

# Lender Bankruptcies

## Chapter 11 Documents

**Petition.** The filing of the brief petition for chapter 11 relief document formally starts the bankruptcy case. It creates the bankruptcy estate consisting of a broad range of the debtor's interests in property. The petition filing also triggers the automatic bankruptcy stay. 11 U.S.C. § 362. Subject to very limited exceptions, the automatic stay bars the commencement and continuation of legal proceedings against the debtor. Creditors may continue with legal proceedings against the debtor only with permission from the bankruptcy court obtained through a formal motion for relief from the stay. 11 U.S.C. § 362(d). The automatic stay does not apply to non filing co-defendants, including prior and subsequent assignees of a loan obligation.

**Chapter 11 Plan.** The chapter 11 debtor has 120 days from the date of the commencement of the case within which it has an exclusive right to submit a plan of reorganization for court approval. 11 U.S.C. § 1121. The Code sets certain required contents for a chapter 11 plan. 11 U.S.C. § 1123. The creditor may seek extensions of this time for submitting a plan, and these requests are often approved. If the exclusivity period passes without the debtor's having filed a plan, creditors may submit their own plans. By order the court sets deadlines for creditors to accept or reject a debtor's proposed plan. 11 U.S.C. § 1126, F. R. Bank. P. 3018(a). Creditors may vote to approve the plan or they may file objections. After a hearing the court decides whether to confirm a particular plan. 11 U.S.C. §§1128, 1129.

**Order for Claim Bar Date.** In chapter 11 cases the court sets the deadline by which creditors must file a proof of claim. F.R. Bankr. P. 3003(c)(3). The court may extend this time by further order. The concept of a claim is broad and does not require that the creditor have a judgment against the debtor or have commenced litigation over the claim. A creditor files a claim using Official Bankruptcy Form 10. The form is generally available through local bankruptcy court websites. If the creditor is entitled to any priority status, this can be indicated on the form. Borrower creditors may have the status of secured creditors based on setoff rights. The claim will be allowed unless an objection to it is filed and sustained. The claim allows the creditor to share in any distributions from the bankruptcy estate and entitles to creditor to notice of certain proceedings as the case moves on.

**Order Confirming Chapter 11 Plan.** The requirements for obtaining a court order confirming a plan are set forth in 11 U.S.C. § 1129. If the plan meets the minimal requirements of the Code, the court may confirm it with the consent of creditors under § 1129(a) or without the consent of creditors under § 1129(b). The plan establishes a broad revision of the debtor's contractual obligations that is binding on all creditors. The plan may provide for the sale of assets of the debtor. 11 U.S.C. § 1123(b)(4).

**Order for Transfer of Assets.** In addition to sales authorized under the chapter 11 plan, the court may approve the sale of assets of the debtor's estate before a plan is confirmed. 11 U.S.C. § 363(b),(f). A debtor may propose to sell assets free and clear of claims against the debtor under certain circumstances. However, 2005 amendments to the Code preserve many consumer defenses from attempts to sell assets free and clear of these claims. 11 U.S.C. § 363(o).

**The list of bankrupt lenders and pertinent documents:**

**Accredited Home Lender**

Motion for an order establishing  
claim bar date

Order for Claim Bar Date

Petition

**Aegis Mortgage Corporation**

Claim bar date order

Petition

Plan

Transfer of asset order

**American Home Mortgage Holding**

Claim bar date order

Petition

Plan

Transfer of asset order

**BNC Mortgage LLC**

Voluntary Petition

**Delta Financial Corporation**

Claim bar date order

Petition

Plan

Transfer of assets order

Sale of asset order

**Fieldstone Mortgage Corp**

Petition

Confirmation Plan Order

Plan

**First Magnus Financial**

Claim bar date order

Petition

Plan

Second Amended Plan

Confirmation Plan Order

Transfer of asset order

**First NLC Financial Services**

Claim bar date order

Petition

**Fremont General**

Claim bar date order

Petition

**HomeBanc Funding Corporation**

Disclosure Statement

Motion - bar date order

Claim bar date order

Petition

Plan

Motion - transfer asset order

Transfer of assets order

HomeBanc Funding Corporation II

Petition

HomeBanc Mortgage Partners, LLC

Petition

HomeBanc Corp. Petition

HomeBank Mortgage Acceptance Corp.

Petition

**MILA Inc.**

Motion - claim bar date order

Bar date order

Petition

**Mortgage Lender Network USA**

Claim bar date order

Petition

Plan

Transfer of assets order

**Mortgage Ltd.**

Claim bar date order

Petition

**New Century Financial Corp.**

Claim bar date order

Petition and New Century

TRS Holdings Petition

Plan

Confirmation of plan

Transfer of assets order

**New Century Mortgage Corporation**

Petition

**Oak Street Financial**

Petition

**Old Canal**

Petition

**OWNIT Mortgage Corp.**

Claim bar date order

Plan

Plan Confirmation Order

Petition

Transfer of assets order

**People's Choice Home Loan**

Motion - claim bar date

Claim bar date order

Plan

Confirmation of Plan

Petition (People's Choice Funding Corp.)

Petition (People's Choice Financial Corp.)

Transfer of assets order

**Quality Home Loans**

Claim bar date order

Plan

Petition

Transfer of assets order

**ResMae Mortgage Corp.**

Claim bar date order

Plan

Confirmation of plan

Petition

Transfer of assets order

**Southstar Funding**

Petition

Sale of assets order

**WAMU**

Claim bar date order

Washington Mutual, Inc. Petition

Transfer of assets order

WMI Investment Corp. Petition

See also: Bankruptcy Mortgage Project: Local rules, forms, general orders, and court opinions addressing a variety of mortgage issues in consumer bankruptcy cases.