C. § 1307)

1. **By the Debtor.** A debtor has an absolute right to dismiss their chapter 13 case, **at any time**, *PROVIDED*

- (a) the case has not been previously converted.

If the debtor satisfies this criterion, then the following procedures apply:

- (i) the debtor must file a MOTION (Rule 1017(a));
- (ii) the debtor must give notice to the UST and chapter 13 trustee (Rule 9013);
- (iii) no hearing is required.

2. **By a Party in Interest or the UST.** A party in interest or the UST may seek to dismiss a chapter 13 case for cause (*see* § 1307(c), providing non-exclusive list of examples of cause) *PROVIDED*

- (a) the Court deems it to be in the best interest of the creditors.

If the party in interest or the UST satisfies this criterion, the following procedures apply:

- (i) the movant must file a MOTION (Rule 1017(f)(1));
- (ii) the movant may use the default procedure (Vt. LBR 9013-4(b)(14));
- (iii) the movant must give at least 21 days' notice to all parties and all creditors in the case (Rule 2002(a)(4), 2002(f)(2)),¹ EXCEPT

¹ See Order Regarding Notice Required for Creditor's Motion to Dismiss (doc. # 35) in *In re Harrington* (case # 17-10278) for an explanation of this Court's notice requirements for motions to dismiss in chapter 13 cases.

* There is no fee required to file a motion to dismiss.

- (A) if it is a motion to dismiss based upon failure to pay fees and charges under § 1307(c)(2), the movant must give at least 14 days' notice to the debtor and trustee (Rule 1017(b)), and
- (B) if it is the UST's motion to dismiss based upon the debtor's failure to file essential documents under §§ 521, 1307(c)(9), the UST must give at least 14 days' notice to the debtor and trustee (Rule 1017(c))

3. **By the Chapter 13 Trustee.** The chapter 13 trustee may seek to dismiss a chapter 13 case for cause (*see* § 1307(c), providing non-exclusive list of examples of cause) PROVIDED

(a) the Court deems it to be in the best interest of the creditors.

If the trustee satisfies this criterion, the following procedures apply:

- (i) the movant must file a MOTION (Rule 1017(f)(2));
- (ii) the movant may use the default procedure (Vt. LBR 9013-4(b)(14));
- (iii) the movant must give at least 21 days' notice to all creditors and all parties in interest (Rule 2002(a)(4), (f)(2)) EXCEPT
- (iv) if it is a motion to dismiss based upon the debtor's failure to pay fees and charges under § 1307(c)(2), the movant must give at least 14 days' notice to the debtor (Rule 1017(b)).