United States Bankruptcy Court
Southern District of Mississippi

UPDATED

Credit Counseling Requirements for Individual Debtors in Chapters 7, 11, 12 & 13
(effective March 10, 2008)

Pursuant to 11 U.S.C. 11 §109(h)(1), §521(b)(1) and (2) and [Interim] Rule 1007(b)(3) of the Federal Rules of Bankruptcy Procedure - credit counseling is to be completed for each individual debtor by an approved credit counseling agency within 180 days prior to the filing of a bankruptcy case. A list of approved credit counseling services is available on the court's website, www.mssb.uscourts.gov. Each individual debtor case filed in the court is to have ~~the~~ Exhibit D ~~page 2 of the petition,~~ completed and is required to be filed as part of the petition.

B 1D (Official Form 1, Exhibit D) (01/08) - Individual Debtor's Statement of Compliance with Credit Counseling Requirement should be filled out completely and filed ~~with~~ ***WITH*** the voluntary petition *as one docket event*. In a joint case, each debtor must complete, sign and file an Exhibit D. If Exhibit D is not complete or filed, a deficiency notice will be issued by the court requesting the information to be filed within ~~15 days~~ 3 days.
Note: ~~Please use~~ Individual Debtor's Statement of Compliance with Credit Counseling Requirement - Exhibit D *is* modified by this court to **exclude** the instructions in Box 1 to *attach the certificate regarding credit counseling to Exhibit D (certificates must be docketed separately using the docket event, Certificate of Credit Counseling - docket debtor & joint debtor certificates together)*, and to **exclude** instructions to file a motion regarding exigent circumstances in Box 3. This modified form can be found on our website, www.mssb.uscourts.gov, click on Forms, arrow down to Local Forms then arrow to ~~Exhibit D~~, *Form CC-B1D - Individual Debtor's Statement of Compliance with Credit Counseling Requirement.*

When **Box 1 is** checked on Exhibit D, the debtor(s) has completed credit counseling within 180 days prior to the filing of the petition, and has a copy of the certificate of credit counseling from the credit counseling agency. Docket the certificate of credit counseling provided by the credit counseling agency and if the agency provides a debt repayment plan, docket both together using the same docket event. *Also if joint debtors, both certificates are docketed using the same docket event; do not docket as an attachment to Exhibit D.* If the certificate of credit counseling and repayment plan, if any, is not filed, a deficiency notice will to be issued by the court requesting the certificate and repayment plan to be filed within 15 days.
Note: The credit counseling agency may not always supply a repayment plan to the debtor, but if supplied, the debtor is to file the repayment plan with the certificate of credit counseling together as one document.

Docket Events for Filing Certificate of Credit Counseling:

Bankruptcy>
Select Other>
Enter Case Number, Press Next>
Select Certificate of Credit Counseling, Press Next>
Select Debtor from the Party box, Press Next>
Browse and select the document to upload. (Certificate of Credit Counseling and the repayment plan are saved as one document. *Also if joint debtors, both certificates are docketed using the same docket event.)* Verify the date to make sure it is the date the document is actually filed. Press Next>
Review docket entry, Press Next to enter in the System>

When **Box 2** is checked on Exhibit D, the debtor(s) has completed credit counseling within 180 days prior to the filing of the petition, but DOES NOT have a copy of the certificate of credit counseling, a deficiency notice will to be issued by the court requesting a certificate of credit counseling and repayment plan to be filed within 15 days.

When **Box 3** is checked on Exhibit D, the debtor is requesting a temporary waiver (30-day extension) to file the certificate of credit counseling and repayment plan based on exigent circumstances. If a debtor requests credit counseling but is unable to obtain the services required by the Code within five days of requesting said counseling, §109(h)(3) provides a limited waiver of the credit counseling requirement. The debtor must file a Certification of Exigent Circumstances summarizing the exigent circumstances and obtain the credit counseling within 30 days after filing the petition. The Certification of Exigent Circumstances should be docketed as a separate docket entry at the time Exhibit D is filed. If the Certification of Exigent Circumstances is not filed, a deficiency notice will be issued by the court requesting said Certification to be filed within 15 days. When the Certification is filed, debtor has 30 days from the date the case is filed to submit a certificate of credit counseling. Failure to submit certificate within 30 days of filing may result in dismissal of case. The Certification of Exigent Circumstances can be found on our website, www.mssb.uscourts.gov, *click on Forms, arrow down to Local Forms, then arrow to Form CCE (03/08) Certification of Exigent Circumstances.*

Docket Event for Filing Certification of Exigent Circumstances:

Bankruptcy>
Select Other>
Enter Case Number, Press Next>
Select Exigent Circumstances re: Credit Counseling, Press Next>
Select Debtor from Party box, Press Next>
Browse and select the document to upload. Verify the date to make sure it is the date the document is actually filed.
Review docket entry, Press Next>
Verify docket entry and Press Next to enter in the System>

Any extension of the 30-day deadline to obtain credit counseling briefing must be done in the form of a motion and proposed order, and must be for cause and is limited to a maximum of 15 days. Said motion and proposed order must be filed within the 30-day period.

Docket Event for Filing Motion and Proposed Order for extension of the 30-day deadline to obtain credit counseling:

Bankruptcy>
Motions/Applications, Press Next>
Enter Case Number, Press Next>
Select Extend Time for Credit Counseling, Press Next>
Select Debtor from Party box, Press Next>
Browse and Select the document to upload. Verify the date to make sure it is the date the document is actually filed.
Select "Yes" for Attachments, Press Next>
Browse and Select the document to upload, Click on the arrow and select Proposed Order, Press Add to List, Press Next>
Review docket entry, Press Next>
Verify docket entry and Press Next to enter in the System>

When **Box 4** is checked on Exhibit D, and the box beside each applicable statement; Incapacity, Disability or Active military duty is checked, the debtor is requesting a permanent exemption from credit counseling. A motion and proposed order is to be docketed as a separate entry at the time Exhibit D is filed. If the motion and proposed order are not submitted, a deficiency notice will be issued by the court requesting the motion and proposed order to be filed within 15 days.

Docket Event for Filing Motion and Proposed Order for Exemption from Credit Counseling:

Bankruptcy>
Motions/Applications, Press Next>
Enter Case Number, Press Next>
Select Exemption from Credit Counseling, Press Next>
Select Debtor from Party box, Press Next>
Browse and Select the document to upload. Verify the date to make sure it is the date the document is actually filed.
Select "Yes" for Attachments, Press Next>
Browse and Select the document to upload, Click on the arrow and select Proposed Order, Press Add to List, Press Next>
Review docket entry, Press Next>
Verify docket entry and Press Next to enter in the System>

As is the usual practice of this court, all proposed orders are to be submitted also via e-mail to the appropriate judge.

Address your e-mail to:
Cases assigned to Judge Ellington Orders.ellington@mssb.uscourts.gov
Cases assigned to Judge Gaines Orders.gaines@mssb.uscourts.gov
Cases assigned to Judge Olack Orders.olack@mssb.uscourts.gov

Key a brief description of the order in the **Subject** line of your e-mail, including the case number, name of the order and the chapter for Chapter 11's and Chapter 12's.

Example: 04-01234-ee AO on Stay 11
05-51112-erg Order to Convert
06-01111-npo AO to Dismiss Adv
06-51111-npo Order to Reopen 12

Danny L. Miller, Clerk

Form CC-B 1D (Official Form 1, Exhibit D) (01/08) (Modified by this Court 03/10/08)

UNITED STATES BANKRUPTCY COURT
Southern District of Mississippi

In re_____ Case No._____
Debtor(s) (if known)

EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH CREDIT COUNSELING REQUIREMENT

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

☐ 1. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. ~~*Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*~~

☐ 2. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 15 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the five days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. ~~*[Must be accompanied by a motion for determination by the court.]*~~ *[Must be accompanied by a Certification of Exigent Circumstances setting forth the exigent circumstances.] [Summarize exigent circumstances here.]* _____
_____
_____.

If the court is satisfied with the reasons stated in your ~~motion~~ certificate, ~~it will send you an order approving your request. You~~ you must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy case and promptly file a certificate from the agency that provided the briefing, together with a copy of any debt management plan developed through the agency. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. A motion for extension must be filed within the 30-day period. Failure to fulfill these requirements may result in dismissal of your case. If the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing, your case may be dismissed.

☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*

☐ Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);

☐ Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);

☐ Active military duty in a military combat zone.

☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. §109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: _____

Date: _____

United States Bankruptcy Court
Southern District of Mississippi

In re Case No. _____

CERTIFICATION OF EXIGENT CIRCUMSTANCES

Pursuant to 11 U.S. C.§109(h)(3)(A), the above referenced debtor requests a 30-day exemption from the requirement that credit counseling be obtained during the 180-day period preceding the date of filing of the petition. In support of this request, the debtor certifies as follows:

1. A description of the exigent circumstances that merit a waiver of the requirement that credit counseling be obtained prior to the date of the filing of the petition is as follows:

2. Prior to the filing of the petition in this case, the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the requested credit counseling services during the 5-day period beginning on the date on which the services were requested.

3. Debtor understands that if the Court finds the Certification of Exigent Circumstances to be satisfactory, a 30-day waiver is allowed under §109(h)(3)(A). The debtor must still obtain credit counseling from an approved agency within 30-days from the date on which the bankruptcy case was filed. Upon receipt of the certificate issued by the credit counseling agency, the debtor must file said certificate with this Court.

4. Debtor understands that failure to obtain credit counseling within 30-days from the date the bankruptcy case was filed my result in dismissal of the above bankruptcy case.

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____ _____
Signature of Debtor