


March 1, 2021

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

Nathan Ochsner, Clerk of Court
By Deputy Clerk 

IN RE

MORTGAGE FORBEARANCES
UNDER THE CARES ACT.

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§

GENERAL ORDER 2021-4

ORDER ON MORTGAGE FORBEARANCES UNDER THE CARES ACT

Section 4022 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) permits borrowers of “Federally backed mortgage loans” to request a forbearance on mortgages. By unanimous vote, the Court adopts the following procedures for forbearances of mortgages granted to Chapter 13 Debtors:

1. A mortgage creditor must file a notice of mortgage forbearance pursuant to the CARES Act (a “Forbearance Notice”) on the Court’s CM/ECF docket to confirm that an agreement for a mortgage forbearance exists between the Debtor and the mortgagee (“Forbearance Agreement”). A Forbearance Notice must include a cover sheet in the form attached as **Exhibit 1** to this Order along with a copy of the Forbearance Agreement setting forth the terms of the agreement including the duration of the Forbearance Agreement, (“Forbearance Period”). The Forbearance Notice will not (i) determine amounts payable to the mortgagee; nor (ii) constitute a Notice of Mortgage Payment Change under Fed. R. Bankr. P. 3002.1(b).

2. The Forbearance Agreement described in a Forbearance Notice will not affect chapter 13 plan payments unless, prior to the end of the Forbearance Period, the Debtor files (i) a chapter 13 plan incorporating the terms of the proposed Forbearance Agreement or (ii) a “Debtor(s)’ Forbearance Motion” substantially in the form attached as **Exhibit 2** to this Order. If no plan has been confirmed, the Debtor(s) must file a proposed plan incorporating the terms of the Forbearance Agreement. If a plan has been confirmed, the Debtor’s Forbearance Motion is a motion to modify a confirmed plan.

3. A Debtor(s)’ Forbearance Motion becomes effective upon filing on the Court’s CM/ECF docket unless later abrogated by the Court. No Notice of Mortgage Payment Change pursuant to Fed. R. Bankr. P. 3002.1(b) is required to implement the relief set forth in a Debtor(s)’ Forbearance Motion.

4. In a conduit mortgage payment case, the Chapter 13 Trustee shall not disburse principal and interest payments to a mortgagee upon receipt of a Forbearance Notice except as provided in this Order or any subsequent Court order. Escrow payments should continue to be disbursed. A Chapter 13 Trustee has no obligation to recover funds disbursed to a mortgagee before receiving the Forbearance Notice. Any such payment(s) received from the mortgagee by the Chapter 13 Trustee shall be applied to the first payments due to the mortgagee after the termination of the forbearance period (unless a plan or plan modification provides otherwise).

a. If a Debtor(s) amends or modifies a chapter 13 plan to incorporate the terms of a Forbearance Notice or files a Debtor(s)' Forbearance Motion during a Forbearance Period, the Chapter 13 Trustee shall deposit, into an emergency savings fund for the Debtor(s), the excess of any mortgage payments received over the amount disbursed during a Forbearance Period.

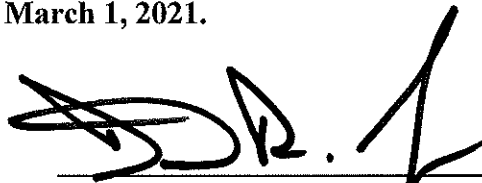
b. If a Debtor(s) does not file, amend or modify a chapter 13 plan or file a Debtor(s)' Forbearance Motion during a Forbearance Period, the Chapter 13 Trustee shall disburse all mortgage payments received and not disbursed during the Forbearance Period to the mortgagee at the end of the Forbearance Period, or at the end of the case, whichever is earlier.

5. In a non-conduit mortgage payment case, the Debtor(s) payment obligation under the chapter 13 plan will be satisfied by the Debtor(s)' payments made in compliance with the Notice of Forbearance, or in compliance with a Debtor(s)' Forbearance Motion, unless abrogated by Court order.

6. Debtor(s)' counsel, whether retained on a fixed or hourly basis, shall be paid a \$300.00 fixed fee for assisting their client(s) under this procedure.

7. This Order is effective upon entry.

SIGNED at Houston, Texas on March 1, 2021.

A handwritten signature in black ink, appearing to read "D.R. Jones", written over a horizontal line.

David R. Jones
Chief United States Bankruptcy Judge

Exhibit 1

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

IN RE: §
§ **CASE NO:**
[DEBTOR(S) NAME] §
§
§
Debtor(s) § **CHAPTER 13**

**HOME MORTGAGE LOAN COVER SHEET TO
NOTICE OF CARES ACT FORBEARANCE AGREEMENT**

1.	Case Number	
2.	Debtor Name	
3.	Joint Debtor Name	
4.	Name of Lender	
5.	Property Address	
6.	Date of Deed of Trust or Mortgage	
7.	Effective Month(s) of Forbearance	
8.	Current Monthly Principal and Interest Payment	
9.	Current Monthly Escrow Payment	
10.	Amount of Monthly Forbearance (may not exceed the current monthly principal and interest payment)	
11.	Payment during Forbearance Period	[Line 8 plus line 9 minus line 10]

Additional documents should be attached to this Cover Sheet that evidence the forbearance agreement between the parties.

Exhibit 2

IN THE UNITED BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
_____ DIVISION

IN RE: §
[DEBTOR(S) NAME] § CASE NO:
§
§
Debtor(s) § CHAPTER 13
§

**FORBEARANCE MOTION
(PROVIDING FOR CARES ACT MORTGAGE FORBEARANCE)**

This Motion seeks to reduce the mortgage payments due in this case. If there is a pending plan or modification motion, it is deemed amended on the filing of this Motion. If there is not a pending plan of modification motion, this Motion seeks modification of the currently approved plan. If you object to the relief, you must file a written objection with the clerk of the Court. The deadline for the filing of objections is 21 days after service of this motion. If no timely objection is filed, the Motion is approved unless abrogated by Court order.

Represented parties should act through their attorney.

Debtor(s) move to reduce the payments due on their home loan mortgage pursuant to the CARES Act. Pursuant to General Order _____, the relief sought in this motion is effective upon filing unless later abrogated by Court order.

1. Attached to this Motion is a copy of the Home Loan Mortgage Cover Sheet to Notice of Cares Act Forbearance Agreement (the "Cover Sheet").

2. This Motion applies to the payments due to the Lender listed on line 3 of the Cover Sheet regarding the Property listed on line 4 of the Cover Sheet and the payments due that are secured by the mortgage described on line 5 of the Cover Sheet.

3. Notwithstanding any plan to the contrary, the payments due to the Lender by the Debtor(s) or by the Chapter 13 Trustee are reduced to the amount set forth in Line 10 of the Cover Sheet for the period shown on Line 8 of the Cover Sheet.

4. The amount, frequency, and duration of plan payments to the Trustee during the forbearance period are:

A	B	C	D	E	F	G
Beginning Month	Ending Month	Total Amount of Monthly Payment Before this Forbearance (including savings and reserves)	Less Monthly Forbearance Amount (From line 10 of the attached Exhibit 1)	Less Reduction in Posted Chapter 13 Trustee Amount (Column D multiplied by Posted Chapter 13 Trustee Amount)	Revised Monthly Payment to Trustee (Column C minus Column D minus Column E)	Total Reduction in Payments to Trustee (Column C minus Column F multiplied by Number of Months)
		Grand Total:				

5. Check One:

- a. _____ After the forbearance period, the Debtor(s) will resume payments in the amount required by the confirmed chapter 13 plan. The total amount of payments not made during the forbearance period will be due on the final maturity date of the loan secured by the mortgage; *provided, that*, upon a timely filed objection to the Motion, the Court will consider a different due date at a hearing on the Motion.
- b. _____ Prior to plan completion, the Debtor(s) must file a proposed modification or other motion to provide for treatment of deferred mortgage payments during the forbearance period.

6. Check all that apply:

_____ A. Along with this Motion, the Debtor(s) filed a proposed amended wage order to reflect the forbearance period in this proposed modification. The Debtor(s) will also timely file an amended wage order to reflect the post-forbearance period.

_____ B. The Debtor(s) will amend the electronic funds transfer mechanism to reflect the forbearance period and the post-forbearance period in this proposed modification.

_____ C. The Debtor(s) authorize(s) the Chapter 13 Trustee to adjust the amount of their ACH payment to reflect the forbearance period and the post-forbearance period in this proposed modification.

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

IN RE:	§	
[Debtor]	§	CASE NO.
	§	
	§	
DEBTOR(S)	§	CHAPTER 13

**ORDER GRANTING DEBTOR(S) FORBEARANCE MOTION
(PROVDING FOR CARES ACT MORTGAGE FORBEARANCE)**

(Relates to Docket No.)

The Debtor(s) Motion Forbearance Motion is GRANTED.

_____ After the forbearance period, the Debtor(s) will resume payments in the amount required by the confirmed chapter 13 plan. The total amount of payments not made during the forbearance period will be due on the final maturity date of the loan secured by the mortgage.

_____ Prior to plan completion, the Debtor(s) will file a proposed modification or other motion to provide for treatment of mortgage payments deferred during the forbearance period.

SIGNED this _____ day of _____.

UNITED STATES BANKRUPTCY JUDGE