

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**In re:** §  
**Chapter 13 Trustee Procedures for** §  
**Administration of Home Mortgage** §  
**Payments** §

**Chapter 13 Trustee Procedures for  
Administration of Home Mortgage Payments  
Adopted by the Court on September 29, 2005  
(Last Amended Effective December 1, 2011)**

The debtor's plan payments to the chapter 13 trustee must include the amount due on the debtor's regular monthly mortgage installments for a claim secured by a security interest in real property that is the debtor's principal residence pursuant to the terms of 11 U.S.C. § 1322(b)(5)<sup>1</sup> ("the ongoing mortgage") unless there is no default on the mortgage as of the petition date, the date of plan confirmation and the date of the filing of a plan modification. If there is no default on the mortgage, the plan may include the ongoing mortgage payment.

The following requirements will apply to all cases in which the Chapter 13 Plan provides for payment of the ongoing mortgage:

1. Not later than 3 business days following the date a case is filed, the debtor shall provide the trustee with the following information concerning all claims to which these procedures apply:

- (a) The complete name and payment address of the creditor.
- (b) The account number assigned to the claim.
- (c) The exact amount of the contractual installment payment and the date each payment is due.
- (d) A telephone number for the creditor.
- (e) A copy of the current payment coupon.

2. The debtor shall make payments to the trustee with the payments to be received by the trustee by a date that complies with the provisions of the security agreement concerning payment due dates. The trustee is not required to disburse funds to a claimant unless the trustee is satisfied that the payment received by the trustee from the debtor will not be dishonored by the financial institution upon which it is drawn.

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<sup>1</sup> Hereafter, all statutory references are to sections of Title 11, United States Code.

3. Subject to these procedures, the trustee is authorized to disburse funds in payment of all regular contractual installment payments and other charges arising pursuant to the claim of a creditor that become due following the commencement of a case pursuant to the terms of the note and security agreement applicable to the claim. Disbursements should commence as soon as is practicable. If the trustee has available funds, the initial disbursement should precede the hearing on plan confirmation.

4. Changes to payments on an ongoing mortgage are governed by Fed. R. Bankr. P. 3002.1, which rule is incorporated into these procedures.

5. If the disbursement of an “adjusted amount” causes the plan to fail to meet the minimum standards for confirmation described in § 1325, then the trustee or the debtor may seek a modification of the plan pursuant to § 1329, or file a motion to dismiss or convert the case.

6. A party in interest may seek a determination by the Court concerning the sufficiency of the payments made to a creditor pursuant to these provisions. Unless the Court determines otherwise, an order granting the debtor a discharge in this case shall serve as a conclusive determination that all defaults with respect to any secured claim dealt with in the plan pursuant to these provisions are “cured,” and that all post-petition payments have been made in accordance with the confirmed plan, each as of the date of the final payment to the claimant by the trustee.

7. The recovery of fees and expenses by the holder of an ongoing mortgage is governed by Fed. R. Bankr. P. 3002.1.

8. Amounts received by the holder of the ongoing mortgage prior to confirmation must be applied by the holder to the next payment due without penalty under the terms of the note; or the holder must notify the trustee in writing that it waives all late charges that accrue after the order for relief in this case. Amounts received by the holder of the ongoing mortgage after confirmation must be applied in accordance with the plan.

9. These procedures may be varied in a particular case only by order of the Court.