

VBA BANKRUPTCY LAW SECTION
BENCH-BAR BROWN BAG LUNCH MEETING
with Hon. Colleen A. Brown, U.S. Bankruptcy Judge

Held at the United States Bankruptcy Court, Rutland
November 19, 2021 ~ 12:00 to 1:00 PM

AGENDA

1. REVISED APPENDIX IX DESCRIBING REMOTE APPEARANCE (attached*) JUDGE BROWN
2. REVISED LOCAL FORMS FOR DISCUSSION (attached*) JUDGE BROWN
 - Revised forms: Appendix IX (above); Selection of Mediator (Clerk's Office form)
 - New forms: Form Y-3 (Ch 12 & 13 T loan approval); Appendix X (status of standing orders)
 - To be deleted: Appendix VII (replaced by Form Y-3)
3. TRUSTEE'S REVISED DEBTOR CURRENT PROPOSED ORDER (attached*) J. SENSENICH
4. NEW POSTINGS ON THE COURT'S WEBSITE JUDGE BROWN
 - USDC General Order No. 103 re building security (attached*)
 - Ch 12 Summary of Farm Reorganizations (attached*) & Intro to Ch 12 Video (link below**)
5. CO-CHAIRS' CORNER A. EDELMAN & D. HAYES
 - the **21st Bankruptcy Section's Annual Holiday CLE** (draft agenda attached*) will be held on **Dec 17th** (at the Capitol Plaza in Montpelier)
 - hearings set for Dec 17th are moved to December 10th
6. EMERGENCY RELIEF FOR TENANTS & LANDLORDS / EVICTION RENTAL ASSISTANCE L. PENPRAZE
 - See attachment*; also posted on VTB webpage
7. Ts, UST OFFICE, CT MGRS, & JUDGE MEETING 10/18/21 JUDGE BROWN & L. PENPRAZE
 - Semi-annual meeting held, pursuant to Rule 9003(b), on 10/18/21
8. OTHER BUSINESS THE GROUP

Bench-Bar lunch meetings are coordinated by the Bankruptcy Court.
One hour of Vermont CLE credit is provided for attendance at each meeting.
Contact Maria Dionne at (802) 657-6432 or maria_dionne@vtb.uscourts.gov with any questions.

* Attachments:

1. Appendix IX
2. All other new forms
3. T's new proposed order for declaring debtors current
4. USDC General Order No. 103 and VLS Guide to ch 12 farm reorgs
5. Draft agenda for 12/17/21 Annual Holiday CLE
6. EOUST notice re eviction relief

** Link:

VLS video intro to ch 12 farm reorgs: <https://youtu.be/BragyJezx2A>

ELIGIBILITY CRITERIA AND PROCESS FOR REMOTE HEARINGS¹

I. CRITERIA FOR APPEARING AT REMOTE HEARINGS

- (A) Appearance at a remote hearing is limited to instances in which:
- (i) a party seeks only to observe; or
 - (ii) a party's appearance is necessary only to place on the record a consent or a scheduling agreement; or
 - (iii) the total length of the hearing is not reasonably expected to exceed 15 minutes; or
 - (iv) the hearing is a status hearing in a chapter 7, 12 or 13 case; or
 - (v) the hearing is a status hearing in a chapter 11 case, and the Court has granted the party permission to participate remotely; and
 - (vi) the hearing meets one of the above criteria for remote participation, is properly noticed, and the Court has not directed that the parties must appear in person in the courtroom; or
 - (vii) though it might not appear to meet the above eligibility criteria, the Court has specified at a prior hearing that the parties may appear at this particular hearing remotely.
- (B) Unless specifically authorized by the Court, remote hearings may not be used for participation in:
- (i) chapter 11, 12 or 13 confirmation hearings;
 - (ii) trial or evidentiary hearings, or other hearings at which testimony is to be presented; or
 - (iii) hearings the parties reasonably expect to exceed 15 minutes.
- (C) Special Circumstances - remote hearings may also be used for:
- (i) emergency weather conditions, with permission of the Court;
 - (ii) appearance by trial witnesses, upon Order of the Court; or
 - (iii) extraordinary or other emergency circumstances, (i.e. health or safety concerns), with permission of the Court.

II. PROCESS FOR REMOTE HEARINGS

- (A) Appearance modalities in Court - Zoomgov video conferencing participation will be the sole modality for remote appearances. It replaces telephonic participation in courtroom hearings. (*There will be no participation in any hearings by telephone unless the participant gets special permission from the Court, in advance, based on exigent circumstances.*) No party will be required to appear remotely; in person appearance is always an option.
- (B) Participants appearing via Zoomgov must participate with both audio and video during their hearings, and have their video and audio turned off when they are not involved in the hearing taking place. (*The only exception will be if participant obtains permission to appear by audio only, which is essentially the same as appearing by telephone and thus will require advance permission, based on a showing of exigent circumstances.*)

¹ This appendix was created by Standing Order # 21-05 and shall be updated as needed herein.

- (C) Observers may not participate during hearings. They must disclose their presence as an observer at the commencement of the hearing using audio only, and otherwise must have their video and audio turned off during the hearing.²
- (D) Courtroom decorum must be maintained at all times. Whether one is in the courtroom or appearing via Zoomgov, the level of decorum expected is the same.
- (E) Hearing Notices: When noticing a motion (whether under the default or conventional procedure), the movant shall include the Zoomgov option in the notice of motion, see revised Vt. LB Forms U-1 and U-2. Each attorney or *pro se* party shall determine whether to appear via Zoomgov or in person based on:
 - (i) whether it will serve their / their client's best interest to be in the courtroom, or to participate via Zoomgov; and
 - (ii) whether the presentation they intend to make falls within the eligibility criteria for Zoomgov participation.
- (F) If the hearing does not meet the Zoomgov criteria, either as filed, or as the result of an objection having been filed, and a party nonetheless appears at the hearing via Zoomgov, the scope of their participation will be limited, as set out above in the eligibility criteria, *e.g.*, the Court may limit or prohibit further argument at the hearing.
- (G) Notice of Motion language must specify the option and instructions for appearing via Zoomgov. See attached forms notices of motion for conventional procedure and default procedure (Vt. LB Forms U-1 and U-2).
- (H) Judge Determination. If the Court determines all parties presenting arguments must appear in person at a particular hearing, the Clerk's Office may make a notation on the case docket, no later than three (3) business days prior to the hearing indicating that all parties who wish to be heard at the hearing must appear in person. (*Others who wish only to observe may do so via Zoomgov, as long as they make arrangements with the courtroom deputy in advance.*)
- (I) Notice to Courtroom Deputy. Anyone who wishes to appear at a hearing via Zoomgov must notify the courtroom deputy by email, at Jody_Kennedy@vtb.uscourts.gov, not later than 10 a.m. the day before the hearing, specifying at which hearing(s) they intend to appear and by what screen name. All participants must have a clear and accurate screen name for ease of identification during hearings.

² To analogize to being physically present in the courtroom, attorneys who are "participating" remotely would be sitting at the counsel table, and those who are "observing" remotely would be sitting in the gallery area and thus not permitted to speak during the hearing.

STANDING ORDERS ISSUED PRIOR TO EFFECTIVE DATE OF LOCAL BANKRUPTCY RULES

I. TREATMENT OF STANDING ORDERS IN LOCAL RULES UPDATE

Except as set forth in Part II, all standing orders issued prior to the effective date of the current local bankruptcy rules either expired or have been incorporated into the local rules and appendices as follows:

SO#	Local Rule	Description of Standing Order / Local Rule Update
18-01	3015-6(d), 3015-8(c)	Revises certain chapter 13 trustee and debtor's attorney requirements.
18-02	1007-1(f), 5003-1(b), 9011-2(b)	Revises federal form 121 retention requirements.
20-01	See Part II	Adopts interim federal rules and forms.
20-02	3002.1-1, 3002.1-2, 3002.1-3	Establishes new rules pertaining to notices of mortgage payment change.
20-03	4001-2	Revises procedure for debtor to retain possession of leased premises after entry of pre-petition judgment for possession.
20-04	5005-2(a), 5005-3(a), 5005-4(a), 9011-2(c)	Revises <i>pro se</i> electronic filing procedures.
20-05	1007-1(l), 3070-1(a)	Permits TFS Billpay in lieu of wage withholding in chapter 13 cases.
20-06	4001-3	Establishes procedure to seek to continue or impose the stay under § 362(c)(3) and (4).
20-07	2015-1	Establishes operating report requirements in chapter 12 cases.
20-08	2015-2	Revises operating report requirements in business chapter 13 cases.
20-09	Expired	Established certain pandemic-related procedures that expired on July 4, 2021.
20-10	9011-1(b), 9011-4(c)	Establishes use of digital signature software products in lieu of ink signatures.
20-11	See Part II	Adopts revised interim federal rules.
20-12	Expired	Extension of 20-09 that expired on July 4, 2021.
20-13	9011-1(b), 9011-4(c)	Extension of 20-10.
20-14	Expired	Extension of 20-09 that expired on July 4, 2021.
20-15	9011-1(b), 9011-4(c)	Extension of 20-10.
21-01	9018-1	Establishes procedure for restricting access to highly sensitive documents.
21-02	See Part II	Temporarily provides certain pandemic-related relief, in accordance with the Further Consolidated Appropriates Act.
21-03	9011-1(b), 9011-4(c)	Extension of 20-10 (and extension of 20-09 that expired on July 4, 2021).
21-04	Appendix IX	Establishes criteria for remote appearances at hearings.
21-05	Appendix IX	Revises criteria for remote appearances at hearings.

II. STANDING ORDERS NOT SUPERSEDED BY LOCAL RULES

- (A) **Standing Order # 20-01** (adopting interim Bankruptcy Rules 1007, 1020, 2009, 2012, 2015, 3010, 3011, 3014, 3016, 3017.1, 3017.2, 3018, and 3019, and interim Official Forms 101, 201, 309E1, 309E2, 309F1, 309F2, 314, 315, and 425A) and **Standing Order # 20-11** (modifying Standing Order # 20-01 by adopting revised interim Bankruptcy Rule 1020) shall remain in effect until the Advisory Committee on Bankruptcy Rules obtains final approval and withdraws the interim versions of those Bankruptcy Rules and Official Forms; and
- (B) **Standing Order # 21-02** (incorporating temporary pandemic-related relief enacted under the Further Consolidated Appropriations Act) shall remain in effect until the sunset dates of December 27, 2021 (with respect to Vt. LBR 3015-8(b)(4), 4001-3(d), and 4004-2(e)), and December 27, 2022 (with respect to Vt. LBR 6006-2).

Attachments:

- Standing Order # 20-01 [attachments deleted]
- Standing Order # 20-11
- Standing Order # 21-02

JAN M. SENSENICH
CHAPTER 12 & 13 STANDING TRUSTEE
P.O. Box 1326, Norwich, VT 05055
telephone: (802) 649-1213
email: mailbox@vermont13trustee.com

CHAPTER 12 & 13 TRUSTEE LOAN APPROVAL REQUEST FORM

You should use this form only when seeking the trustee's approval to:

- A. borrow no more than \$18,000 to purchase a motor vehicle, or spend no more than \$300 per month to lease a motor vehicle;
- B. borrow or spend no more than \$7,000 for an extraordinary expense that is (i) reasonable and (ii) necessary to maintain the health and general welfare of you and/or your dependents; or
- C. borrow no more than \$20,000 to purchase farm equipment in a chapter 12 case.

To incur any other type or amount of debt, you must file a motion and obtain court approval.

The trustee will not consider your request for approval to enter into a new loan, auto lease, or refinancing, until after you have notified your attorney, if any, of your intentions to incur new debt and determined, with their advice, whether the new debt will adversely impact your plan or require court approval or modification of your plan. If you are represented by an attorney, they must sign this request form.

For a farm equipment loan in a chapter 12 case, you must also notify all secured creditors affected by the proposed borrowing (including creditors with blanket security agreements and creditors holding liens on any equipment being replaced or traded in) of your intentions to incur new debt, and they must each sign this request form.

Please provide the following information:

Date of request: _____ Debtor's name: _____

Debtor's case number: _____ Debtor's phone number: _____

Name of proposed lender/lessor: _____

Proposed loan amount: _____ Proposed monthly payment: _____

Proposed interest rate: _____ Proposed down payment: _____

Item to be: [] purchased, [] leased, or [] refinanced (please specify): _____

Reason loan / lease / refinance is necessary: _____

If you propose to refinance a current loan, what is the interest rate, remaining term, and monthly payment on the current loan? _____

Has there been any change in your income or employment since you filed your bankruptcy case or since the Court confirmed your plan? (Please specify): _____

Debtor's Signature

The above information is complete and accurate to the best of my knowledge.

Date: _____ Debtor's signature: _____

Approval of Debtor's Attorney

For use in all cases where the Debtor is represented by an attorney.

As the above debtor's attorney, I have reviewed the above request, discussed it with the debtor, and believe:

1. it is necessary for the debtor to incur this debt/enter into this refinance or lease,
2. the debtor can afford to incur this debt, and
3. this will not adversely affect the debtor's ability to make payments under their chapter 13 plan.

Date: _____ Signature: _____

Phone number: _____ Name (please print): _____

Email address: _____

Mailing address: _____

Consent of Secured Creditor

For proposed chapter 12 farm equipment loan only. Please complete for each secured creditor.

As the secured creditor (or an authorized representative thereof), I consent to the purchase/lease and financing described above.

Nature of secured creditor's interest:

- holder of a blanket lien on all the debtor's farm equipment

- holder of a lien on the following farm equipment the debtor proposes to replace or trade in (please specify): _____

- other interest affected by the borrowing (please specify): _____

- _____

Date: _____ Signature: _____

Secured creditor's name (please print): _____

Signatory/authorized representative's name (please print): _____

Consent of Secured Creditor

For proposed chapter 12 farm equipment loan only. Please complete for each secured creditor.

As the secured creditor (or an authorized representative thereof), I consent to the purchase/lease and financing described above.

Nature of secured creditor's interest:

- holder of a blanket lien on all the debtor's farm equipment

- holder of a lien on the following farm equipment the debtor proposes to replace or trade in (please specify): _____

- other interest affected by the borrowing (please specify): _____

- _____

Date: _____ Signature: _____

Secured creditor's name (please print): _____

Signatory/authorized representative's name (please print): _____

TRUSTEE APPROVAL / DENIAL OF LOAN APPROVAL REQUEST

I, Jan M. Sensenich, as the chapter 12 & 13 trustee, have reviewed the above information and:

approve the foregoing loan approval request because it will not require a material modification of the debtor's budget and is in the best interest of the debtor and the bankruptcy estate.

deny approval of the foregoing loan approval request because: _____

Date: _____ Signature: _____

Note: The trustee's approval of a loan does not replace Court approval. If Court approval is necessary, the debtor must file a motion.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re: _____

Case # ____ - ____
Chapter 13

_____, and
_____,
Debtor(s).

Notice Regarding Selection of a Mediator

Pursuant to this Court's Order (Doc. # __), entered on _____, 202_, attached is a list of mediators who are trained to conduct mortgage mediations. You must confer and agree on one of these mediators (or stipulate to direct negotiation without appointment of a mediator at this time) and return this form to the Court within seven days. See Vt. LBR 4001-7(d). If you are unable to agree on a mediator, the debtor shall file a motion asking the Court to designate a mediator.

Jeffrey Eaton, Clerk

Check one:

We agree that we will use the following mediator: _____

We prefer to attempt to negotiate a loan modification directly without a mediator and reserve the option to seek appointment of a mediator at a later date.

Creditor-Mortgagee: _____ Date: _____

Attorney for Debtor(s): _____ Date: _____

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

Mortgage Mediation Panel

Heather Z Cooper
PO Box 578
Rutland, VT 05702-0578
802-773-3300
Fax : 802-775-1581
hcooper@kenlanlaw.com

Tavian M. Mayer
PO Box 59
South Royalton, VT 05068-0059
(802) 763-7626
tavian@mayerlaw.com

Rebecca A. Rice
128 Merchants Row, Suite 701
Rutland, VT 05701-3274
(802) 775-2352
Steeplbush@aol.com

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re: MARK R. CAMPBELL)	Case No.: 16-11196
)	
DAWN M. CAMPBELL)	Chapter 13
)	
Debtors)	
)	

ORDER DETERMINING THAT THE DEBTORS HAVE CURED ALL PRE-PETITION MORTGAGE DEFAULTS AND ARE CURRENT POST-PETITION ON MORTGAGE PAYMENTS TO WILMINGTON SAVINGS FUND SOCIETY, FSB/CITIGROUP MORTGAGE LOAN TRUST/RUSHMORE LOAN MANAGEMENT SERVICES THROUGH JUNE 18, 2021 AND ORDERING THE MORTGAGEE TO CORRECT ITS RECORDS

Upon motion of the Chapter 13 Trustee pursuant to Fed.Rules Bankr.Proc. Rule 3002.1 (h), for an order determining that the debtors in this case are current on their mortgage payments to *Rushmore Loan Management Services*. Service of the motion and notice having been given to the mortgagee, debtors, and debtors' attorney, and based upon the representations made at the hearing held on November 19, 2021,

NOW THEREFORE,

IT IS ORDERED AND DETERMINED AS FOLLOWS:

- (1) the debtors have cured, any mortgage arrearage or default existing on the date that this bankruptcy case was filed;
- (2) the debtors, by their payments through the Office of the Chapter 13 Trustee, have made all payments due through June 19, 2021, including all monthly payments and any other charges or amounts due under their mortgage to *Rushmore Loan Management Services*;
- (3) the debtors' first post-bankruptcy mortgage payment made directly by the debtors to the mortgagee was due July 19, 2021;

(4) the mortgagee shall be precluded from disputing that the debtors are current (as set forth herein) in any other proceeding as of June 18, 2021;

(5) the mortgagee is enjoined from taking any action with respect to the debtor's mortgage account which is inconsistent with the debtors' status as being current in their mortgage payments, including but not limited to, the assessment, listing, noticing or billing of charges, fees or expenses on the debtor's account, during the term of the Plan which have not been properly noticed and paid by the trustee;

(6) the mortgagee shall immediately correct its records to reflect the debtors' current status and re-issue any inaccurate statements showing any pre-petition arrearage due, and to delete any deferred balances or undisclosed or unapproved charges, expenses, fees or assessments and;

(7) Any failure on the part of the mortgagee to comply in a timely manner with the above-stated requirements may result in appropriate sanctions against the mortgagee, as allowed by 11 U.S.C. §105(a) and the Court's inherent authority.

Dated:
Burlington, Vermont

Hon. Colleen A. Brown
U.S. Bankruptcy Judge

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

IN RE: AMENDED ORDER REVISING COVID-19 RESTRICTIONS IN
PUBLIC AREAS OF FEDERAL BUILDINGS AND COURTHOUSES

GENERAL ORDER NO. 103

The purpose of this General Order is to supersede and amend General Order No. 101 issued on August 4, 2021 revising the District of Vermont's courthouse entrance protocols and COVID-19 restrictions in public areas of the district's courthouses.

In the continued interest of public health and safety, and after consideration of public health guidelines issued by the Centers for Disease Control and Prevention (CDC), and the State of Vermont, **IT IS HEREBY ORDERED**, that within Vermont's federal courthouses:

1. Masking is required in all public spaces (including courtrooms) for all employees, on-site contractors, and visitors, regardless of vaccination status;
2. Masking and social distancing is required for unvaccinated or partially vaccinated individuals;
3. This policy applies only to public spaces. Each individual agency will determine the requirements for their own internal agency workspace;
4. For all trials, the presiding judge will make a ruling regarding COVID-19 protocols for all trial participants. The judge will make this decision before the trial as part of a broader discussion about trial preparations and safety precautions with counsel for all parties and other participants.

IT IS FURTHER ORDERED that the following persons may not enter any courthouse in the District of Vermont:

- Persons who have tested positive for COVID-19, or been told by a health-care provider to assume they have COVID-19 due to symptoms or other factors, in the past 14 days;
- Persons who have experienced symptoms of COVID-19 within the past 14 days that are not explained by allergies or an underlying condition, including fever, cough, shortness of breath or difficulty breathing, extreme fatigue, nausea or vomiting, congestion or runny nose, muscle or body aches, headache, sore throat, new loss of taste or smell;

- Persons who have had close contact within the past 14 days with anyone with COVID-19 during the time period starting 48 hours before the onset of the infected person’s symptoms or positive COVID-19 test. **“Close contact” is defined by the CDC as being within 6 feet for at least 15 minutes over a 24-hour period. Please note that this restriction does not apply to those who have achieved full vaccination prior to the close contact.** “Fully vaccinated” is defined as being 2 or more weeks after the final dose (e.g., first for Janssen/Johnson & Johnson, second for Pfizer and Moderna) of the vaccine approved by the FDA or authorized by the FDA for emergency use. Vaccines that are not authorized by the U.S. Federal Drug Administration (FDA) for emergency use or approved by the FDA do not satisfy this definition.

Anyone attempting to enter in violation of these protocols will be denied entry by a Court Security Officer.

Anyone who has business in one of the courthouses of the District of Vermont, but who cannot enter because of this order, should do the following:

- Persons who are represented by an attorney should contact their attorney;
- Persons who are scheduled to meet with a Probation or Pretrial Services Officer should contact the Probation Office (802) 652-3000;
- Jurors should contact the district’s jury administrator at (802) 951-8110;
- Persons having any other business with the United States District Court for District of Vermont should contact the Clerk of Court at (802) 951-6301;
- Persons having any other business with the United States Bankruptcy Court for District of Vermont should contact the Clerk of Court at (802) 657-6400;
- Persons having any other business with any other federal tenant agency located in the district’s courthouses should contact the appropriate federal agency directly.

This order shall be effective immediately and will remain in effect until amended or vacated.

Dated at Burlington, in the District of Vermont, this 26th day of October, 2021.



Hon. Geoffrey W. Crawford
Chief Judge

REORGANIZING A FARM BUSINESS WITH CHAPTER 12 OF THE BANKRUPTCY CODE: A BRIEF GUIDE



INTRODUCTION

Farm reorganization through chapter 12 of the Bankruptcy Code provides a powerful tool for farmers seeking to restructure burdensome debt, change production models, or even transition a farm to the next generation. While the most common form of bankruptcy, chapter 7 liquidation, generally requires financial insolvency, or the inability to pay debts, chapter 12 does not. Chapter 12 is specifically designed for family farmers and fisherman with regular annual income. The farming industry, on a national scale, is facing a souring economic future, from increasing debt burdens due to increasing interest rates, to a marked decrease in farm income over the past decade.¹ Farming has, and always will be, a volatile business based on factors outside of the farmer's control. This reality is reflected in the structure and tools within chapter 12 of the Bankruptcy Code. Put simply, chapter 12 helps farming and fishing operations avoid financial distress by allowing them to change the type of their operation or transfer it to the next generation without requiring liquidation or financial insolvency.

This guide provides a brief overview of chapter 12, focusing on the questions a farmer might have on the reorganization process. Why a farmer may wish to enter this process is an important question that is beyond the scope of this primer but has been explored by other resources linked below.²

First, this guide aims to provide context through a discussion of the history of chapter 12 and why it exists.

Second, the guide highlights the different parties involved in a chapter 12 reorganization.

Third, the guide details chapter 12's eligibility requirements for individuals and corporations.

Fourth, the guide considers the special benefits chapter 12 bankruptcy offers farmers.

Fifth, the guide provides a timeline of the chapter 12 process. The guide concludes with an outline of the required contents of a chapter 12 plan as well as suggested additional resources for more information.

Because this resource is focused on family farming operations, it does not address the provisions relating to the reorganization of a family fishing operation.

1. WHY IS THERE A SPECIFIC BANKRUPTCY CHAPTER FOR FARMERS?

Bankruptcy, as defined by the US Courts, is a “legal procedure for dealing with debt” of individuals and businesses.³ Bankruptcy law is a federal law, located in Title 11 of the United States Code. Each chapter of the Bankruptcy Code contains tools, procedures, and outcomes designed for certain sets or classes of debtor. Most bankruptcy cases are filed under chapter 7 of the Bankruptcy Code, which provides for the liquidation, or complete sale, of a debtor’s assets due to the debtor’s financial insolvency, or inability to pay debts.⁴ However, there are alternatives to chapter 7 bankruptcy with relief ranging from liquidation to restructuring, which can allow a business to continue operating free from significant debt burdens. Chapter 12 of the Bankruptcy Code is one such alternative that functions as a reorganization tool, intended to keep a farm in operation.⁵

Congress originally enacted chapter 12 during the 1980s farm crisis, when a combination of high debt and interest rates, low commodity prices, drought, and land development pressure threatened the loss of a significant number of farms.⁶ Congress intended chapter 12 to serve as a tool to increase flexibility for farmers to repay debts and continue farming.⁷ Initially, chapter 12 was not a permanent addition to the Bankruptcy Code; Congress extended the temporary version of chapter 12 several times before making it permanent in 2005 and expanding eligibility to include fishing operations.⁸ In 2019, recognizing that farmers were in the midst of a new farm crisis,⁹ Congress expanded the chapter’s debt ceiling for farmers to \$10,000,000.¹⁰ Yet, in spite of these legislative actions to extend and strengthen chapter 12, it remains underutilized as a tool to assist farmers struggling with debt, with fewer than 450 cases filed nationally per year since 2000.¹¹

2. WHO IS INVOLVED IN THE CHAPTER 12 PROCESS?

There are four primary parties involved in a chapter 12 case:

- The **debtor** initiates the process. In a chapter 12 proceeding, the debtor is the farmer or fisher.¹² The debtor generally hires a **debtor’s attorney** to help guide them through the process and the attorney’s fees are generally included in the chapter 12 repayment plan.¹³

- The **creditors** are the individuals or entities to whom the debtor owes.¹⁴ **Secured creditors** are creditors who have secured their debt with an interest in the property of the debtor (for example, land or equipment that can be repossessed), and they are often represented by creditor attorneys. **Unsecured creditors** are creditors that have not secured their debt and generally do not hire an attorney, but simply file claims themselves because of their smaller claims.

- The **bankruptcy court judge** is a neutral party who presides over the case, reviews all relevant materials, hears from the parties, and decides whether the proposed chapter 12 repayment plan is reasonable and feasible. All bankruptcy courts are considered federal courts, with at least one bankruptcy court district located in each state.¹⁵

- The **chapter 12 trustee** is an individual appointed by the Regional United States Trustee to oversee the debtor’s plan, preside over meetings of the creditors, act as an intermediary between the debtor and the creditors, and perform other duties listed in the Code.¹⁶



3. WHICH FARMERS ARE ELIGIBLE FOR CHAPTER 12 REORGANIZATION?

A family farmer can qualify for chapter 12 as either an individual or a corporation if they meet the following criteria.¹⁷

TO QUALIFY AS A FAMILY FARMER UNDER CHAPTER 12¹⁸

AN INDIVIDUAL OR AN INDIVIDUAL DEBTOR AND SPOUSE MUST:

1. Own and be engaged in a farming operation, which includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state;
2. Have aggregate debts of less than \$10,000,000;
3. Have at least half of his or her debts arising out of the farming operation, excluding debt on a principal residence; and
4. Receive more than 50% of his or her gross income from the farming operation in the preceding taxable year or both the second and third preceding taxable years.

A CORPORATION OR PARTNERSHIP MUST:

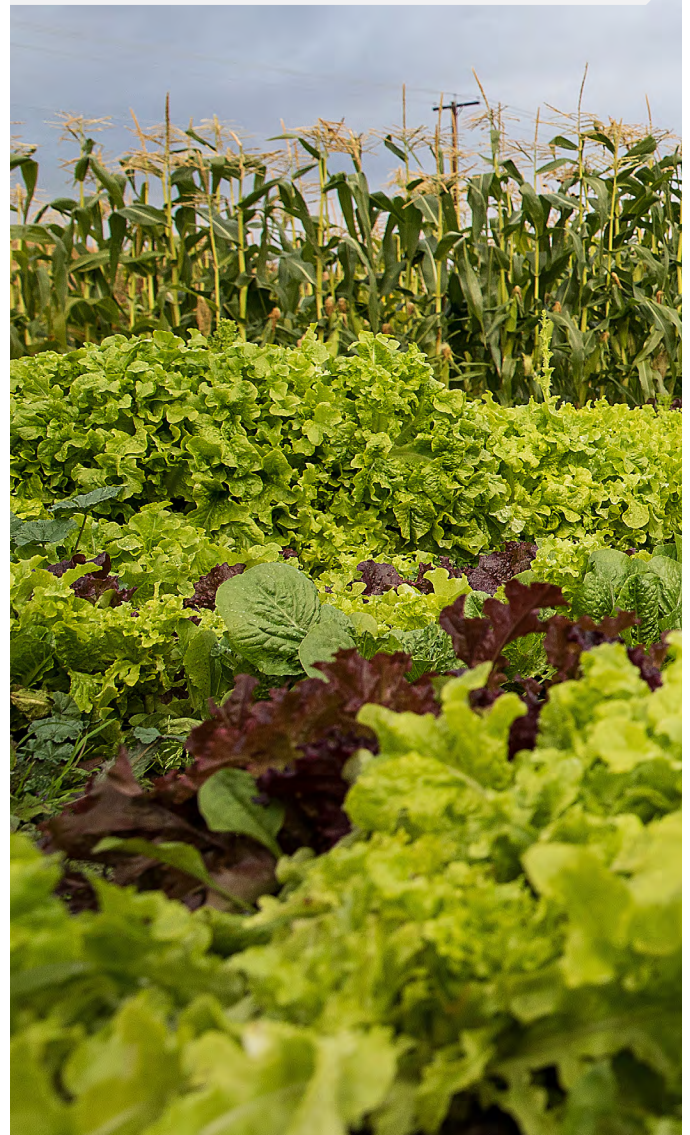
1. Be at least 50% owned by one family and its relatives;
2. Have farming operations that are conducted by the family or its relatives;
3. Have at least 80% of its value derived from assets related to the farming operation;
4. Have aggregate debts of less than \$10,000,000;
5. Have at least half of its debts arising out of the farming operation; and
6. Not have publicly traded stock.

Hannah Scott & Peggy Kirk Hall, An Overview of Bankruptcy Law for Farmers, in Nat'l Agric. L. Ctr., Fact Sheet Series 4 (Sept. 16, 2021), <https://28xeuf2otxvai18q7lx1uemec-wpengine.netdna-ssl.com/wp-content/uploads/assets/articles/bankruptcy/Overview-of-Bankruptcy-Law.pdf>.

Importantly, financial insolvency is **not** required to qualify for chapter 12, but some amount of credit counseling is needed, if it is available.¹⁹

Legal definition of farming operation

The law defines a farming operation as one that “includes tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state.”²⁰ Courts have interpreted this definition liberally, though some limits have been identified.²¹ For example, courts have found that a horse breeding operation is “farming” whereas a horse boarding operation is not.²²



4. WHAT ARE THE SPECIAL BENEFITS FOR FARMERS IN CHAPTER 12?

What sets chapter 12 apart from other bankruptcy chapters is the recognition that farming businesses are inherently different from other businesses.²³ As mentioned above, Congress enacted chapter 12 to keep farms operating while allowing the farmer to restructure their business and its debts. Therefore, during the entire process, the debtor stays in possession of all property that is ultimately placed into the bankruptcy estate.²⁴ Additionally, chapter 12 cases generally enjoy a higher degree of collaboration between creditors and debtors. Because of the nature of the farming business, many debtors have relationships and annual meetings with creditors who may hold a deep understanding of, and appreciation for, the farming business.²⁵ Chapter 12 also differs from other chapters of the Bankruptcy Code in the degree of control and protection provided to the farmer, its reasonableness standard allowing for flexible payment plans, and the stronger reorganizational tools it offers.



Farmer Control and Protection

The process of chapter 12 reorganization is voluntary and farmer-led. As mentioned above, there is no insolvency requirement for chapter 12 relief, and chapter 12 must be initiated by the farmer, who has significant control over the plan's details.²⁶ The bankruptcy court must approve plans found to be reasonable and feasible. Chapter 12 does not allow creditors to vote on the plan, require certain provisions in the plan, or participate in drafting the plan. Creditors can object to the confirmation of the plan, but they are limited to very narrow arguments listed in the Code.²⁷ Specifically, creditors can object to the plan's feasibility, the farmer's eligibility to use chapter 12, the dischargeability of specific debts, and the issue of whether the creditors would receive more money through a chapter 7 liquidation. However, these objections and litigation tools are used to make the farmer aware of the creditor's positions rather than to try to stop the process, because most parties understand that farmers have little access to capital.²⁸ Relatedly, chapter 12 reorganization does not include the "absolute priority rule" found in other chapters. Consequently, even when a farmer pays all creditors under the plan less than 100 percent of what is owed, the farmer will still retain ownership of the farm, which represents a significant and unique benefit included in this chapter.²⁹

Reasonableness Standard and Repayment Flexibility

Farming is an inherently risky business due to factors outside the farmer's control, such as weather and crop prices. In recognition of these risks, the standard used to confirm a chapter 12 plan is more flexible than other chapters.³⁰ For example, a chapter 12 plan must ensure that the creditors are paid the same amount as they would receive in a liquidation bankruptcy.³¹ This means that the farmer does not need to maximize the revenues or income of the farming business to pay creditors quickly. Rather, the farmer can develop a business plan that will generate enough money to pay creditors at least as much as they would be paid in a liquidation of the farmer's assets. Additionally, farmers are able to pay that amount over a term of three to five years,



though some payments can extend well beyond the timeframe included in the plan.³² Another benefit of chapter 12 is the flexibility of the payment schedule, which can also reflect the realities of a farming business that may only see income during the harvest season. As a result, plans can allow for payments to be made monthly, quarterly, or annually depending on the farm's revenue streams.³³

Stronger Reorganizational Tools

The reorganizational tools available to a farmer and their attorney working through chapter 12 are numerous and provide great benefits. For example, farmers can renegotiate secured debts; discharge any unpaid unsecured debt left over at the end of the plan; and even convert certain generally non-dischargeable tax debts, like taxes on sales of farm property, to dischargeable debts.

The flexibility to restructure secured debts is a unique feature of chapter 12.³⁴ Although the debt must be paid in full through the plan, it can be modified in multiple ways, including changing the repayment term, the interest rate, and even the amount owed.³⁵

These secured debts can be renegotiated down to the actual value of the collateral rather than the purchase price, reflecting significant potential savings for the farm operation. The payments on secured debts can also continue well beyond the life of the plan.³⁶

The debt limits of chapter 12 are more substantial than those in other bankruptcy chapters.³⁷ A special provision in chapter 12 also allows for the discharge of any government claim that results from a sale of property, both real and personal, used in the farming operation.³⁸ This provision allows the farmer to discharge any tax liability from selling farm assets, which can be significant if it involves selling a portion of the farm property or its development rights. When viewed together, and considering the flexibility provided regarding the sale of farm property, these tools provide significant flexibility for a farming business to restructure their operation while continuing to operate.



5. WHAT ARE THE MAJOR STEPS TO REORGANIZE UNDER CHAPTER 12?

Each chapter 12 reorganization process will look different depending on the individual farm situation. However, a farmer can expect the process to follow these basic steps.

STEP 1 Find Attorney

A debtor's attorney will help assess the farmer's eligibility for chapter 12 relief, compile all necessary information for the plan, and develop the plan itself. Once the chapter 12 process has been started, it can move quickly, with the whole process often taking less than 100 days. An attorney can ensure the farmer has met all eligibility and plan requirements, saving time, frustration, and money.

STEP 2 File with Court

Farmers have 14 days after filing a chapter 12 petition to file all information regarding income, debts, and creditor identities. Often, this information is filed with the petition, especially when the farmer works with an attorney beforehand. Once a chapter 12 petition for relief has been filed, a bankruptcy estate is automatically created to hold all of the debtor's property, protecting that property from collection efforts.

STEP 3 Notice to Creditors

Once all information has been filed, the court will send notice to all parties. This notice will include the date, time, and location of the meeting of the creditors and other

STEP 4 Creditor's Meeting

This meeting (sometimes called a 341 meeting) will take place between 21 and 40 days after the petition was filed. The trustee presides over the meeting, asks the debtor to verify—under oath—the completeness and accuracy of their chapter 12 petition and schedules, reviews additional crucial documents the debtor must bring to the meeting, asks the debtor other questions related to the filing, and gives creditors the opportunity to ask questions.

STEP 5 File a Plan

The chapter 12 plan must be filed with the court within 90 days after filing the petition for chapter 12 relief. The court generally grants the farmer's request for extensions if the debtor shows the request was made in good faith.

STEP 6 Confirm Plan

The court confirms or rejects the plan within 45 days of filing. Once confirmed, the bankruptcy estate continues during the term of the plan and includes earnings from services performed between the filing of the case and closure, dismissal, or conversion of the case. The bankruptcy estate continues to exist during the term of the plan, keeping the automatic stay in effect, which protects the debtor's property.

STEP 7 Implement Plan (Make Payments)

Plans generally include a date when payments begin, but unlike chapter 13, there is no set 30-day requirement. Most plans last for 3–5 years and are overseen by the trustee for the entirety of that time. Payments are generally submitted to the trustee, who distributes payments to the creditors. In some districts, courts have also allowed payments directly to creditors and not through a trustee.

STEP 8 Discharge

Once the debtor has made all payments required by the plan, the court enters an order discharging all of the farmer's dischargeable debts. If the debtor can demonstrate they have paid at least as much as the creditors would have received in a chapter 7 liquidation and the reason the debtor cannot fulfill the payment obligation is due to factors out of the farmer's control, there may be a hardship discharge, or a discharge prior to completion of all required payments.



6. WHAT IS INCLUDED IN A CHAPTER 12 PLAN?

Chapter 12 plans outline the farmer's path to pay off the debts they owe. The only parties to a chapter 12 reorganization allowed to take part in drafting the plan are the farmer and their attorney. There are three primary "types" of chapter 12 reorganization plans: traditional, downsizing/conversion, and sale/transfer.³⁹ However, these plan types are not mutually exclusive and are often combined. The labels provide a means to easily identify key goals for each type of plan.

Traditional Plans:

Traditional plans aim to keep the same business in operation, but with restructured debts. These plans reflect a farm with a still-viable business, but in need of some amount of debt restructuring.

Downsizing or Conversion Plans:

These plans use chapter 12 to fundamentally change the business model, the type of farming operation, or to reduce the overall acreage of the farm. This is an attractive option for farms trying to continue operating on a smaller or different scale, mainly because of the tax benefits regarding the sale of land.

Sale or Transfer Plans:

This type of plan is very straightforward and involves the voluntary sale of the entire farm operation. Sometimes these plans involve selling specific rights related to land, like development rights. This may be an attractive option for older farmers attempting to retire due to the tax benefits relating to the sale of farming assets through chapter 12 reorganization.⁴⁰

Each of these plans must include certain mandatory provisions and may include additional optional provisions.⁴¹

The plan must include:

- the future earnings and income of the business;
- a description of how priority claims will be paid in full;
- a plan that treats all creditors within each class uniformly, absent consent from a creditor;
- modifications of any domestic support obligations owed to a government;
- and identification of tax fees through the sale of farm-related property.⁴²

These items provide creditors and the court with a full picture of the finances of the farming operation, and enable the parties to understand what it would take to reorganize to a viable business.

The optional provisions included in a chapter 12 reorganization plan are expansive.⁴³ These optional items increase the farmer's flexibility to repay their creditors, both secured and unsecured, and include many of the special provisions of chapter 12 discussed above. Some optional parts of the plan include modifications of secured and unsecured debts; curing or waving defaults; paying claims with property or through sale of property; and arrangements to pay secured claims for a time longer than the life of the plan.⁴⁴ There are many other optional provisions that increase the power farmers have under this chapter, which can be discussed with an attorney to take full advantage of the opportunities they provide.



CONCLUSION

Chapter 12 reorganization offers a powerful tool for farmers in the event of financial distress, and can help prevent it altogether. It can help keep a farm operating by restructuring debt, facilitating the transition of farm size or business model, or supporting the sale to a new or beginning farmer. One of the most significant hurdles to increasing the use of chapter 12 is the stigma that surrounds bankruptcy and the lack of knowledge about how chapter 12 can help a farmer retain their farm and make it a more viable, sustainable operation.

Additional Resources

- [Introduction to Chapter 12 Farm Reorganizations](#), Video Presentation produced by Vermont Law School's Center for Agriculture and Food Systems and the Association of Chapter 12 Trustees (June 14, 2021)
- [The Bankruptcy Code's Best-Kept Secret: How Chapter 12 Can Protect and Transform the Farm](#), Virtual Seminar hosted by the US Bankruptcy Court and Vermont Law School's Center for Agriculture and Food Systems (Nov. 6, 2020)
- Hannah Scott and Peggy Kirk Hall, [An Overview of Bankruptcy Law for Farmers](#), The National Agricultural Law Center (2020)
- [Chapter 12 – Bankruptcy Basics](#), US Courts
- Jan M. Sensensich, [Family Farm Reorganizations Under the US Bankruptcy Code: A Basic Introduction to Chapter 12](#), Association of Chapter 12 Trustees (Jan. 28, 2019)
- Susan Schneider, [Chapter 12 Bankruptcy: Family Farm Restructuring](#), University of Arkansas School of Law (May 15, 2015)

Many states have legal service organizations that can provide bankruptcy support.⁴⁵ However, for specialized chapter 12 assistance you may wish to contact your state's bar association and inquire about a referral to an attorney who has experience representing chapter 12 debtors.

Legal Disclaimer

This guide provides general legal information for educational purposes only. It is not meant to substitute, and should not be relied upon, for legal advice. Each farm operation is unique and state laws may vary. Accordingly, for specific legal advice, please consult an attorney licensed in your state. This information is current as of the date of publication.



ACKNOWLEDGMENTS

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**The Honorable
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About the Center for Agriculture and Food Systems

Vermont Law School's Center for Agriculture and Food Systems (CAFS) uses law and policy to build a more sustainable and just food system. In partnership with local, regional, national, and international partners, CAFS addresses food system challenges related to food justice, food security, farmland access, animal welfare, worker protections, the environment, and public health, among others. CAFS works closely with its partners to provide legal services that respond to their needs and develop resources that empower the communities they serve. Through CAFS' Food and Agriculture Clinic and Research Assistant program, students work directly on projects alongside partners nationwide, engaging in innovative work that spans the food system. Please visit <https://www.vermontlaw.edu/cafs> to learn more.



About the Legal Food Hub

Because of the lack of legal services accessible to small-scale farmers and food entrepreneurs who participate in local and regional food systems, Conservation Law Foundation (CLF) created the Legal Food Hub (Hub). The Hub brings together attorneys in participating states who want to provide pro bono legal assistance to farmers, food entrepreneurs, food and farm nonprofits, and food justice-oriented community organizations. The Hub not only serves to connect attorneys to clients but also, through this guide and other resources, seeks to supply resources for attorneys as they provide legal counsel to this potential new group of clients. For more information about the Legal Food Hub in other states, visit <https://www.legalfoodhub.org>.



In Vermont, the Legal Food Hub operates as a joint initiative between CLF and Vermont Law School's Center for Agriculture and Food Systems (CAFS). Unlike the Hubs in other states, CAFS serves as the primary administrator of the Vermont Hub and operates the Vermont Hub out of Vermont Law School, with CLF providing advisory support. Together, the organizations are building a network of participating attorneys, conducting outreach to potential food and farm clients, and developing and providing educational resources for participants and food system stakeholders on a variety of food and agriculture law topics.

This project is made possible with funding from the National Agricultural Library, Agricultural Research Service, US Department of Agriculture.



National Agricultural Library
U.S. DEPARTMENT OF AGRICULTURE



- 1 Farm income levels have fallen ~34% 2012-2016, debt levels of the early 80s are back, and real estate value of agricultural operations is skyrocketing. Rebecca R. Garcia & Jan M. Sensenich, *Chapter 12 and the Challenge of the New Farm Crisis*, Am. Bankr. Inst. J., February 2019, at 14
- 2 Hannah Scott & Peggy Hall, The Nat'l Agric. Law Center, *An Overview of Bankruptcy Law for Farmers* (2020)
- 3 BANKRUPTCY BASICS GLOSSARY | UNITED STATES COURTS, <https://www.uscourts.gov/educational-resources/educational-activities/bankruptcy-basics-glossary> (last visited June 1, 2021).
- 4 UNDERSTANDING BANKRUPTCY: HOW TO FILE & QUALIFICATIONS, <https://www.debt.org/bankruptcy/> (last visited June 1, 2021); U.S. BANKRUPTCY: FILINGS BY CHAPTER 2019 | STATISTA, <https://www.statista.com/statistics/1118140/bankruptcy-filings-us-chapter/> (last visited Jul. 30, 2021)
- 5 *In re Kerwin-White*, 129 B.R. 375, 384 (Bankr. D. Vt. 1991), subsequently aff'd sub nom. *In re Kerwin*, 996 F.2d 552 (2d Cir. 1993) (“The obvious Congressional purpose behind the enactment of a specific provision for family farmers is to overcome some of the major difficulties family farmers encountered in their attempt to reorganize under Chapter 11. . . . we cannot ignore such clear evidence of Congressional purpose and, where appropriate, we must construe specific provisions in Chapter 12 to accomplish the rehabilitative goals intended by Congress.”).
- 6 See William W. Horlock, Jr., *Chapter 12: Relief for the Family Farmer*, 5 Bankr. Dev. J. 229, 229 (1987).
- 7 132 Cong.Rec. 28593 (statement of Sen. Grassley) (“the purpose is to give family farmers a fighting chance to reorganize their debts”).
- 8 Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (codified as amended at 11 U.S.C. §§ 1201 to 1232 (2005)); see also Susan Schneider, *Chapter 12 Bankruptcy: Family Farm Restructuring*, 2015 Ark. L. Notes 1686 (2015).
- 9 Farm income levels have fallen ~34% 2012-2016, debt levels of the early 80s are back, and real estate value of agricultural operations is skyrocketing. Rebecca R. Garcia & Jan M. Sensenich, *Chapter 12 and the Challenge of the New Farm Crisis*, Am. Bankr. Inst. J., February 2019, at 14; Bud Stephen Tayman, *Qualifying for Relief Under Chapter 12 of the United States Bankruptcy Code: How to Do It and Why Do It!*, 25 Drake J. Agric. L. 81, 82 (2020).
- 10 Family Farmer Relief Act of 2019, Pub. L. No. 116-51, 133 Stat. 1075, (codified as amended at 11 U.S.C. 101(18) (2019)); See also RECENT AMENDMENTS TO CHAPTER 12 BANKRUPTCY DEBT LIMITS UNDER THE FAMILY FARMER RELIEF ACT OF 2019, <http://www.qgtlaw.com/recent-amendment-to-chapter-12-bankruptcy-debt-limits-under-the-family-farmer-relief-act-of-2019/#:~:text=In%20order%20to%20make%20it,%244.2%20million%20to%20%2410%20million> (last visited June 1, 2021).
- 11 Ed Flynn, *Chapter 12: Outcomes for Family Farmers and Fishermen*, Am. Bankr. Inst. J., September 2015, at 36, 70.
- 12 11 U.S.C. §101 (13),(18); see also BANKRUPTCY BASICS GLOSSARY | UNITED STATES COURTS, <https://www.uscourts.gov/educational-resources/educational-activities/bankruptcy-basics-glossary> (last visited June 1, 2021).
- 13 § 47:96. Treatment of priority claims; payment of interest on claim [§ 1222(a)(2)]—Attorneys’ fees, 5A Bankr. Service L. Ed. § 47:96. (“Attorney’s fee, which are administrative expenses claims under 11 U.S.C.A. § 507, must be paid by trustee under Chapter 12 plan under 11 U.S.C.A. § 1222 and for purposes of 28 U.S.C.A. § 586.”).
- 14 11 U.S.C. § 101 (10); BANKRUPTCY BASICS GLOSSARY | UNITED STATES COURTS, <https://www.uscourts.gov/educational-resources/educational-activities/bankruptcy-basics-glossary> (last visited June 1, 2021).
- 15 Court Website Links | United States Courts, <https://www.uscourts.gov/about-federal-courts/federal-courts-public/court-website-links> (last visited Aug. 16, 2021)
- 16 The Trustee shall account for the property within the bankruptcy estate; ensure the debtor is operating in good faith; examine proof of claims; if needed, oppose discharge; provide information to parties of interest unless ordered not to do so by the court; investigate the claims of the debtor; appear and offer testimony at hearings concerning value of property and creation/modification of the plan; make sure that the debtor is complying with the time frame of the plan; and produce a final report and account of the administration of the estate. 11 U.S.C. §§ 1202(b); see also BANKRUPTCY BASICS GLOSSARY | UNITED STATES COURTS, <https://www.uscourts.gov/educational-resources/educational-activities/bankruptcy-basics-glossary> (last visited June 1, 2021).
- 17 11 U.S.C. §§ 101 (18), (19A); See also Bud Stephen Tayman, *Qualifying for Relief Under Chapter 12 of the United States Bankruptcy Code: How to Do It and Why Do It!*, 25 Drake J. Agric. L. 81 (2020).
- 18 Hannah Scott & Peggy Hall, The Nat'l Agric. Law Center, *An Overview of Bankruptcy Law for Farmers*, p.4 (2020)
- 19 11 U.S.C. §§ 109(h), 111; See also CHAPTER 12 – BANKRUPTCY BASICS | UNITED STATES COURTS, <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/chapter-12-bankruptcy-basics> (last visited June 9, 2021).
- 20 11 U.S.C. § 101(21).
- 21 The courts have listed a number of factors to consider in reaching a determination on what is, and what is not, a farm. See *In re Poe*, No. 08-906, 2009 WL 2357160, at *4-6 (Bankr. N.D.W. Va. 2009).
- 22 *Id.* at 6. (“The distinction is that, in raising horses for livestock, the “family farmer” bears all risks. If an animal is lost to disease or serious injury, the family farmer receives no profit on the animal, has lost all that he has invested in it, and bears the cost of replacing it. In contrast, a boarding/training business is only minimally affected.”) See also Bud Stephen Tayman, *Qualifying for Relief Under Chapter 12 of the United States Bankruptcy Code: How to Do It and Why Do It!*, 25 Drake J. Agric. L. 81, 88-89 (2020). (“The following operations have been held to be farming operations: raising timber, dog breeding, operating a dairy farm, leasing farmland on a crop share basis, and horse breeding for resale. The following operations have been held not to be farming operations: excavation, crushing, and sale of rock as gravel; cleaning chicken houses and selling manure as a service business; aerial crop dusting as a service business; horse breeding, boarding, showing, and training where breeding was an incidental part of operation; and a stone crabbing operation prior to the addition of the family fisherman provisions to Chapter 12 by BAPCPA.”).
- 23 *In re Watford*, 898 F.2d 1525, 1528-29 (11th Cir. 1990).
- 24 11 U.S.C. §1207; see also § 127:1. Introduction, 7 Norton Bankr. L. & Prac. 3d § 127:1.
- 25 Jan Sensenich, Chapter 12 Trustee, *The Bankruptcy Code’s Best-Kept Secret: How Chapter 12 Can Protect and Transform the Farm* (Nov. 6, 2020), <https://www.vermontlaw.edu/news-and-events/event/the-bankruptcy-codes-best-kept-secret-how-chapter-12-can-protect-and>.
- 26 *In re Roesner*, 153 B.R. 328, 331 (Bankr. D. Kan. 1993) (citing 11 U.S.C. § 1221); see also CHAPTER 12 – BANKRUPTCY BASICS | UNITED STATES COURTS, <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/chapter-12-bankruptcy-basics> (last visited June 9, 2021).
- 27 Bankruptcy Treatise, Part VI: Adjustment of Debts of a Family Farmer or Fisherman, Chapter 199: Overview of Chapter 12 of the Bankruptcy Code - Adjustment of Debts of a Family Farmer or Fisherman with Regular Annual Income.



- 28 Jan Sensenich, Chapter 12 Trustee, *The Bankruptcy Code's Best-Kept Secret: How Chapter 12 Can Protect and Transform the Farm* (Nov. 6, 2020), <https://www.vermontlaw.edu/news-and-events/event/the-bankruptcy-codes-best-kept-secret-how-chapter-12-can-protect-and>.
- 29 § 47:34. Benefits—No absolute priority rule, 3 Advising Small Businesses § 47:34 (2020).
- 30 *In re Carter*, 570 B.R. 500, 510 (Bankr. M.D.N.C. 2017).
- 31 11 U.S.C. § 1225(a)(4); see also Susan Schneider, *Chapter 12 Bankruptcy: Family Farm Restructuring*, 2015 Ark. L. Notes 1686 (2015).
- 32 § 33:15. Discretionary provisions—Payment of long-term debt, 3 Bankruptcy Desk Guide § 33:15. (“11 U.S.C.A. § 1222(b)(9), together with 11 U.S.C.A. § 1222(b)(5), allows a Chapter 12 plan to extend the repayment terms for secured claims for such periods of time as the bankruptcy court finds to be reasonable, and 30 years for the payment of a creditor’s debt have been found to be a reasonable period of time.”).
- 33 11 U.S.C. § 101(19); see also § 2:11. Chapter 12 adjustment of debts of a family farmer and family fisherman, Bankruptcy and Domestic Relations Manual § 2:11. (“Allowance is made under Chapter 12, however, for situations in which family farmers may have income that is seasonal in nature.”).
- 34 § 33:15. Discretionary provisions—Payment of long-term debt, 3 Bankruptcy Desk Guide § 33:15. (“11 U.S.C.A. § 1222(b)(9), together with 11 U.S.C.A. § 1222(b)(5), allows a Chapter 12 plan to extend the repayment terms for secured claims for such periods of time as the bankruptcy court finds to be reasonable, and 30 years for the payment of a creditor’s debt have been found to be a reasonable period of time.”).
- 35 11 U.S.C. § 1222(b)(1-4)(9).
- 36 11 U.S.C. § 1222 (b)(2).
- 37 11 U.S.C. § 101(18).
- 38 11 U.S.C. § 1232.
- 39 Peter Fitzgerald, Director of Loan Resolution, Vermont Economic Development Authority, *The Bankruptcy Code's Best-Kept Secret: How Chapter 12 Can Protect and Transform the Farm* (Nov. 6, 2020), <https://www.vermontlaw.edu/news-and-events/event/the-bankruptcy-codes-best-kept-secret-how-chapter-12-can-protect-and>.
- 40 Peter Fitzgerald, Director of Loan Resolution, Vermont Economic Development Authority, *The Bankruptcy Code's Best-Kept Secret: How Chapter 12 Can Protect and Transform the Farm* (Nov. 6, 2020), <https://www.vermontlaw.edu/news-and-events/event/the-bankruptcy-codes-best-kept-secret-how-chapter-12-can-protect-and>.
- 41 11 U.S.C. § 1222(a),(b).
- 42 11 U.S.C. § 1222(a).
- 43 11 U.S.C. § 1222 (a),(b).
- 44 11 U.S.C. § 1222(b).
- 45 See BANKRUPTCY | VT LAW HELP.ORG, <https://vtlawhelp.org/bankruptcy> (last visited Jul. 29, 2021); MAINE VOLUNTEER LAWYERS PROJECT, vlp.org (last visited Jul. 29, 2021); HOME | MASSACHUSETTS LEGAL RESOURCE FINDER, <https://masslrf.org/en/home> (last visited Jul. 29, 2021); BANKRUPTCY | NEW HAMPSHIRE LEGAL AID, <https://nhlegalaid.org/self-help-guides/bankruptcy> (last visited Jul. 29, 2021); DEBT & COLLECTIONS | CT LAW HELP, <https://ctlawhelp.org/en/self-help/531> (last visited Jul. 29, 2021); PRO BONO VOLUNTEER LAW PROGRAM – RILS, <https://www.helprilaw.org/node/80/pro-bono-volunteer-law-program> (last visited Jul. 29, 2021).



Dec 17, 2021 21st Annual Holiday CLE
Draft Agenda (as of 11/15/21)

Ethics	Mike Kennedy	60 min
➤ Focus on IOLTA accts		
Year in Review	Samantha Henchen & Ryan Long	90 min
➤ Chambers to prepare case summaries for this		
	~ <i>Break</i> ~	15 min
State of the Court (w/ stats)	Judge Brown	45 min
Lunch		45 min
Bench Bar Meeting		45 min
Sale Motions (in all chapters)	R Rice, J. Sensenich, P. Levine	60 min
Bankruptcy & PI issues	Lisa Penpraze, <i>T. Taylor?</i>	45 min
	~ <i>Break</i> ~	15 min
Bk'cy & Family Law	Nancy Geise, Amy Butler, M. Kirkpatrick	60 min



UNITED STATES TRUSTEE PROGRAM INFORMATIONAL NOTICE

EMERGENCY RENTAL ASSISTANCE PROGRAMS

If you are a renter having trouble paying your rent or a landlord who has lost rental income due to challenges presented by the COVID-19 pandemic, help may be available. Through funding from the U.S. Department of the Treasury's Emergency Rental Assistance (ERA) program, there are a wide variety of state and local programs that offer assistance—including financial assistance—to those who are struggling to make ends meet.

Provided below are links to learn more about ERA programs in your local area, including how they work and who is eligible, as well as other important information to help you navigate these difficult times. ERA programs can vary based on locale since flexibility is given to states to develop programs that best suit the needs of their communities.

For more general information on assistance programs, visit:

<https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/>

For ERA program links in your local area, visit:

<https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/renter-protections/find-help-with-rent-and-utilities/>

To get answers to frequently asked questions, visit:

For Renters: <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/renter-protections/emergency-rental-assistance-for-renters/>

For Landlords: <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/help-for-landlords/>

To talk with a no-cost Department of Housing and Urban Development-approved housing counselor who can help you understand your options, make an action plan, and even help you apply for rental assistance, call [\(800\) 569-4287](tel:8005694287) or visit <https://www.consumerfinance.gov/find-a-housing-counselor/>.