



Notice of Mortgage Payment Changes

THE MORTGAGE PAYMENT JUST KEEPS GOING UP!

QUICK AND EASY STEPS FOR REVIEW OF NOTICE OF MORTGAGE PAYMENT CHANGES.

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Rule 3002.1 Notice Relating to Claims Secured by Security Interest in the Debtor

Primary tabs

(a) In General. This rule applies in a chapter 13 case to claims (1) that are secured by a security interest in the debtor's principal residence, and (2) for which the plan provides that either the trustee or the debtor will make contractual installment payments. Unless the court orders otherwise, the notice requirements of this rule cease to apply when an order terminating or annulling the automatic stay becomes effective with respect to the residence that secures the claim.

(b) NOTICE OF PAYMENT CHANGES;OBJECTION. The holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice of any change in the payment amount, including any change that results from an interest rate or escrow account adjustment, no later than 21 days before a payment in the new amount is due.

(1) Notice. The hold of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice of any change that results in the payment amount, including any change that results from an interest-rate or escrow-account adjustment, not later than 21 days before a payment in the new amount is due. If the claim arises from a home-equity line of credit, this requirement may be modified by court order.

(2) Objection. A party in interest who objects to the payment change may file a motion to determine whether the change is required to maintain payments in accordance with § 1322(b)(5) of the Code. If no motion is filed by the day before the new amount is due, the change goes into effect, unless the court orders otherwise.

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If you are practicing in the Southern District of Texas, we have the Chapter 13 Procedures for Administration of Home Mortgage Payments available at <https://www.txs.uscourts.gov/bankruptcy/bankruptcy-forms-filing-fees>

It provides:

4. Changes to Ongoing Mortgage Payments are governed by FED. R. BANKR. P. 3002.1.

A. Subject to paragraph 4B hereof, if a **Notice of Payment Change** is filed in accordance with FED. R. BANKR. P. 3002.1, the Trustee shall commence Ongoing Mortgage Payments in the changed amount beginning with the next payment due at least 21 days after the filing of the notice.

B. The Trustee shall not pay the Ongoing Mortgage Payment at the changed amount if:

- i. An objection to the Notice of Payment Change has been filed; and
- ii. A stay of the Notice of Payment Change has been ordered.

C. If a Notice of Payment Change is stayed, but later determined to have been correct, then the Debtor(s) shall be required to make all additional payments that accrued during the period of the stay within 30 days of the date the stay is terminated with interest on such amounts at the non-default contract rate under the Ongoing Mortgage.



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-As of June 1, 2020, I had 3118 Chapter 13 cases in Houston and Galveston.

-Since my appointment in the SDTX until June 1 (26 months) I have had 4005 Notice of Mortgage Payment Changes filed in my Chapter 13 cases

- CASE STATS

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*-Average of 154 Notice of Mortgage payment changes per month.
-If every notice triggered a “no look” or “flat fee” pursuant to the SDTX “Fixed Fee” they would have generated **\$1,201,500.00** in fees.*

- CASE STATS

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*-In the 26 months between April 2018 and June 1, 2020. I had only **28** objections filed to Notice of Mortgage Payment changes. However, 4 were duplicates and three were filed by the Chapter 13 Trustee
-They are detailed at the end of this PowerPoint.*

- CASE STATS

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Title search: Notice of Mortgage Payment Changes

Also available as part of the eCourse

[2020 Consumer Bankruptcy eConference](#)

First appeared as part of the conference materials for the

16th Annual Conference on Consumer Bankruptcy Practice session

"Five Quick Ways to Review Mortgages and Payment Changes and 3002.1 Notices"