By H. David Cox

Life Happens: Why Chapter 13 Must Permit Post-Confirmation Surrenders of Collateral

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Chapter 13 cases rarely proceed exactly as planned. During the three to five years between confirmation and discharge, debtors lose jobs, become ill, receive inheritances, suffer accidents and experience countless other changes in circumstance. Congress anticipated those realities by authorizing post-confirmation plan modifications under § 1329. The question dividing some courts is whether that authority extends to a debtor who, after confirmation, seeks to surrender collateral and modify the treatment of the secured creditor's claim.

Consider the real-world dilemma facing a debtor who confirms a chapter 13 plan permitting the retention of a reliable vehicle, only to wake up 12 months later to find that his vehicle's engine has failed, repair costs exceed the vehicle's value, and he has no excess income to repair the vehicle because it is all otherwise devoted to plan payments. Under such circumstances, does the Code mandate that the debtor keep paying for a car that no longer exists in any meaningful economic sense?

Congress Already Answered the Question

The debate over post-confirmation surrender has generated thoughtful opinions on both sides; however, the analysis should begin with the text of § 1329. Properly read, that text establishes a statutory mechanism that permits a change in a debtor's confirmed chapter 13 plan to account for the surrender of collateral previously retained under the original confirmation.

Section 1329(a) states that "[a]t any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim," to accomplish certain actions enumerated under the Code.[1] Among other reasons, the plan may be modified to:

1. increase or reduce the amount of payments on claims of a particular class provided for by the plan;
2. extend or reduce the time for such payments; [or]
3. alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan....[2]

Section 1329(a)(1) permits changes in the amount of payments to be made on claims as long as they are of a "particular class provided for by the plan."[3] The text does not distinguish between secured and unsecured claims, nor does it include any specific prohibition limiting the reason for the alteration in payments, such as based on the post-confirmation surrender of collateral. Section 1329(a)(3) provides just such an example of a permissible change in a confirmed plan by specifically allowing plan modification to reduce the amount paid to a creditor to account for "any payment of such claim other than under the plan."[4] Payments on a claim resulting from a secured creditor's liquidation of its collateral, particularly when that liquidation was not part of the confirmed plan, would appear to be just the sort of payments that § 1329(a)(3) contemplates may (and should) be credited by a modified plan.

Congress reinforced this conclusion in § 1329(b)(1), which provides that the confirmation requirements of §§ 1322(b) and 1325(a), among others, apply equally to post-confirmation modifications as they do to the plan's original confirmation under § 1325. Those incorporated provisions expressly authorize a debtor to satisfy a secured claim by surrendering the collateral.[5] If Congress intended to prohibit post-confirmation surrender, its incorporation of §§ 1322 and 1325 into § 1329(b)(1) would make little sense. The more natural reading is that Congress incorporated those provisions because it expected surrender to remain an available means of treating a secured claim after confirmation.

1 11 U.S.C. § 1329(a).

2 *Id.*

3 11 U.S.C. § 1329(a)(1).

4 11 U.S.C. § 1329(a)(3).

5 *See* § 1322(b)(8) (plan may "provide for the payment of all or part of a claim against the debtor from property of the estate or property of the debtor") and § 1325(a)(5)(C) (except as provided in § 1325(b), court shall confirm plan if with respect to each allowed secured claim provided for by plan "the debtor surrenders the property securing such claim to such holder").

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Surrender Does Not Rewrite the Claim

Courts like *Chrysler Financial Corp. v. Nolan (In re Nolan)* limiting or prohibiting the surrender of collateral post-confirmation begin with the premise that such action improperly converts a secured claim into an unsecured claim.[6] In *Nolan*, the Sixth Circuit concluded that § 1329(a) does not permit the debtor to "alter, reduce or reclassify" a previously allowed secured claim but "only affords the debtor a right to request alteration of the amount or timing of specific payments."[7] However, a debtor does not (and cannot) utilize § 1329 to modify a creditor's *claim* itself. Instead, only the claim's *treatment* under the confirmed plan changes if the court, in its discretion, approves of the plan modification under § 1329.[8]

The claims-allowance process is distinct from the modification authority of § 1329. Section 1329 authorizes the modification of the debtor's plan; it does not itself determine the amount or character of the creditor's claim. Once a modified plan permits the surrender of collateral, the creditor's remaining secured and unsecured claims are determined through the ordinary operation of the claims-allowance process. Just as at the original plan confirmation, §§ 506(a) and 502 require that the secured claim reflects the creditor's remaining interest after application of the collateral, while the amount of any resulting deficiency is determined under applicable nonbankruptcy law.

Moreover, § 502(j) specifically permits reconsideration of an allowed secured claim for "cause" and allowed or disallowed "according to the equities of the case."[9] The post-confirmation surrender and liquidation of collateral plainly constitutes such cause, because once the collateral has been liquidated, the creditor would no longer hold an allowed secured claim in its previously determined amount.[10] Such an interpretation avoids the otherwise absurd result of a creditor recovering its collateral while also continuing to receive payments as though it still held a secured claim.[11]

Courts following *Nolan* also emphasize confirmation finality.[12] The doctrine of *res judicata* embodied in § 1327, though, does not prohibit every change to a confirmed plan. Rather, it must yield to the specific modification authority that Congress preserved in § 1329. Simply put, the proposed modification must fall within one of the categories authorized by § 1329(a) and then also satisfy the requirements of § 1329(b)(1) and (c). For the reasons explained in this article, those provisions provide sufficient flexibility to permit a debtor to seek post-confirmation surrender of collateral when appropriate and necessary.

Chapter 13 Is Built for Changed Circumstances

Chapter 13 is premised on the recognition that life does not stand still during the three to five years a debtor spends performing a confirmed plan. Debtors commit all projected disposable income to their creditors, often living on exceedingly tight budgets while working toward the promise of a discharge. During that time, circumstances inevitably change. Income may increase because of a raise, bonus, inheritance or other windfall, and § 1329 permits creditors and trustees to seek modifications that capture those improved circumstances for the benefit of creditors.

Case law has developed over the last several years to reflect the importance of preserving the rights of trustees and creditors under § 1329 to capture a debtor's financial improvements during a case.[13] Courts should not read the same statute to limit relief to debtors when circumstances worsen. A vehicle may wear out, become prohibitively expensive to repair, or simply become unaffordable because of the debtor's illness, job loss or other unforeseen events. If § 1329 permits upward adjustments when a debtor's fortunes improve, it should likewise permit reasonable downward adjustments when a debtor makes the sound financial decision to surrender a vehicle that no longer makes economic sense to retain.

Such symmetry is essential to the success of chapter 13. Forcing dismissals, conversions or serial refilings whenever a debtor encounters an unexpected obstacle is a misapplication of chapter 13. Requiring a debtor to continue paying for collateral that has been surrendered, destroyed or no longer serves any economic purpose advances neither the debtor's rehabilitation nor the interests of creditors. The better reading of § 1329 provides exactly that flexibility through the allowance of a post-confirmation surrender. It permits courts to preserve the finality of confirmation while accommodating the changed circumstances that chapter 13 was designed to address. abi

6 *Chrysler Fin. Corp. v. Nolan* (*In re Nolan*), 232 F.3d 528 (6th Cir. 2000).

7 *Id.* at 532.

8 *In re Carter*, 673 B.R. 898, 904 (Bankr. D. Utah 2025) ("There is no modification of the claim at all. It is only the treatment of the allowed claim that is impacted and § 1329(a)(1) - (a)(3) allow modifications that alter the treatment of a claim.").

9 11 U.S.C. § 502(j).

10 A secured claim exists only to the extent of the value of the creditor's interest in the collateral. 11 U.S.C. § 506(a).

11 Keith M. Lundin, *Lundin on Chapter 13*, § 127.7, at ¶ 11, LundinOnChapter13.com (last visited July 22, 2026) ("To permit a creditor to repossess its collateral after confirmation and then continue to be treated as a secured claim holder grants the creditor a double recovery that cannot occur over the objections of unsecured claim holders in any other context in a bankruptcy case.").

12 *See, e.g., Ruskin v. DaimlerChrysler Servs. N. Am.* (In re Adkins), 425 F.3d 296 (6th Cir. 2005).

13 *See, e.g., In re Sorrells*, 671 B.R. 474 (Bankr. W.D. Va. 2025); *Conte v. Hill*, 2024 WL 140247 (S.D. Ala. Jan. 12, 2024); *In re Madrid*, 2023 WL 3563019 (Bankr. W.D. Wash. May 18, 2023).