

Proposed change to the local rules for the United States Bankruptcy Court for the Northern District of Indiana. New material is indicated by redline, and deleted material is indicated by ~~strikeout~~.

B-4001-1
Relief from Stay in Chapter 13 Cases

1 (a) If a confirmed chapter 13 plan provides for the surrender of property in which a creditor has an
2 interest, whether as a lienholder or as a lessor, the automatic stay is terminated upon confirmation, and
3 without the need for a further order of the court, to allow the creditor to foreclose upon, repossess, or
4 otherwise proceed *in rem* against that property. The surrendered property will, nonetheless, remain
5 property of the estate until it has been disposed of pursuant to applicable non-bankruptcy law as a result
6 of the creditor’s proceedings unless the confirmed plan specifically provides for its abandonment or the
7 court enters a separate order of abandonment, following an appropriate motion and notice to creditors.

8 (b) In a case under chapter 13, if the provisions of a plan provide for the surrender of property in
9 which a creditor has an interest, the court will consider a motion for relief from stay and/or abandonment
10 as to such property without holding a hearing, unless a party in interest files an objection to the relief
11 requested, provided that:

12 (1) The motion is titled “Motion for Relief from Stay and/or Abandonment Because Plan
13 Proposes to Surrender Property”;

14 (2) Movant serves all creditors and parties in interest with a notice of the motion and the
15 opportunity to object thereto, containing the information required by Local Bankruptcy
16 Rule B-2002-2(c), and makes due proof thereof; and

17 (3) The deadline for filing objections to the motion is no less than fifteen (15) days after
18 service of the notice and no sooner than seven (7) days after the first date set for the
19 meeting of creditors held pursuant to section 341(a) of the United States Bankruptcy
20 Code.

21 The failure to comply with the requirements of sub-paragraphs (b)(2) and (b)(3) will constitute a waiver
22 of any time limits associated with ruling on the motion, including the time limits set forth in 11 U.S.C. §
23 362(e).

24 (c) A motion for relief from stay and/or abandonment, other than a motion because a plan proposes to
25 surrender property, will be set for such proceedings as the court deems appropriate, and must include the
26 following information:

27 (1) Copies of documents upon which the claim is based, including loan documents and
28 documents that evidence both the grant of the lien, security interest, mortgage or other
29 encumbrance, and its proper perfection or proper recordation;

30 (2) The balance owing as of the date the petition is filed, and the date and amount of any
31 payments received since the filing;

32 (3) The total arrearage as of the petition date, the number of pre-petition payments in arrears, and
33 the amount of each such payment;

34 (4) The movant's best estimate of the value of the collateral and the basis for that value;

35 (5) The identity of any person or entity claiming an interest in the property that is the subject of
36 the motion and of which movant is aware; and

37 (6) If the motion is based upon a post-petition payment default, the motion and/or exhibits
38 thereto shall also contain the following:

39 (A) A legible post-petition payment history that sets forth the date each post-petition
40 payment was received, the amount of each post-petition payment, and how each post-petition
41 payment was applied;

42 (B) An itemization of any other expenses or fees that are due post-petition including attorney
43 fees, filing fees, late payment fees, and escrow advance;

44 (C) The total dollar amount necessary to cure the post-petition debt as of a date certain; and

45 (D) The address where the current monthly payment is to be mailed if the mailing address is
46 not listed in the movant's filed proof of claim or if the mailing address has changed.
47 The failure to provide the documentation and/or information required by this paragraph may result in
48 the motion being stricken or denied.