

### 3.30 Chapter 128 Proceedings for Amortization of Debts

- A. The court will not hear or act on a petition filed under Wis. Stat. § 128.21 unless, in addition to the requirements stated in Wis. Stat. § 128.21, all of the following are filed with the court:
1. A Petition to Amortize Debts in the form prescribed by the court (see Form CV 5 in the Appendix of Forms), which shall include:
    - a. a statement signed by the debtor verifying that the statements made in the petition are true;
    - b. the name and full address of the debtor;
    - c. the name and full address of each employer of the debtor;
    - d. the name and full address of a proposed trustee; and
    - e. a statement signed by an attorney or by the proposed trustee that the proposed trustee agrees to act as trustee.
  2. An Affidavit of Debts, in the form prescribed by the court (see Form CV 6 in the Appendix of Forms) which shall list:
    - a. each creditor by name and full address;
    - b. the amount owed to or claimed by each creditor; and
    - c. the total amount of all debts and/or claims to be included in the amortization plan.
  3. An Order Appointing Trustee and Enjoining Creditors (see Form CV 7 in the Appendix of Forms) which shall state:
    - a. the name and full address of the proposed trustee;
    - b. the name and full address of debtor's employer; and
    - c. the amount of money the debtor proposes either (1) to have deducted from each paycheck or (2) to pay directly to the trustee, until otherwise directed by the trustee;
      1. if the amount is paid once per month, the amount shall not be less than  $1/36^{\text{th}}$  of the total of (1) all debts and/or claims to be included in the amortization plan plus (2) the anticipated trustee fees and costs, unless the court approves a different amount;

2. if the amount is paid twice per month, the amount shall not be less than  $1/72^{\text{nd}}$  of the total of (1) all debts and/or claims to be included in the amortization plan plus (2) the anticipated trustee fees and costs, unless the court approves a different amount;
  3. if the amount is paid every other week, the amount shall not be less than  $1/78^{\text{th}}$  of the total of (1) all debts and/or claims to be included in the amortization plan plus (2) the anticipated trustee fees and costs, unless the court approves a different amount;
  4. if the amount is paid weekly, the amount shall not be less than  $1/156^{\text{th}}$  of the total of (1) all debts and/or claims to be included in the amortization plan plus (2) the anticipated trustee fees and costs, unless the court approves a different amount.
4. Number of copies required for filing:
    - a. The signed original and one copy of the Petition to Amortize Debts.
    - b. The signed original and one copy of the Affidavit of Debts.
    - c. Three copies of the Order Appointing Trustee and Enjoining Creditors.
    - d. Two stamped envelopes, one addressed to the proposed trustee and one addressed to the debtor or the debtor's attorney.
  5. The court will send copies of the required documents to the trustee appointed by the court.
  6. If the requirements of this rule are not met, the court will not act on the petition. If more than 30 days passes after filing without these requirements being met, the case shall be dismissed without further notice and without prejudice.
- B. The court shall maintain a list of individuals registered under Rule 3.31 ("Qualifications for Appointment as a Chapter 128 Trustee") and make the list available on-line and in the Milwaukee Justice Center.
  - C. The court is not required to appoint the trustee proposed by the debtor.
  - D. To comply with the requirements stated in Wis. Stat. § 128.21, the trustee shall file with the court a Report of Trustee, Plan and Proposed Order Approving Plan in the form prescribed by the court (see Forms CV 8, CV 9 and CV 10 in the Appendix of Forms).

### 3.31 Qualifications for Appointment as a Chapter 128 Trustee

Except for good cause, no person may be appointed as a trustee in an action filed under Wis. Stat. § 128.21 unless:

- A. The person registers with the presiding judge of the civil division by filing a letter with the court stating
  - 1. the person agrees to be appointed as trustee;
  - 2. the person will not accept appointment in any case in which the person is not disinterested, as required by Wis. Stat. § 128.21(3);
  - 3. the person will comply with the terms of this rule; and
  - 4. the person will accept all appointments by the court, including appointment in cases in which petitioners represent themselves.
- B. The person shall maintain a segregated, dedicated bank account into which all funds, and only funds, deposited by or on behalf of debtors in actions filed in actions under Wis. Stat. § 128.21 in Milwaukee County shall be held.
- C. The person obtains, and maintains throughout the pendency of any appointment, at his or her own expense an appropriate bond securing any funds deposited with him or her.
  - 1. Unless otherwise ordered by the presiding judge of the civil division, the amount of the bond shall be at least \$50,000 or 1.5 times the largest monthly balance over the previous twelve months in the account required by paragraph B, whichever is greater.
  - 2. Unless otherwise ordered by the presiding judge of the civil division, if for more than ten days the amount of the bond fails to meet the requirements of paragraph C.1., the person shall notify the presiding judge of the civil division in writing and the person shall promptly seek a bond in a sufficient amount. Notice shall be filed no later than ten days after the person becomes aware, or in the exercise of reasonable diligence should have become aware, of the insufficiency.
  - 3. The bond shall require the bond issuer to notify the presiding judge of the civil division when the bond is cancelled or expires.
- D. Every year, on or before December 31, the person shall file a report with the presiding judge of the civil division:
  - 1. demonstrating that the person has obtained the bond required by paragraph C., that the bond will be in effect as least as of January 1 of the following year, and that the bond will be in effect through the following December 31, or until such

time as the person reasonably anticipates no longer serving as a trustee, whichever period of time is shorter; and

2. listing by date and amount all deposits to and disbursements from the account required by paragraph B. during the twelve-month period ending on the previous November 30; the person may substitute an affidavit attaching bank statements for each month during the reporting period.