

**INSTRUCTIONS FOR COMPLETING OFFICIAL FORM 3
APPLICATION AND ORDER TO PAY FILING FEE IN INSTALLMENTS**

I. INTRODUCTION

Official Form 3 is provided only for those individual debtors who are unable to pay the filing fee in full at the time they file the bankruptcy petition. Other debtors should not complete or file this form.

II. APPLICABLE LAW AND RULES

Rule 1006(b) of the Federal Rules of Bankruptcy Procedure (referred to as “Bankruptcy Rule” or “Fed. R. Bankr. P.”) allows an individual who is filing a voluntary bankruptcy petition but is unable to pay the filing fee in full at that time to file, together with the petition, an application asking for permission to pay the filing fee in installments. In addition to the filing fee, currently \$155 for chapter 7 and chapter 13, the debtor is required to pay a \$30 administrative fee in all cases and a \$15 trustee surcharge in chapter 7 cases. 28 U.S.C. § 1930(a); Bankruptcy Court Miscellaneous Fee Schedule issued in accordance with 28 U.S.C. § 1930(b). As of January 1, 2000, the total was \$200 for a chapter 7 case and \$185 for a chapter 13 case.

The debtor must state in the application that the debtor is unable to pay the filing fee except in installments, set forth the proposed dates and amounts of the installment payments, and declare that the debtor has not paid any money or transferred any property to an attorney for services in connection with the case. The debtor must sign the application.

The court may either order the debtor to pay the filing fee in full immediately or grant the debtor leave to pay the filing fee in installments according to the terms proposed by the debtor or fixed by the court. The maximum number of installments is four, and the final installment must be paid no later than 120 days after filing the petition. The court may extend the time of any installment, but the last installment must be paid no later than 180 days after filing the petition. Fed. R. Bankr. P. 1006.

The filing fee must be paid in full before the debtor or a chapter 13 trustee (in a chapter 13 case) may pay an attorney or any other person who renders services to the debtor in connection with the case. Fed. R. Bankr. P. 1006. The filing fee and any other fees payable at the start of the case must be paid in full before the court grants the debtor a discharge in a chapter 7 case. Fed. R. Bankr. P. 4004(c)(1)(f).

Official Form 3 is a "document for filing" that may be prepared by a "bankruptcy petition preparer," as defined in 11 U.S.C. § 110. A signature line is provided for such preparer. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested. A bankruptcy petition preparer may not accept a fee until the filing fee has been paid in full. Fed. R. Bankr. P. 1006(b)(3). If more than one person prepared the form, additional sheets that conform to the certification on the official form should be completed, signed, and attached. A bankruptcy petition preparer, who has completed the Application to Pay the Filing Fee in Installments must provide the debtor with a copy.

There is also a signature line for a debtor's attorney. Fed. R. Bankr. P. 9011.

The form was revised in 1997. The changes included adding an acknowledgment by the debtor of the potential consequences of failing to pay an installment when due and clarifying that the debtor is not disqualified from paying the filing fee in installments because the debtor has paid money to a bankruptcy petition preparer.

III. DIRECTIONS

The person preparing the application should complete the caption with the information indicated, except the case number, which will be inserted by the clerk's office after the bankruptcy case is filed. The caption appears at the top of the page and conforms to Form 16B, Caption (Short Title). Instructions for completing Form 16B may be found following that form.

The amount of the filing fee should be included in the first paragraph. For the purpose of the application, "filing fee" means the filing fee prescribed by 28 U.S.C. §1930(a) and any other fees prescribed by the Judicial Conference pursuant to 28 U.S.C. §1930(b) that are payable to the clerk upon the commencement of a case under the Bankruptcy Code. Fed. R. Bankr. P. 1006(a). As of January 1, 2000, the combined "filing fee" was \$200 for chapter 7 cases and \$185 for chapter 13 cases.

The debtor should fill in the blanks in the fourth paragraph with the debtor's proposed terms of payment, including the dollar amount and date of each payment. The debtor should specify on the first line whether the first payment will be made with the filing of the petition or on a specified date. It is important to remember that the maximum number of installments is four and the final installment must be paid no later than 120 days after filing the petition, unless the court extends the time for any installment.

The debtor should date the application and sign it on the signature line provided for the applicant. If the case is filed by joint debtors, both debtors should date and sign the application. If the debtor is represented by an attorney, the attorney must sign on the signature line provided for the attorney for the applicant.

**Certification and Signature of Non-Attorney
Bankruptcy Petition Preparer**

Bankruptcy petition preparers are required to print or type the preparer's name, address, and social security number on the lines provided. The preparer must sign and date the application on the lines provided. If more than one person prepared the document, additional signed sheets conforming to the Official Form must be attached for each person.

Order

After completing the caption, debtors and preparers should leave the rest of this portion of the form blank. The order is included for the convenience of the court. If the court approves the application to pay the filing fee in installments, the bankruptcy judge will sign and date the order.