

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re: _____ Case No. _____ Chapter _____

***EX PARTE* MOTION FOR A TEMPORARY EXEMPTION
FROM CREDIT COUNSELING REQUIREMENT**

1. I understand that I may not be a debtor under the bankruptcy laws of the United States unless, during the 180 days preceding the date I filed my bankruptcy petition, I received an individual or group briefing (by telephone or Internet or in person) from an approved nonprofit budget and credit counseling agency that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis (“Credit Counseling Requirement”). *11 U.S.C. § 109(h)(1)*.
2. I also understand that I am required to file a certificate from the agency that provided the above credit counseling services to me, as well as a copy of a debt repayment plan, if any, that was developed through the credit counseling services (“Credit Counseling Certificate”). *11 U.S.C. § 521(b)*.
3. In accordance with 11 U.S.C. § 109(h)(1) and (3),¹ I hereby request that the Court grant me a temporary exemption from the Credit Counseling Requirement.
4. I understand that a temporary exemption can be granted only if I show that there are exigent circumstances that support my request and that I requested credit counseling services before I filed my petition from an approved non-profit budget and credit counseling agency but was unable to obtain the services during the 5-day period beginning on the day I made the request.

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11 U.S.C. § 109 (h)(1) states: “Subject to ¶¶ (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved non-profit budget and credit counseling agency described in section 111(a), an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.”

11 U.S.C. § 109(h)(3)(A) states: “Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that –

- (i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);
 - (ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and
 - (iii) is satisfactory to the court.
- (B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.” 11 U.S.C. § 109(h)(1) and (3).

5. The exigent circumstances² that support my request for a temporary exemption from the Credit Counseling Requirement are:

6. Before I filed my petition, I made a request to obtain credit counseling from an approved non-profit budget and credit counseling agency on _____ [insert date].

7. I was unable to obtain credit counseling within the five days following my request because:

8. I understand that if the Court approves this request for a temporary exemption but I still need additional time to satisfy the Credit Counseling Requirement, I must file a motion within the temporary exemption period requesting additional time. If the Court approves a further exemption period, the time to comply with the Credit Counseling Requirement will be extended by not more than an additional fifteen days.

9. I understand that I can file a motion (on notice to the case trustee and the United States Trustee) to have the Court determine that I am entitled to receive a complete waiver of the Credit Counseling Requirement but only on the basis that I have a mental incapacity or physical disability or am engaged in active military duty in a military combat zone. *11 U.S.C. § 109(h)(4)*.

10. I respectfully request that the Court find the foregoing satisfactory and grant the requested relief.

I declare under penalty of perjury that I have read this Motion in its entirety and each of the statements made herein are true and correct to the best of my knowledge, information and belief.

Signature of Attorney Date

Signature of Debtor Date

Name of Attorney (Please print)

Signature of Joint Debtor (if any)

²“Exigent circumstances” is defined as “situations that demand unusual or immediate action.” *Black’s Law Dictionary, Sixth Edition* (West 1990).