

Modernized Bankruptcy Forms

Effective December 1, 2015

What's Happening

- Petition, schedule, and statement forms are all being replaced.
- Part of so-called “modernization” project
 - Supposed to make it easier for pro-se debtors to fill out forms
 - It doesn't
- The bad news:
 - All form numbers change
 - Different forms for individual and non-individual cases
 - Additional information required
 - Information appears in different places

The Good News

- You'll recognize the new I, J, and B22x's
- The remainder of this slide intentionally left blank

Individual forms (100 series)

Legacy Form/Schedule	Modernized Form (OF = Official Form)
B1 (Voluntary petition)	OF 101 [+101A, 101B if needed]
B3A (Installment Payment)	OF 103A
B3B (In forma pauperis)	OF 103B
B4 (Top-20 Creditors)	OF 104
B5 (Involuntary petition)	OF 105
Exhibit A	N/A
Exhibit B	Attorney signature to OF 101
Exhibit C	OF 101, Line 14
Exhibit D	OF 101, Line 15

Individual forms (cont'd)

Legacy Form/Schedule	Modernized Form (OF = Official Form)
B6 Summary	OF 106Sum
B6A (Real Property) B6B (Personal Property)	OF 106A/B
B6C (Exemptions)	OF 106C
B6D (Secured Debts)	OF 106D
B6E (Priority Debts) B6F (Unsecured Debts)	OF 106E/F
B6G (Executory Contracts)	OF 106G
B6H (Co-debtors)	OF 106H
B6I (Income)	OF 106I
B6J (Expenses)	OF 106J/106J2
B6 Declaration	OF 106Dec

Individual forms (cont'd)

Legacy Form/Schedule	Modernized Form (OF = Official Form)
B7 (Statement of Financial Affairs)	OF 107
B8 (Statement of Intent)	OF 108
B21 (SSN Statement)	OF 121
B22A-1 Supp B22A-1 B22A-2	OF 122A-1 Supp OF 122A-1 OF 122A-2
B22B	OF 122B
B22C-1 B22C-2	OF 122C-1 OF 122C-2

Non-Individual Forms (200 series)

Legacy Form/Schedule	Modernized Form (OF = Official Form)
B1 (Voluntary petition)	OF 201
B4 (Top-20 Creditors)	OF 204
B5 (Involuntary petition)	OF 205
Exhibit A	OF 201A
Exhibit B	N/A
B6 Summary	OF 206Sum
B6A (Real Property) B6B (Personal Property)	OF 206A/B
B6D (Secured Debts)	OF 206D
B6E (Priority Debts) B6F (Unsecured Debts)	OF 206E/F
B6G (Executory Contracts)	OF 206G
B6H (Co-debtors)	OF 206H
B6 Declaration	OF 202
B7 (Statement of Financial Affairs)	OF 207

New Wrinkles on the Individual Petition Form (101)

- Separate venue choices for joint debtors
- Asks about sole proprietorships
- Asks about property that needs immediate attention (subsumes Exhibit C)
- Debts can be consumer, business, or neither
- Includes information about credit counselling (subsumes Exhibit D)
- Separate forms 101A and 101B for the eviction scenarios
- Note that all forms are now gender neutral (Debtor 1 and Debtor 2)

Combined Asset Schedule (106A/B)

- Real property (A) becomes part of the combined schedule
 - Must categorize (single family, multi-unit, etc.)
 - Must report value of debtor's interest **and** total value of property
 - Must report county where located
- List leases on 106A/B (big departure from current practice)
- Instructions say not to itemize items worth less than \$500 (departure from 1st Cir. practice)
- Ownership attribution only required for real estate, cars, boats, and airplanes.
- Location information needed only for real estate.

Combined Asset Schedule (Cont'd)

- Additional descriptive data needed for vehicles, boats, etc.
 - Make, model, year
 - Mileage for a car
- Total value and value of debtor's interest separately listed for real property and cars, boats, planes, etc.
- New personal property categories
 - Electronics
 - Firearms
 - Non-farm animals
 - Tax refunds (need to know tax years, too)
- See attached table for detailed line concordance

Exemption Schedule (106C)

- Takes up a lot more space
- Allows “100% of fair market value up to any applicable statutory limit” as a choice.
 - *Quaere* whether this overrides decisions like *Massey v. Pappalardo*?

Secured Debt Schedule (106D)

- Now need to classify lien (consensual, statutory, etc.)
- Additional notice section is a gigantic PITA
 - Cross reference to line number in main body of schedule rather than name of creditor.
 - Calls for last 4 digits of account number—i.e., the account number the debt collector is using, not the account number used by the original creditor.

Unsecured Debt Schedule (106E/F)

- Combined into one schedule, but you'll wonder why
 - Part 1 for priority creditors
 - Part 2 for nonpriority creditors
- Check boxes for DSO, Tax, DUI, and other priority classes
- Check boxes for student loan, DSO, pension loans.
 - But no box for credit card debts???
- Check box for whether debt is subject to offset
- Like 106D, additional notice parties cross-reference line number rather than creditor name, require last 4 digits of account number

Executory Contracts & Unexpired Leases (106G)

- Calls only for name, address, type of contract or lease.
- No government account number, no explanation that lease isn't for non-residential property, etc.
- Specifically asks for cell phone contracts, apartment leases.
- Personal property leases will appear **both** here and on A/B.

Codebtors Schedule (106H)

- Form includes question about community spouses that used to be on the SOFA.
- Cross reference to creditor is to form and line number, not name of creditor.

Statement of Financial Affairs (107)

- Questions completely rearranged (see table)
- Chapter 12 and 13 debtors no longer need to include information about a non-filing spouse
- Other addresses: finally recognizes that joint debtors might have had separate prior addresses
- Prior income: new category for “operating a business”
- Preferential payments question calls for category of debt, including new category of “suppliers or vendors”
- New question for preferential payment of debts owed **by** an insider
- New category—garnishment—in pre-petition payment question

Statement of Financial Affairs (Cont'd)

- Set-off question requires account number
- Bankruptcy payment question requires e-mail or website address of payee and name of person who made the payment, if not the debtor
- New question for debt settlement payments
- New question about storage units
- Non-ordinary-course transfer question requires description of property received, or debts paid, in exchange
- Only two questions about business interests, and lookback is just 4 years (instead of 6)
 - Name, address, nature, and EIN of the business
 - Financial statements

Statement of Intention (108)

- Reformatted (TYG) to have section for secured debts followed by section for personal property leases

New Wrinkles on the Non-Individual Petition Form (201)

- Debtor's website
- Property needing immediate attention (subsumes Exhibit C)
- Omits questions that relate only to individuals
 - Eviction questions
 - Installment payments or fee waivers
 - Chapter 13 checkbox
 - Credit counselling
- Asks for NAICS (North American Industry Classification System) code.
- Form 201A (curiously not "modernized" in appearance) subsumes former Exhibit A but looks exactly the same.

Non-Individual Declaration Form (202)

- Takes the place of signature blanks on
 - Declaration re schedules
 - Declaration re SOFA
 - Declaration re top-20 creditors
 - Any other document requiring a declaration
- May not obviate need for a local Declaration re Electronic Filing

Top-20 Creditors (204)

- Asks for contact person's e-mail address
- No signature line

Combined Asset Schedule (206A/B)

- Completely different from individual form
- Many questions call for new information
 - Net book value (i.e., after depreciation, but not including liens)
 - Valuation method
 - Whether any property in a subpart has been professionally appraised within the last year
 - Whether a depreciation/amortization schedule is available
- New asset categories (see table for concordance)
 - Cash and cash equivalents includes bank & brokerage accounts
 - Office fixtures
 - Internet domains
 - Goodwill
 - Net operating losses (lumped in with tax refunds)

Combined Asset Schedule (Cont'd)

- Aging required for receivables (≤ 90 days, > 90 days)
- Inventory breakdown
 - Raw materials
 - Work in progress
 - Finished goods
 - Other
- New questions about inventory:
 - Perishable?
 - Purchased within 20 days pre-petition?
- VIN/HIN/Tail number required for cars, boats, & planes
- Location information needed only for real estate.

Secured Debt Schedule (206D)

- Asks for creditor's e-mail address
- When listing a creditor, also list other creditors who have an interest in the same property and their relative priority
- Additional notice section
 - Cross reference to line number where debt reported
 - List account number
 - Implication is that merely adding additional-notice parties to the matrix will not be sufficient

Unsecured Debt Schedule (206E/F)

- Just like individual schedule, has separate “parts” for priority and non-priority debts
- Also indicate whether debt is subject to offset
- Additional notice section
 - Cross reference to line number
 - Include account number
 - Paradoxically has check box to indicate whether (and why) related creditor isn’t listed—what are you supposed to do with credit bureaus, taxing authorities who may or may not have liens, etc.?

Executory Contracts Schedule (206G)

- Asks for remaining term of the contract/lease
- Explicitly asks for names and address of all other parties

Codebtor Schedule (206H)

- Asks for creditor name (TYG)
- Also asks which schedule(s) include the debt

Statement of Financial Affairs (207)

- Completely different order, both from current SOFA and from individual form (see table)
- Classification of pre-petition business income (Q1) into operating and other revenue
- Preferential payments that benefitted an insider (Q4)
- Governmental audits and arbitrations to be reported along with lawsuits (Q7)
- Bankruptcy-related payments (Q11) require e-mail or website address for transferee

Statement of Financial Affairs (Cont'd)

- For health-care bankruptcies, provide list of facilities and count of patients under care at each one, plus description of how and where records are kept (Q16)
- New pension question (Q17): “Within 6 years before filing this case, have any employees of the debtor been participants in any ERISA, 401(k), 403(b) or other pension or profit-sharing plan made available by the debtor as an employee benefit?”
 - Applies only when the debtor was the administrator of the plan
- New question (Q20) about off-premises storage within 1 year

Resources

- <http://www.uscourts.gov/rules-policies/pending-rules-amendments/pending-changes-bankruptcy-forms>
 - Note especially the instruction booklets
 - And the advisory committee notes
- <http://www.oneylaw.com/BkAssist/NewForms.pdf>
 - This presentation
 - Copies of instruction booklets
 - Fully worked-out sample case filings

Property Category Transition Matrix

Legacy Category	Modernized Category (individual)	Modernized Category (non-individual)
Schedule A, Real Property	1. Real Property	55. Real estate
1. Cash on hand	16. Cash	2. Cash
2. Checking, savings or other financial accounts, certificates of deposit or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.	17. Deposits of money	3. Cash accounts
3. Security deposits with public utilities, telephone companies, landlords, and others.	22. Security deposits and prepayments	7. Deposits
		8. Prepayments
4. Household goods and furnishings, including audio, video, and computer equipment.	6. Household goods and furnishings	N/A
	7. Electronics	N/A
	13. Non-farm animals	N/A
	14. Other personal/household items	N/A
5. Books; pictures and other art objects; antiques; stamp, coin, record, tape, compact disc, and other collections or collectibles.	8. Collectibles of value	42. Collectibles
6. Wearing apparel	11. Clothes	N/A
7. Furs and jewelry	12. Jewelry	N/A
8. Firearms and sports, photographic, and other hobby equipment.	9. Equipment for sports and hobbies	N/A

Legacy Category	Modernized Category (individual)	Modernized Category (non-individual)
	10. Firearms	N/A
9. Interests in insurance policies.	31. Insurance	73. Insurance
10. Annuities.	23. Annuities	N/A
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1).	24. Education IRAs	N/A
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans.	21. Retirement accounts	N/A
13. Stock and interests in incorporated and unincorporated businesses.	18. Stocks	14. Stocks & mutual funds
14. Interests in partnerships or joint ventures.	19. Non-publicly traded stocks	15. Equity interests
	42. Partnerships & joint ventures	N/A
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	20. Bonds	16. Bonds
16. Accounts receivable	38. Receivables	11. Receivables
	N/A	71. Notes receivable
17. Alimony, maintenance, support and property settlements to which the debtor is or may be entitled.	29. Family support	N/A
18. Other liquidated debts owed to debtor including tax refunds.	30. Other amounts owed	N/A
	28. Tax refunds	72. Tax refunds
Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule of Real Property	25. Trusts & interests	76. Trusts

Legacy Category	Modernized Category (individual)	Modernized Category (non-individual)
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust	32. Property due you from someone who has died	N/A
21. Claims the debtor has against third parties, whether or not a lawsuit has been filed or a demand made for payment	33. Claims against third parties	74. Claims
	34. Other claims	75. Contingent claims
22. Patents, copyrights, and other intellectual property.	26. Intellectual property	60. Patents, etc.
	N/A	61. Internet
23. Licenses, franchises, and other general intangibles	27. Licenses, franchises, general intangible	64. Other
	N/A	65. Goodwill
	N/A	62. Licenses
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) in customer lists or similar compilations provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes	43. Customer lists	63. Customer lists
25. Automobiles, trucks, trailers, and other vehicles and accessories	3. Motor vehicles	47. Motor vehicles
26. Boats, motors, and accessories.	4. Boats, planes, and RVs	48. Boats
27. Aircraft and accessories	ditto	49. Planes
28. Office equipment, furnishings, and supplies	39. Office equipment, furnishings, and supplies	39. Office furniture

Legacy Category	Modernized Category (individual)	Modernized Category (non-individual)
	N/A	40. Office fixtures
29. Machinery, fixtures, equipment, and supplies used in business	40. Equipment & supplies	41. Office equipment
30. Inventory	41. Inventory	19-22 Inventory
31. Animals	47. Farm animals	29. Farm animals
32. Crops - growing or harvested.	48. Crops	28. Crops
33. Farming equipment and implements	49. Farming/Fishing equipment	30. Farm machinery
34. Farm supplies, chemicals, and feed	50. Farming/Fishing supplies	31. Supplies
35. Other personal property of any kind not already listed.	53. Other	77. Other
	35. Other financial assets	4. Cash equivalents
	51. Other farming/fishing property	32. Other
	44. Other business property	50. Other

Statement of Financial Affairs Transition Matrix

Legacy Question	Modernized Question (OF 107)	Modernized Question (OF 207)
1. Income from employment or operation of business	4. Did you have any income from employment or from operating a business during this year or the two previous calendar years?	1. Gross revenue from business
2. Income other than from employment or operation of business	5. Did you receive any other income during this year or the two previous calendar years?	2. Non-business revenue
3a. Payments to creditors (consumer debtors)	6.	N/A
3b. Payments to creditors (non-consumer debtors)	Ditto	3. Certain payments or transfers to creditors within 90 days before filing this case
3c. Payments to creditors (to or for the benefit of insiders)	7. Within 1 year before you filed for bankruptcy, did you make a payment on a debt you owed anyone who was an insider?	4. Payments or other transfers of property made within 1 year before filing this case that benefited any insider
	8. Within 1 year before you filed for bankruptcy, did you make any payments or transfer any property on account of a debt that benefited an insider?	N/A
4a. Suits and administrative proceedings, executions, garnishments and attachments (lawsuits)	9. Within 1 year before you filed for bankruptcy, were you a party in any lawsuit, court action, or administrative proceeding?	7. Legal actions, administrative proceedings, court actions, executions, attachments, or governmental audits
4b. Suits and administrative proceedings, executions, garnishments and attachments (attachments, garnishments, seizures)	10. Within 1 year before you filed for bankruptcy, was any of your property repossessed, foreclosed, garnished, attached, seized, or levied?	N/A

5. Repossessions, foreclosures and returns	(Part of Q10)	5. Repossessions, foreclosures, and returns
6a. Assignments and receiverships (ABC's)	N/A	8. Assignments and receivership
6b. Assignments and receiverships (property in hands of a custodian)	N/A	(Part of Q8)
7. Gifts	13. Within 2 years before you filed for bankruptcy, did you give any gifts with a total value of more than \$600 per person?	9. List all gifts or charitable contributions the debtor gave to a recipient within 2 years before filing this case unless the aggregate value of the gifts to that recipient is less than \$1,000
	14. Within 2 years before you filed for bankruptcy, did you give any gifts or contributions with a total value of more than \$600 to any charity?	N/A
8. Losses	15. Within 1 year before you filed for bankruptcy or since you filed for bankruptcy, did you lose anything because of theft, fire, other disaster, or gambling?	10. All losses from fire, theft, or other casualty within 1 year before filing this case.
9. Payments related to debt counseling or bankruptcy	16. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone you consulted about seeking bankruptcy or preparing a bankruptcy petition?	11. Payments related to bankruptcy
	17. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone who promised to help you deal with your creditors or to make payments to your creditors?	N/A

10a. Other transfers (non-ordinary course, 2 years)	18. Within 2 years before you filed for bankruptcy, did you sell, trade, or otherwise transfer any property to anyone, other than property transferred in the ordinary course of your business or financial affairs?	13. Transfers not already listed on this statement
10b. Other transfers (self-settled trusts, 10 years)	19. Within 10 years before you filed for bankruptcy, did you transfer any property to a self-settled trust or similar device of which you are a beneficiary?	12. Self-settled trusts of which the debtor is a beneficiary
11. Closed financial accounts	20. Within 1 year before you filed for bankruptcy, were any financial accounts or instruments held in your name, or for your benefit, closed, sold, moved, or transferred?	18. Closed financial accounts
12. Safe deposit boxes	21. Do you now have, or did you have within 1 year before you filed for bankruptcy, any safe deposit box or other depository for securities, cash, or other valuables?	19. Safe deposit boxes
	22. Have you stored property in a storage unit or place other than your home within 1 year before you filed for bankruptcy?	20. Off-premises storage
13. Setoffs	11. Within 90 days before you filed for bankruptcy, did any creditor, including a bank or financial institution, set off any amounts from your accounts or refuse to make a payment because you owed a debt?	6. Setoffs
14. Property held for another person	23. Do you hold or control any property that someone else owns? Include any property you borrowed from, are storing for, or hold in trust for someone.	21. Property held for another

15. Prior address of debtor	2. During the last 3 years, have you lived anywhere other than where you live now?	14. Previous addresses
16. Spouses and Former Spouses	N/A (Appears on 106H)	
17a. Environmental Information (notices received)	24. Has any governmental unit notified you that you may be liable or potentially liable under or in violation of an environmental law?	23. Has any governmental unit otherwise notified the debtor that the debtor may be liable or potentially liable under or in violation of an environmental law?
17b. Environmental Information (notices given)	25. Have you notified any governmental unit of any release of hazardous material?	24. Has the debtor notified any governmental unit of any release of hazardous material?
17c. Environmental Information (judicial & admin proceedings)	26. Have you been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.	22. Has the debtor been a party in any judicial or administrative proceeding under any environmental law?
18a. Nature, location and name of business	27. Within 4 years before you filed for bankruptcy, did you own a business or have any of the following connections to any business?	25. Other businesses in which the debtor has or has had an interest
18b. Nature, location and name of business (single-asset real estate)	N/A	N/A
N/A (information not solicited)	N/A	15. Healthcare bankruptcies
N/A (information not solicited)	N/A	16. Does the debtor collect and retain personally identifiable information of customers?
N/A (information not solicited)	N/A	17. Within 6 years before filing this case, have any employees of the debtor been participants in any ERISA, 401(k), 403(b) or other pension or profit-sharing plan made available by the debtor as an employee benefit?
19a. Books, records and financial statements (bookkeepers)	N/A	26a. Books, records, and financial statements (bookkeepers)

19b. Books, records and financial statements (auditors, preparers of financial statements)	N/A	26b. Books, records, and financial statements (auditors, preparers of financial statements)
19c. Books, records and financial statements (in possession of books on petition date)	N/A	26c. Books, records, and financial statements (in possession of books on petition date)
19d. Books, records and financial statements (persons to whom financial statements were furnished)	28. Within 2 years before you filed for bankruptcy, did you give a financial statement to anyone about your business? Include all financial institutions, creditors, or other parties.	26d. Books, records, and financial statements (persons to whom financial statements were furnished)
20a. Inventories (dates of inventories)	N/A	27. Inventories
20b. Inventories (persons who have records of inventories)	N/A	(Part of Q27)
21a. Current Partners, Officers, Directors and Shareholders (partnerships)	N/A	28. List the debtor's officers, directors, managing members, general partners, members in control, controlling shareholders, or other people in control of the debtor at the time of the filing of this case.
21b. Current Partners, Officers, Directors and Shareholders (corporations)	N/A	(Included in Q28)
22a. Former partners, officers, directors and shareholders (partnerships)	N/A	29. Within 1 year before the filing of this case, did the debtor have officers, directors, managing members, general partners, members in control of the debtor, or shareholders in control of the debtor who no longer hold these positions?
22b. Former partners, officers, directors and shareholders (corporations)	N/A	(Included in Q29)
23. Withdrawals from a partnership or distributions by a corporation	N/A	30. Payments, distributions, or withdrawals credited or given to insiders

24. Tax Consolidation Group	N/A	31. Within 6 years before filing this case, has the debtor been a member of any consolidated group for tax purposes?
25. Pension Funds	N/A	32. Within 6 years before filing this case, has the debtor as an employer been responsible for contributing to a pension fund?