

**INSTRUCTIONS FOR COMPLETING OFFICIAL FORM 8
CHAPTER 7 INDIVIDUAL DEBTOR'S STATEMENT OF INTENTION**

I. INTRODUCTION

An individual debtor in a chapter 7 case and an individual debtor and spouse in a joint chapter 7 case, whose schedules of assets and liabilities include consumer debts that are secured by property of the estate, are required to file a Statement of Intention (Official Form 8) with respect to the property securing those debts. 11 U.S.C. § 521(2)(A).

II. APPLICABLE LAW AND RULES

The Statement of Intention must specify whether the debtor intends to surrender or retain the property, and if applicable, indicate whether the debtor intends to retain the property through reaffirmation, or claim the property as exempt and retain the property through redemption or avoidance of any liens. 11 U.S.C. § 521(2)(A). The Statement of Intention must be filed with the clerk of the bankruptcy court within 30 days of the filing of a bankruptcy petition under chapter 7 or by the date set for the meeting of creditors under section 341 of the Bankruptcy Code, whichever is earlier, unless the court extends the time for cause. *Id.* Within 45 days of the filing of this statement, the debtor must perform the intention with respect to the property, unless the court extends the time for cause. 11 U.S.C. § 521(2)(B).

A copy of the Statement of Intention must be served on the chapter 7 trustee and creditors that are listed in the statement on or before the date the statement is filed with the court. Fed. R. Bankr. P. 1007(b)(2).

The debtor may amend the Statement of Intention at any time before the expiration of the period provided in 11 U.S.C. § 521(2)(B). The debtor must give notice to the trustee and to any entity affected by the amendment. Federal Rule of Bankruptcy Procedure 1009(b) (referred to as “Bankruptcy Rule” or “Fed. R. Bankr. P.”). A copy of every amendment will be transmitted by the clerk to the U.S. trustee. Fed. R. Bankr. P. 1009(c).

In a joint case, if the property and debts of both debtors are the same, the form may be adapted for joint use. Both joint debtors must sign and date the form. If joint debtors have separate debts, however, each debtor must complete, serve, and file a separate form. If only one of the joint debtors is liable on the secured debts, the spouse who is not liable can either sign, serve, and file a separate Form 8 stating “None” or write a disclaimer stating non-liability and sign on the other spouse’s form.

Terminology:

Exemptions - An individual debtor and an individual debtor and spouse in a joint case are entitled to claim certain property as exempt from the bankruptcy estate. To determine what exemptions may apply in a particular state, debtors should refer to the provisions under section 522 of the Bankruptcy Code and to the applicable state exemption laws. The Bankruptcy Code authorizes any state to limit its citizens to the exemptions provided by the state. Accordingly, some states permit debtors to choose either federal or state exemptions, while other states permit a debtor to use only the state exemptions. Exemptions are claimed by a debtor by listing the property to be exempt in Schedule C. For a further discussion of exemptions, debtors may refer to the instructions for Schedule C: Property Claimed as Exempt.

Reaffirmation - A reaffirmation agreement is an enforceable contract between the debtor and a creditor on a debt that otherwise, without the reaffirmation, would be discharged. To be enforceable, the agreement must (1) have been made before the granting of the discharge; (2) contain a clear and conspicuous statement that advises the debtor that the agreement may be rescinded at any time prior to discharge or within 60 days after the date of the agreement, whichever occurs later; (3) contain a clear and conspicuous statement that advises the debtor that the agreement is not required under bankruptcy or nonbankruptcy law; and (4) be filed with the court. 11 U.S.C. § 524(c).

Redemption - Tangible personal property, intended primarily for personal, family, or household use, may be redeemed by an individual debtor by paying the lienholder the amount of the allowed secured claim. 11 U.S.C. § 722.

III. DIRECTIONS

1. A debtor whose schedule of assets and liabilities includes consumer debts secured by property of the estate should be sure that the debtor's schedules are consistent with this form.

2. The debtor must state the debtor's intention with respect to property of the estate that is secured by consumer debts as follows:

a. Property to Be Surrendered

Debtors should separately list and describe each item of property that the debtor intends to surrender. The creditor's name should be placed in the space provided.

b. Property to be Retained

Debtors should separately list and describe each item of property that the debtor intends to retain. The creditor's name should be placed in the space provided. If the debtor intends to claim the property as exempt, redeem the property, or reaffirm the debt, the debtor should so indicate by placing an "X" in the space provided.

3. Signature of the Debtor

It is very important that the debtor sign the Statement of Intention. By signing the Statement of Intention the debtor affirms that the debtor understands the requirements of the Bankruptcy Code with regard to performance of the stated intention within 45 days of the filing of the statement with the court, unless the court extends the time for cause.

Certification Of Non-Attorney Bankruptcy Petition Preparer

The Statement of Intention is a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110. Accordingly, a signature line for such preparer is provided. In addition to signing the form, a bankruptcy petition preparer is required by section 110 to disclose the information requested. If more than one person prepared the Statement of Intention, 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 Statement of Intention for a debtor, must provide the debtor with a copy.