

UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

In re:

CHAPTER 13 PLAN
MODIFICATION UNDER 11 U.S.C. §
1329(d).

GENERAL ORDER
DATED APRIL 23, 2020

**ORDER REGARDING CHAPTER 13 PLAN
MODIFICATION UNDER 11 U.S.C. § 1329(d)**

Section 113(b)(1)(C) of the recently enacted Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) added subdivision (d) to 11 U.S.C. § 1329.

New section 1329(d) states:

“(d) (1) Subject to paragraph (3), for a plan confirmed prior to the date of enactment of this subsection, the plan may be modified upon the request of the debtor if—

“(A) the debtor is experiencing or has experienced a material financial hardship due, directly or indirectly, to the coronavirus disease 2019 (COVID–19) pandemic; and

“(B) the modification is approved after notice and a hearing.

“(2) A plan modified under paragraph (1) may not provide for payments over a period that expires more than 7 years after the time that the first payment under the original confirmed plan was due.

“(3) Sections 1322(a), 1322(b), 1323(c), and the requirements of section 1325(a) shall apply to any modification under paragraph (1).”.

The attached Local Form H1329d - Motion to Modify Confirmed Plan Under 11 U.S.C. § 1329(d) - is intended to expedite consideration of motions filed under this new provision. A motion to modify a confirmed plan under § 1329(d) must substantially conform to this local form.

In addition, under this court's Chapter 13 Attorney Fee Guidelines, the presumptively reasonable fee for filing a motion to modify a confirmed plan is increased to \$1,000. This applies to a motion filed on and after March 27, 2020, the date of enactment of the CARES Act, that seeks a plan modification under any provision of 11 U.S.C. § 1329.

SO ORDERED.



/s/ Robert J. Faris
United States Bankruptcy Judge

Dated: 04/23/2020

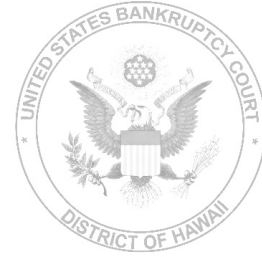
Fill in this information to identify your case:

Debtor 1 _____
First Name Middle Name Last Name

Debtor 2 _____
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court - District of Hawaii

Case number _____ Chapter 13



Local Form H1329d (4/2020)

MOTION TO MODIFY CONFIRMED PLAN UNDER 11 U.S.C. § 1329(d)

*[Use this form to modify **payment amounts, payment schedule, and plan duration** as permitted under the CARES Act. Use Local Form “Debtor’s Motion to Modify Confirmed Plan” if other modifications are requested.]*

The undersigned hereby moves under 11 U.S.C. § 1329(d) (**CARES Act provision**) for modification of the plan previously confirmed in this case. Details of the proposed modification are described on the following pages. **Except** for the specific changes described herein, all terms of the previously confirmed plan shall remain in effect, including the valuation of collateral and avoidance of liens.

NOTICE IS HEREBY GIVEN:

The motion will be heard by telephone: Toll-free number (866) 390-1828, Access code 3287676.

Hearing Date: _____ **Time:** _____ **Objections due:** _____

Your rights may be affected. You should read the motion or application and the accompanying papers carefully and discuss them with your attorney if you have one in this bankruptcy case or proceeding. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the motion, or if you want the court to consider your views, then you or your attorney must file a statement explaining your position **not later than 7 days before the hearing date.**

Responses must be filed with the court at: **United States Bankruptcy Court, District of Hawaii, Suite 250, Honolulu, HI 96813**, and sent to the moving party at the address below.

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the deadline stated above.

If you or your attorney do not take these steps, the court may decide that you do not oppose the motion and may cancel the hearing and grant the motion to modify the plan without further notice. The provisions of the modified plan will bind the debtor(s) and each creditor.

Dated: _____ Debtor 1/Attorney: ✕ _____

Debtor 2/Attorney: ✕ _____

Address:

In support of this motion under 11 U.S.C. § 1329(d), the Debtor states the following.

I. Eligibility under CARES Act provision on plan modification:

1. This motion is being filed **prior to March 27, 2021**.
2. An order confirming the current plan was entered **prior to March 27, 2020**.
3. The Debtor is experiencing or has experienced a material financial hardship due, directly or indirectly to the coronavirus disease 2019 (COVID-19) pandemic.
4. The proposed modification otherwise complies with 11 U.S.C. §§ 1322(a), 1322(b), 1323(c), and 1325(a) - see *Section III - Feasibility and Liquidation Analysis*.
5. Date that the first plan payment was due: _____.
(30 days after the date of filing the initial plan or the order for relief, whichever was earlier)
6. The final plan payment shall be made not later than 7 years after the date stated in item 5.

II. Plan payments and duration:

Current confirmed plan	
\$ _____	x _____ months = \$ _____
\$ _____	x _____ months = \$ _____
\$ _____	x _____ months = \$ _____
\$ _____	x _____ months = \$ _____
\$ _____	x _____ months = \$ _____
Additional funding:	\$ _____
Total:*	_____ months = \$ _____

Proposed modified plan	
\$ _____	x _____ months = \$ _____
\$ _____	x _____ months = \$ _____
\$ _____	x _____ months = \$ _____
\$ _____	x _____ months = \$ _____
\$ _____	x _____ months = \$ _____
Additional funding:	\$ _____
Total:*	_____ months = \$ _____

* Plus any tax refund contributions to the plan

Additional details regarding plan payments and duration:

III. Feasibility & Liquidation Analysis

Feasibility Analysis <i>[Compare Lines 6 & 9]</i>		
1. Administrative Expenses (Estimated Attorney & Trustee Fees)		\$
2. Secured Claims:		\$
3. Priority Unsecured Claims:		\$
4. Special Treatment Claims:		\$
5. Interest to be paid on any claims above		\$
6. Total funds required to pay above claims in full: <i>[Add Lines 1 through 5]</i>		\$
7. Estimated total past plan payments made under previously confirmed plan:	\$	
8. Total future plan payments to be made under modified plan:	\$	
9. Total plan payments to be distributed upon plan completion: <i>(plus any tax refund contributions) [Line 7 + Line 8]</i>		\$
Liquidation Analysis <i>[Compare Lines 12 & 13]</i>		
10. Projected funds available for nonpriority unsecured claims under this plan <i>[Line 9 - Line 6]:</i>		\$
11. Total amount of allowed timely filed nonpriority unsecured claims:		\$
12. Projected payment of nonpriority unsecured claims under modified plan [% = Line 12.a ÷ Line 11]	a \$	b %
13. Projected payment of nonpriority unsecured claims in chapter 7 liquidation [% = Line 13.a ÷ Line 11]	a \$	b %

IV. Direct payment of postpetition obligations:

Unless otherwise stated below, the debtor's responsibility to pay directly any postpetition obligations to a creditor under the previously confirmed plan remains in effect.

If checked below, in connection with the proposed modified plan:

Debtor has requested or will request forbearance or deferral on mortgage payments, *i.e.* postpetition mortgage payments will be suspended or reduced but will be paid in full at a later date. Monthly payments will resume on: _____.

Debtor has requested or will request, separately or in addition to forbearance or deferral, a loan modification to otherwise adjust terms of the loan.

V. Tax returns and tax refunds:

Debtor has submitted to the trustee all federal and state income tax returns due prior to the filing of this motion and all related tax refunds. If not, explain here:

VI. Other:

Provide any further information in support of the proposed plan modification.