

UNITED STATES BANKRUPTCY COURT
DISTRICT OF ALASKA

In the Matter of the Adoption of Amendment
to Interim Federal Bankruptcy Rule 1020 and
Interim Official Bankruptcy Forms,

Misc. Proceeding No. 05-60001

GENERAL ORDER NO. 2020-5

**ORDER ADOPTING AMENDED INTERIM FEDERAL RULE
OF BANKRUPTCY PROCEDURE 1020
AND INTERIM OFFICIAL BANKRUPTCY FORMS**

On March 27, 2020, Congress enacted and the President signed into law the Coronavirus Aid, Relief and Economic Security Act (CARES Act). Section 1113 of the CARES Act made several temporary changes to the Bankruptcy Code to provide financial assistance during the coronavirus disease (COVID-19) pandemic. Among these changes is an amendment to Interim Federal Rule of Bankruptcy Procedure 1020 (Interim Rule 1020), which itself was recently adopted in this district under General Order 2020-1 as part of the Small Business Reorganization Act of 2019. A redline of amended Interim Rule 1020 is attached hereto. Conforming one-year technical changes to five bankruptcy forms (Official Forms 101, 122A-1, 122B, 122C-1, and 201) have also been made. The comments of the Advisory Committee on Bankruptcy Rules describing those technical changes are also attached hereto.

To maintain nation-wide continuity in the administration of bankruptcy cases,

IT IS HEREBY ORDERED that pursuant to 28 U.S.C. § 2071, Federal Rule of Civil Procedure 83, and Federal Rule of Bankruptcy Procedure 9029, amended Interim Rule 1020 and the related Official Bankruptcy Forms are adopted in their entirety, without further revision by the undersigned, and are deemed effective as of the date of entry of this Order. The amendment to Interim Rule 1020 and related Official Bankruptcy Forms are made applicable only to cases and proceedings governed by the SBRA.

IT IS FURTHER ORDERED that amended Interim Rule 1020 and related Official Bankruptcy Forms will remain in effect until such time as they, or revised versions thereof, expire under the terms of the CARES Act.

DATED: April 27, 2020.

BY THE COURT

/s/ Gary Spraker
GARY SPRAKER
Chief United States Bankruptcy Judge

Distribution: Janet Stafford, Clerk of Court
Anna Russell, Librarian

Attachment

1 **Rule 1020. Chapter 11 Reorganization Case for Small**
2 **Business Debtors or Debtors Under Subchapter V**

3 (a) ~~SMALL—BUSINESS—DEBTOR~~
4 DESIGNATION. In a voluntary chapter 11 case, the debtor
5 shall state in the petition whether the debtor is a small
6 business debtor or a debtor as defined in § 1182(1) of the
7 Code and, if the latter so, whether the debtor elects to have
8 subchapter V of chapter 11 apply. In an involuntary chapter
9 11 case, the debtor shall file within 14 days after entry of the
10 order for relief a statement as to whether the debtor is a small
11 business debtor or a debtor as defined in § 1182(1) of the
12 Code and, if the latter so, whether the debtor elects to have
13 subchapter V of chapter 11 apply. The status of the case as
14 a small business case or a case under subchapter V of chapter
15 11 shall be in accordance with the debtor's statement under
16 this subdivision, unless and until the court enters an order
17 finding that the debtor's statement is incorrect.

18 (b) OBJECTING TO DESIGNATION. The United
19 States trustee or a party in interest may file an objection to
20 the debtor's statement under subdivision (a) no later than 30
21 days after the conclusion of the meeting of creditors held

22 under § 341(a) of the Code, or within 30 days after any
23 amendment to the statement, whichever is later.

24 (c) PROCEDURE FOR OBJECTION OR
25 DETERMINATION. Any objection or request for a
26 determination under this rule shall be governed by Rule 9014
27 and served on: the debtor; the debtor’s attorney; the United
28 States trustee; the trustee; the creditors included on the list
29 filed under Rule 1007(d) or, if a committee has been
30 appointed under § 1102(a)(3), the committee or its
31 authorized agent; and any other entity as the court directs.

Committee Note

The interim rule is amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), Pub. L. No. 116-136, 134 Stat. 281. That law provides a new definition of “debtor” for determining eligibility to proceed under subchapter V of chapter 11. Subdivision (a) of the rule is amended to reflect that change. This amendment to the Code will terminate one year after the date of enactment of the CARES Act.

Committee Note

The form is amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), Pub. L. No. 116-136, 134 Stat. 281. That law provides a new definition of “debtor” for determining eligibility to proceed under subchapter V of chapter 11. Line 13 of the form is amended to reflect that change. This amendment to the Code will terminate one year after the date of enactment of the CARES Act.

Committee Note

The form is amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), Pub. L. No. 116-136, 134 Stat. 281. That law provides a new definition of “debtor” for determining eligibility to proceed under subchapter V of chapter 11. Line 8 of the form is amended to reflect that change. This amendment to the Code will terminate one year after the date of enactment of the CARES Act.

COMMITTEE NOTE

Official Forms 122A-1, 122B, and 122C-1 are amended in response to the enactment of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), Pub. L. No. 116-136, 134 Stat. 281. That law modifies the definition of “current monthly income” in §101(10A) and the definition of “disposable income” in §1325(b)(2) to exclude “payments made under the Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID-19).” Each form is modified to expressly exclude these amounts from line 10. These amendments will terminate one year after the date of enactment of the CARES Act.