

6000 Series Proposed Amendments – FINAL VERSION

Rule 6004-1. [ABROGATED]

[Effective April 15, 1997. Amended effective January 1, 2002; January 9, 2006; December 1, 2009; December 1, 2015; October 1, 2019. Abrogated effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 6004-1 was abrogated, along with Local Forms 6004-1(a), 6004-1(d), and 6004-1(f). Subsections (a) and (c) were removed to ensure consistency with 11 U.S.C. § 363(b)(1) and Fed. R. Bankr. P. 2002(a)(2) and (c)(1) and 6004(a), (b), (d), and (e). Section 363(b)(1) generally allows the trustee, after notice and a hearing, to use, sell, or lease property of the estate outside the ordinary course of business. See 11 U.S.C. § 102(1)(A) (defining “after notice and a hearing”). Rule 6004(a), (b), (d), and (e) describe the procedures for doing so. For example, Fed. R. Bankr. P. 6004(a) requires that notice of a proposed use, sale, or lease of property, other than cash collateral, outside the ordinary course of business be given under Fed. R. Bankr. P. 2002(a)(2), which requires 21-days’ notice of such use, sale, or lease to all creditors. Rule 2002(c)(1) governs the content of the notice. Rule 6004(b) requires any objection to “be filed and served not less than seven days before the date set for the proposed action or within the time fixed by the court.” The objection is governed by Fed. R. Bankr. P. 9014. Under Fed. R. Bankr. P. 6004(d), if the nonexempt property of the estate has an aggregate gross value less than \$2,500.00, the trustee can give a general notice of intent to sell such property other than in the ordinary course of business. Any objection to such sale must be filed and served within 14 days of the mailing of the notice. Again, the objection is governed by Fed. R. Bankr. P. 9014. Notably, Fed. R. Bankr. P. 9014(a) states “relief shall be requested by motion.”

Subsection (b) was removed to ensure consistency with Fed. R. Bankr. P. 2002(a)(2). Rule 2002(a)(2) allows the court, not the United States trustee, to shorten the time for giving notice of a proposed use, sale, or lease or direct that notice not be sent. See *also* Fed. R. Bankr. P. 2002(h) and (i) (other notice limiting provisions).

Subsection (d) was removed as unnecessary, and with that, Local Form 6004-1(d) was abrogated. If the trustee seeks proof of authority to sell property, the trustee may file a motion and seek an order from the court.

Subsection (e) was removed for many of the same reasons as subsections (a) and (c) described above. Section 363(b)(1) and Fed. R. Bankr. P. 6004(a), (b), (d), and (e) do not require that the trustee’s proposed use, sale, or lease of property of the estate outside the ordinary course of business be approved by the court. See *also* Fed. R. Bankr. P. 9013 (generally requiring that a request for an order be made by written motion).

Subsection (f) was removed as unnecessary, and with that, Local Form 6004-1(f) was abrogated. There is no need for a standard conveyance form. The language of each conveyance may differ depending on the circumstances.

Rule 6007-1. Abandoning or Disposing of Property Upon Chapter 7 Case Closing

In a chapter 7 case, a request by the trustee under 11 U.S.C. § 554(c) for an order that an asset is not abandoned to the debtor upon case closing must be made by motion. The motion must briefly describe the asset and state that any responses are due within 21 days. The filing requirements for motions under Local Rule 9013-1 do not apply. If no response to the motion is filed, the court may enter an order without a hearing. If a response to the motion is filed, the trustee must contact the judge’s courtroom deputy for a hearing date and give notice of such hearing to the objecting party.

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[Effective April 15, 1997. Amended effective October 1, 2019; XX, 2024.]

2024 Advisory Committee Notes

Local Rule 6007-1 was amended to remove any reference to former Local Rule 6004-1. Refer to Fed. R. Bankr. P. 6007(a) for procedures for giving notice of a proposed abandonment. Local Rule 6007-1 was further amended to add language from former Local Rule 5009-1. Though instead of an application, a motion is required. *See generally* Fed. R. Bankr. P. 9013 (requiring that a request for an order be made by motion).

Rule 6007-2. Abandoning or Disposing of Property Containing Hazardous Substances

Notice of a proposed abandonment or disposition of property which may contain a hazardous substance must be given to the Environmental Protection Agency, any applicable state or federal regulatory agency, and the state Attorney General where the property is located.

[Effective April 15, 1997. Amended effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 6007-2 was amended and restyled to remove the “commercial or industrial” description of the property. Property that is not commercial or industrial can still contain hazardous substances. The rule was further amended to remove the reference to Minn. Stat. § 115B.02, subd. 8 or other applicable law. A hazardous substance does not necessarily have to meet a legal definition for notice to be required. Finally, the rule now has an additional requirement that any applicable state or federal regulatory agency be noticed. This is to account for situations where the Environmental Protection Agency is not the only governing agency. *See, e.g., In re Paoella*, 79 B.R. 607 (Bankr. E.D. Pa. 1987) (Party opposing abandonment of property can show that abandonment is not appropriate because it would contravene state statute or regulation that is reasonably designed to protect public health or safety from identified hazards.).

Rule 6072-1. [ABROGATED]

[Effective April 15, 1997. Abrogated effective XX, 2024.]

2024 Advisory Committee Notes

Local Rule 6072-1 was abrogated to ensure consistency with 11 U.S.C. § 542 and Fed. R. Bankr. P. 7001(1). Rule 7001(1) generally requires an adversary proceeding for recovery of money or property. A motion is only permitted in a proceeding to compel the debtor to deliver property to the trustee or if records are at issue under 11 U.S.C. § 542(e).