

## 2005-2007 COMMITTEE NOTE

The forms of the Schedules of Assets and Liabilities are amended to implement the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109 - 8, 119 Stat. 23, (April 20, 2005) (“BAPCPA”). An amendment that directs the debtor to avoid disclosing the name and address of any minor child occurs in Schedules B, D, E, F, G, and H in conformity with § 112 which was added to the Code in 2005. Section 112 provides for the debtor to furnish the name of any minor child confidentially to the court, should the trustee need the information to evaluate properly the information filed by the debtor. In addition, those schedules are amended to add to the reference to Rule 1007(m), with respect to a minor child, a direction to include for noticing purposes the name, address, and legal relationship to the child of “a person described” in that rule. Rule 1007(m) requires the person named to be someone on whom process would be served in an adversary proceeding against the child.

The “Statistical Summary of Certain Liabilities and Related Data” is added to collect from individual debtors with primarily consumer debts the information needed to prepare statistical reports required under 28 U.S.C. § 159, which was enacted as part of BAPCPA. Collecting the bulk of the information to be used in these statistical reports in the Summary of Schedules and the statistical summary will assist the courts and the Director of the Administrative Office to fulfill their statutory responsibilities. Schedules D and E are amended to provide additional totals and, together with Schedule F, to direct debtors who must complete the statistical summary to report total amounts there. Similarly, Schedules I and J are amended to conform their terminology to that used in 28 U.S.C. § 159 and direct debtors who must complete the statistical summary to report the specified amounts there.

Schedules A, B, C, and D are amended to delete the word “market” from the columns in which the debtor reports the value of various kinds of property. Amendments to § 506 of the Code enacted in 2005 specify that “replacement value” must be used in connection with certain property. The schedules no longer specify “market” value and permit the debtor to choose the appropriate one, whether that be replacement, market, or some other value. Valuation of property, generally, is the subject of extensive provisions in the Code, and the deletion of the word “market” from the determinations of value to be made by the debtor on the schedules is intended to remove any inference about choice of valuation

standard. This deletion simply indicates that the form takes no position on which Code provision or valuation standard may be applicable in any particular instance.

The following paragraphs describe changes that are specific to each schedule:

Schedule B - Personal Property is amended to require the debtor to list any interests in an education IRA, because § 541(b)(5), added to the Code in 2005, makes special provision for them. The schedule is also amended to require the debtor to disclose the existence of any customer lists or other compilations containing personally identifiable information provided by an individual to the debtor in connection with obtaining a product or service from the debtor for personal, family, or household purposes. This amendment implements § 332, which was added to the Code by BAPCPA in 2005.

Schedule C - Property Claimed as Exempt is amended to delete descriptive information concerning the length of domicile required for the debtor to qualify to claim certain exemptions. Any summary of the BAPCPA amendments to § 522 of the Code concerning these requirements might inadvertently cause the debtor to lose important rights. Accordingly, the form now directs the debtor to indicate whether exemptions are being claimed under § 522(b)(2) or § 522(b)(3) and whether the debtor claims a homestead exemption that exceeds \$136,875.

Schedule D - Creditors Holding Secured Claims is amended to provide for creating a total of any unsecured amounts (amounts that exceed the value of the collateral) owed to creditors holding secured claims. In addition to facilitating statistical reporting, providing a breakdown of the amounts owed to creditors listed on this schedule will assist the individual debtor in completing the means test calculation under § 707(b)(2)(A)(i) of the Code.

Schedule E - Creditors Holding Unsecured Priority Claims is amended to implement the changes in priority to which a claim may be entitled under 11 U.S.C. § 507 as amended by BAPCPA and to add the new priority included in the 2005 Act for claims for death or personal injury while the debtor was intoxicated. "Subtotal" and "Total" boxes have been added to the columns labeled "Amount Entitled to Priority" and "Amount Not Entitled to Priority" for statistical reporting purposes and to assist the individual debtor in completing the means test calculation under § 707(b)(2)(A)(i) of the Code.

Schedule H - Codebtors is amended to add specifics about community property jurisdictions in connection with the requirement to provide the name of any spouse of a debtor who resides or resided in a community property jurisdiction. This amendment also mirrors amendments made in 1997 to Official Form 7, the Statement of Financial Affairs, and will assure that these codebtors receive notice of the filing of the bankruptcy case. The form also is amended to

extend from six years to eight years the time period for which this information is reported pursuant to the 2005 amendments to § 727(a)(8) of the Code.

Schedule I - Current Income of Individual Debtor(s) is amended to make it clear that “every” married debtor must provide income information for both spouses, unless the spouses are separated and a joint petition is not filed. The description of the income to be reported is revised to clarify that the purpose of this schedule is to obtain information about actual income on the date the bankruptcy case is filed and which a debtor reasonably expects in the future in contrast to the debtor’s “current monthly income” as defined in § 101(10A) and reported on Form 22A, 22B, or 22C. And a statement included at the top of the form also explains that the income calculated this form may be different than the current monthly income. Line numbers have been added to assist the debtor in calculating and reporting totals. A new subtotal line for income from sources other than as an employee and a new “average monthly income” line will enable this form to be used in conjunction with Schedule J to satisfy the requirements of § 521(a)(1)(B)(v), which was added to the Code by BAPCPA. New statistical reporting requirements in 28 U.S.C. § 159 also require “average monthly income.” In addition, the form is revised to provide the statement concerning any anticipated increase or decrease in income required in § 521(a)(1)(B)(vi), also added to the Code in 2005.

Schedule J - Current Expenditures of Individual Debtor(s). In conjunction with amendments to Schedule I, the form is amended to provide for reporting the debtor’s actual “average monthly expenses,” as required by 28 U.S.C. § 159 and a statement of monthly net income, itemized to show how the amount is calculated, as required by § 522(a)(1)(B)(v), which was added to the Code by BAPCPA in 2005. In addition, line numbers have been inserted and the description of expenses revised to make it clear than the purpose of this schedule is to obtain information about a debtor’s actual and reasonably foreseeable expenses on the date the bankruptcy case is filed. And a statement similar to the statement at the top of Schedule I explains that the expenses calculated on the form may differ from the expenses calculated on Forms 22A or 22C. A direction has been added to require the debtor to report any increase or decrease in expenses anticipated to occur within the year following the filing of the document, as required by § 521(a)(1)(B)(vi), which also was added to the Code in 2005.

Declaration Concerning Debtor’s Schedules. The declaration by individual or joint debtors is amended to require the debtor to merely state the total number of pages being verified. The declaration and signature of any non-attorney bankruptcy petition preparer is amended to include material mandated by § 110 of the Code as amended in 2005.