

**ORDER FIXING TIME TO OBJECT TO PROPOSED MODIFICATION  
OF CONFIRMED CHAPTER 13 PLAN**

**Applicable Law and Rules**

1. Section 1329(a) of the Bankruptcy Code (11 U.S.C. § 1329(a)) permits the debtor, the trustee, or the holder of an allowed unsecured claim to request the modification of a confirmed chapter 13 plan at any time after confirmation of the plan and before the completion of payments under the plan. The statute does not authorize secured creditors to request plan modifications.
2. Under section 1329(a), the proposed modification may
  - (1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;
  - (2) extend or reduce the time for such payments;
  - (3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan; or
  - (4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) . . . .
3. If the debtor proposes to reduce the plan payments in order to purchase health insurance, section 1329(a)(4) requires that the debtor demonstrate (A) that the expenses are reasonable and necessary; (B) that the expense is not materially larger than the cost of the debtor's previous or lapsed health insurance or, if the debtor did not have health insurance, that the expense is not materially larger than the reasonable cost which would be incurred by a debtor in similar circumstances to purchase health insurance; and (C) that the amount of the reduction is not already included in the calculation of disposable income under section 1325(b) of the Code. If requested, the debtor must file proof that a health insurance policy was purchased.
4. Section 1329(b)(1) requires that the proposed modification comply with sections 1322(a), 1322(b), 1323(c), and 1325(a) of the Bankruptcy Code.
5. Under section 1329(b)(2), the plan as modified becomes the plan automatically unless, after notice and a hearing, the modification is disapproved by the court.

6. Section 1329(c) provides that a modified plan may not provide for payments over a period that exceeds the applicable commitment period calculated under section 1325(b), unless the court, for cause, extends the plan period to a maximum of five years. The time begins when the first payment was due under the original confirmed plan.
6. Fed. R. Bankr. P. 3015(c) requires that the modification be dated.
7. Rule 3015(g) provides, in part, that a request to modify a confirmed chapter 13 plan shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 21 days notice by mail of the time fixed for filing objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee. A copy of the proposed modification, or a summary thereof, shall be included with the notice. If required by the court, the proponent shall furnish a sufficient number of copies of the proposed modification, or a summary thereof, to enable the clerk to include a copy with each notice.
8. Any objection to the proposed modification shall be filed; served on the debtor, the trustee, and any other entity designated by the court; and transmitted to the United States trustee. Rule 3015(g).
9. An objection to a proposed modification is governed by Fed. R. Bankr. P. 9014. Rule 3015(g).
10. Prior to confirmation, the debtor may modify a chapter 13 plan pursuant to section 1323 of the Code. The debtor may not modify the plan so that the plan as modified fails to meet the requirements of section 1322 of the Code. After the debtor files a modification under section 1323, the plan as modified becomes the plan. Form 231B should NOT be used for a plan modification filed prior to confirmation.

### **Instructions**

#### **Caption**

1. Identify the judicial district in which the bankruptcy case was filed. Example: "Eastern District of California."
2. "In re": Insert the name of the debtor as it appears in the bankruptcy petition.

3. "Case No.": Insert the bankruptcy case number assigned at the time of filing.

### **Order**

In the first sentence of the order, the blanks are to be completed with the name of the proponent of the proposed modification and the date the request for modification was filed.

The boxes in the numbered paragraphs are to be completed by the clerk.

A copy of the proposed modification MUST be attached to this order and notice when it is served on the parties.

### **General Information for the Clerk**

Section 1329(a) of the Bankruptcy Code permits the debtor, the trustee, or the holder of an allowed unsecured claim to request the modification of a confirmed chapter 13 plan at any time after confirmation and before completion of payments under the plan.

Prior to confirmation, the debtor may modify a chapter 13 plan pursuant to section 1323 of the Code. Form 231B should NOT be used for a plan modification filed prior to confirmation.

Fed. R. Bankr. P. 3015(g) requires 21 days notice to the debtor, the trustee, and the creditors of the time fixed for filing objections to the proposed modification. The rule provides that a copy of the proposed modification, or a summary thereof, shall be included with the notice.

The court can require that the proponent furnish the copies. Form 231B was designed to order the proponent of the modification to give the notice. Clerks may wish to consider whether this comports with local practice.

The rule provides that the court may waive notice for creditors who are not affected by the proposed modification. If so, Form 231B should be revised accordingly.

Rule 3015(g) requires that objections to the proposed modification be filed; served on the debtor, the trustee, and any other entity designated by the court; and transmitted to the United States trustee. Form 231B was designed to require service of objections on all creditors. The court may find that this is not necessary. If so, Form 231B should be revised accordingly.

If no objection is filed, the proposed modification takes effect automatically. 11 U.S.C. § 1329(b)(2). The statute does not require a hearing or a court order on uncontested modifications of confirmed plans. In order to avoid either sending two notices or providing for a

hearing on uncontested modifications, Form 231B includes a tentative hearing date and states that, if no objection is filed, the court may not hold a hearing.

The instructions to the public provide that the boxes for the filing deadline for objections and the hearing date should be left empty, so that the clerk may fill in the correct information. Be sure that the last day for filing objections and the hearing date are fixed far enough in advance to permit the proponent time to mail the notices and still meet the requirement to give 21 days notice.