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Summary of amendments to U.S. Bankruptcy Court, District of Nevada’s Mortgage Modification Program Rules (effective January 01, 2021)

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Nevada’s Mortgage Modification Program (“MMP”), initially instituted in 2015, is promulgated by the U.S. Bankruptcy Court, District of Nevada with the goal of encouraging debtors and creditors to exchange information, and explore foreclosure alternatives like loan modification, in a controlled setting.

On January 01, 2021, the Nevada Bankruptcy Court updated and revised the rules governing the MMP. The updated MMP rules include provisions designed to streamline the process for both parties, debtors and creditors, as well as result in faster outcomes.

As an initial matter - debtors who wish to participate in the MMP typically have proposed, but not confirmed, Chapter 13 Plans pending. This caused both creditors and debtors consternation in the past, where the specific language to indicate an intent to participate was not known and there was concern a creditor’s claim may not be included due to oversight. Therefore, in response to numerous objections to confirmation, the amended MMP rules now address how debtors may organize a pre-mediation Chapter 13 plan. (Section XI(A)(1)-(4)). Per the January 2021 alterations, a debtor’s Chapter 13 Plan must provide for:

1. A plan payment of no less than 31% of the debtor’s gross monthly income;
2. Identification of the creditor who will participate in the MMP and omission of payment to that creditor; and
3. Indication of an intent to mediate in the “Additional Provisions” subsection of the plan.

If these steps are taken, the Trustee will reserve disbursements from the plan, including pre-petition arrear payments, to the participating creditor during the pendency of the MMP barring an opposing Court Order. Once the mediation is complete, of course, an amended Chapter 13 Plan must be filed in order to provide for the creditor/reflect any agreed-upon loan modification and the Trustee’s disbursements will alter accordingly.

Regarding the mediation itself, the amended MMP Rules include the following changes. As always, however, we urge our clients to consult the full amended MMP rules or our office should you be requested to participate in a mediation.

Like many other states, the Nevada MMP utilizes an online portal for each mediation. (Section IV.) Use of the portal is mandatory to all participating parties. While we expect that the majority of our clients with a large volume of active loans in Nevada have already registered for the portal, we suggest that those who have not taken this step yet do so. Extensive information regarding the portal, as well as registration, is available on the US Bankruptcy Court, District of Nevada’s website.



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One initial notable change to the MMP rules regards which debtors are eligible to participate. (Section V(A)(1)-(5)). The program is limited to Chapter 13 debtors who are individuals (not corporate debtors) — and, as of January 2021, only debtors who able to make payments in an amount equal to 31% of their gross monthly income under their Chapter 13 plans.

The debtor initiates an MMP mediation by filing an ex-parte motion within 90 days of filing their case. (Section VI(A)(3)). A debtor outside this timeframe may request to participate as well but must address their failure to file within the dictated 90 days. Creditors may object to participation in the MMP; however, it is not recommended that creditors take this step unless there is good cause. For example, in Nevada, a debtor’s failure to previously obtain a loan modification is not seen as good cause, whereas the debtor remaining in a foreclosed/sold home is.

Once a mediation is ordered by the Court, a mediator is appointed. The focus of the amended rules once the mediation has commenced is on timeliness. Both parties are required to timely supply and review the loan modification application in accordance with the deadlines set forth in the rules – though while there are some specific timeframes set forth in the rules, the amended provisions more so emphasis the need for efficiency in order to process and move cases through the MMP system.

Another significant change to the MMP rules of which our client should be aware is that the amended rules alter the treatment of trial loan modifications. (Section X(A)(2)). After a timely review of the debtor’s complete loan modification application is done, the Creditor shall report its decision prior to or at the scheduled MMP mediation. If the parties agree to a trial loan modification, the rules now expressly require that the all parties must monitor the trial loan modification status – with an eye towards ultimately ensuring that a final loan modification is either executed or, for cause, denied. For this reason, the MMP mediation case now “must” remain open in the Portal while the trial modification pends. The amended MMP rules now likewise require that – in the event of a permanent loan modification or other agreed upon resolution – all parties must consent in writing to the outcome.

Finally, the amended MMP Rules now clarify what steps must be taken if a loan is service-released mid-MMP participation. (Section VIII(B)(7)). If a loan subject to the MMP is service released, the creditor must provide a copy of the MMP Order to the successor servicer, as well as file a Certificate of Service with the Court showing this has been done. The debtor’s submission on the Portal shall then be transferred to the new servicer, which must acknowledge receipt of the submission and its status is active servicer on the Portal within 7 days. The creditor must also accept any documentation previously submitted and accepted by the prior servicer for review, as well as communicate if additional information is needed.

We hope that this brief overview of changes to the Nevada MMP Rules are helpful. Please do not hesitate to contact us with any additional questions or concerns.



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