In addition to the Bankruptcy Rules, practitioners should refer to any local rules and local practice to fill in gaps in interpretation. Pursuant to the policy of the federal Judicial Conference, local bankruptcy rules are generally numbered to correspond to the Federal Rules of Bankruptcy Procedure to which they relate. Some courts may also promulgate local “procedural orders” applying to all cases before that court. Many courts have local forms that are to be used in particular situations, including forms for chapter 13 plans (although any such form that abridged statutory rights would be invalid). Consequently, in each jurisdiction, attorneys should consult the court’s website and, if necessary, the clerk of court concerning all local rules, forms, orders, and customs.

In some instances, there may be important ways in which the local rules conflict with the national rules or even with the Bankruptcy Code. When necessary, these conflicts should be pointed out to the local committee which drafted the rules or to the judges who adopted them. When clients’ rights are affected, it is appropriate to challenge the rules and they should certainly be invalidated when they are inconsistent with the national rules, the official forms, or the Code.

Footnotes


106 [102] Courts are empowered to charge fees for copies of their local rules commensurate with the cost of printing. See United States Judicial Conference, Bankruptcy Court Miscellaneous Fee Schedule ¶ 18 (reprinted following 28 U.S.C.A. § 1930 and in Appx, C.3 [1], infra). Obviously, the fee, if any, varies from jurisdiction to jurisdiction. Local rules and forms are also available on local courts’ websites, accessible through www.uscourts.gov [2].

107 [103] Local rules also must be promulgated by the district court judges (rather than the bankruptcy court) with appropriate opportunity for notice and comment. Fed. R. Bankr. P. 9029.

108 [104] See, e.g., Fed. R. Bankr. P. 9029 (local rules may not be “inconsistent with” the national rules or “prohibit or limit the use of the Official Forms”); In re Petro, 276 F.3d 375 (7th Cir. 2002) (striking down local rule requiring chapter 13 debtors to file affidavit every six months listing income along with copies of paycheck stubs); In re Wilkinson, 923 F.2d 154 (10th Cir. 1991) (striking down local rule requiring district court permission to move for rehearing as inconsistent with Fed. R. Bankr. P. 8015); In re Steinacher, 283 B.R. 768 (B.A.P. 9th Cir. 2002) (invalidating local rule requiring short cure period for any debtor who had previous chapter 13 case pending within six months before current case).

Source: National Consumer Law Center, Consumer Bankruptcy Law and Practice [12th ed.], updated at www.nclc.org/library
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Links
[1] https://library.nclc.org/nclc/link/Bankr.AC.03