

SECTION 507(B) CLAIMS

507(b) Claim

A claim for payment at exit for adequate protection payments to the extent such adequate protection was granted by the Court, but not paid out during the ongoing progress of the case.

Adequate Protection

Adequate protection is required to protect an entity's interest in property. Yet protection for the entire bundle of rights of the entity is not required. In effect, protection is required only for the value of an entity's interest in the property. If an entity's claim exceeds the value of its interest in property, only the interest is entitled to protection; the remainder of the claim is unsecured and does not give rise to an interest in property that requires protection. Similarly, an entity is not entitled to protection if its interest is somehow defective under nonbankruptcy law.

Section 507(b)

A secured creditor has superpriority for a claim in the amount that the debtor's use of the collateral during the time of the stay diminished the value of the collateral, but only to the extent such diminution is *in excess of* the adequate protection received.

A creditor seeking a section 507(b) claim carries the burden of proof to show that the value of its interest in its pre-petition collateral has diminished (see *In re Modern Warehouse, Inc.*, 74 B.R. 173, 177 (Bankr. W.D. Mo. 1987))