

Rule 2084-4. Plan

(a) Plan Requirements. Local Form 2084-4 (Chapter 13 Plan) must be used for all original, amended, or modified plans. All sections of the plan must be completed, or if not applicable marked with N/A or NONE. The treatment of all known secured or priority creditors must be disclosed in the plan. Varying provisions must be specific and consistent with the Code, FRBP or Local Rules.

(b) Defaulted Payments on Claims Secured by Security Interests in Debtor's Principal Residence. This subsection applies to all plans filed in this District when the debtor is in default of obligations secured by a consensual non-HOA security interest in the debtor's principal residence.

(1) Conduit Payments. Conduit payments must be set forth in the plan form and made by the debtor to the trustee. A debtor may be excused from making conduit payments only by a Court order. The debtor may seek to be excused from conduit payments by:

(A) Obtaining a Court order after notice to the trustee and holder or servicer of the secured obligation; and

(B) Filing an amended or modified plan to eliminate future conduit payments, if necessary.

(2) Debtor's Duties:

Unless the Court has entered an order allowing the debtor to make direct payment to the real property creditor:

(A) Debtor must complete the Mortgage Creditor Checklist (Local Form 2084-4A) and Authorization to Release Information (Local Form 2084-4B), and serve these Forms on the trustee – not the Court – within seven (7) days of the petition date.

(B) Debtor or debtor's counsel must serve on the trustee a copy of all correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any post-petition adjustment to the monthly mortgage payment or interest rate immediately on receipt or creation of that document.

(C) Debtor must remit to the trustee the regular post-petition payment amount owing to the real property creditor along with the trustee's fee of 10%.

(D) In the event the monthly conduit payment is changed due to either a change in escrow requirements or a change in an adjustable interest rate, debtor must decrease or increase the plan payment by the same amount including the trustee's fee of 10%.

(3) Trustee's Duties:

(A) Pursuant to 28 U.S.C. § 586 and 11 U.S.C. § 1326, if a plan is confirmed, the trustee is authorized to retain the authorized percentage fee for all conduit payments disbursed in the case.

(B) Pursuant to the Mortgage Modification Mediation (“MMM”) Procedures, if the debtor has been referred to the MMM Program, the trustee may retain the authorized percentage fee for all conduit payments disbursed after entry of the MMM referral order.

(C) The trustee’s obligations under this Local Rule shall not render the trustee subject to any rules and regulations governing mortgage servicers.

(D) The trustee will disburse conduit payments regardless of whether the Court has confirmed a plan or the real property creditor has filed a proof of claim. The trustee is not required to distribute a partial payment to a real property creditor.

(E) If the trustee does not have sufficient funds to pay all required monthly conduit disbursements and any required adequate protection payments, the trustee will internally allocate the funds on a pro rata basis to the creditors entitled to disbursements. The trustee will retain the amount allocated to the conduit until there are sufficient funds to make a full conduit payment. The trustee is authorized to pay partial adequate protection payments.

(F) The trustee may rely on the debtor’s representation of the amount of the conduit payment pending notice from the real property creditor of a different amount.

(G) Within twenty-eight (28) days after the trustee has received any notice of a change in the monthly conduit payment, the trustee will file a notice of the terms of the change with the Court and provide notice of that change to debtor, debtor’s attorney and real property creditor. The notice will be treated as an amendment to the creditor’s real property proof of claim and a modification to the debtor’s plan under Code §§ 1323 or 1329. A party in interest will have an opportunity to object within twenty-eight ~~one~~ (28 ~~+~~) days after the trustee files it. After the filing of the notice, the trustee is authorized to disburse the new monthly conduit payment. In the event of an objection to the notice, the objecting party must set the objection for hearing. Unless a Court order is entered sustaining the objection, the trustee is authorized to disburse the new monthly conduit payment.

(H) If the amount of the new conduit payment jeopardizes the feasibility of the plan, the trustee may file a motion to modify the plan or seek dismissal.

(I) The trustee shall comply with FRBP 3002.1(~~f~~**g**).

(4) Real Property Creditor's Duties:

(A) The real property creditor must file a proof of claim (Official Form B410) with attachments, within seventy (70) days after the filing of the petition or conversion of the case.

(B) The real property creditor must comply with FRBP 3002.1 and file Official Form B410S-1 or Official Form B410S-2, as applicable.

(C) At least sixty (60) days before a change of name or address where payments are to be made, the real property creditor must file a notice of the change on the claims register, and serve the trustee, debtor and debtor's counsel. If a transfer of a claim is other than for security, the transferee must file official forms B2100A and B2100B, pay any applicable fee, and serve the official forms on the trustee, debtor, and debtor's counsel.

(D) The real property creditor must immediately serve the trustee with copies of correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any change to the monthly payment or interest rate.

(E) Confirmation of a plan imposes an affirmative duty and legal obligation on the real property creditor to do all of the following:

(i) Apply payments on the arrearage in accordance with the plan. Unless ordered otherwise, the arrearage shall be deemed cured and paid in full upon the entry of the discharge order.

(ii) Treat the debtor's account as current upon confirmation of the plan, thereby precluding the imposition of late payment charges or other default-related fees based solely on any pre-petition default.

(iii) Apply the conduit payments to the month in which they were designated under the plan. Even if payments are placed into a suspense, forbearance or similar account, they will be deemed applied to the debt pursuant to this subsection.

(iv) The real property creditor cannot impose a late charge on conduit payments paid or tendered to the real property creditor during the contractual grace period. For purposes of determining whether a late charge may be imposed, a conduit payment tendered by the trustee must be applied to the post-petition installment payment then due.

(v) Conduit payments received timely by the trustee in accordance with these procedures shall be deemed payments made timely under the terms of the mortgage.

(F) The real property creditor must comply with FRBP 3002.1(g).

(5) Interim Mortgage Payments. The trustee may pay an amount not exceeding two full regular monthly payments inclusive of escrow deposits. These payments shall reimburse the real property creditor for post-petition delinquencies that may accrue until the trustee begins payments to that creditor. Once the trustee begins disbursements that include conduit payments, those payments shall constitute current payments on the mortgage regardless of the contractual due date.

(6) Effect of Plan Completion. If the debtor pays the arrearage, together with any interest as specified in the confirmation order, then all pre-petition defaults under the note and other loan documents will be deemed cured.

(c) Amended Plan. Other than the original plan, a plan filed before entry of a confirmation order must be titled “Amended Plan.”

(d) Modified Plan. A plan filed after entry of a confirmation order must be titled as a “Modified Plan.” A modified plan must conform with Local Form 2084-4, and account for disbursements made to creditors.

(e) Service of Plan. The debtor must file each plan using the applicable ECF filing event so that service can be effected by the Clerk or Bankruptcy Noticing Center.

(f) Dismissal for Failure to Properly File. If the debtor fails to file any plan, the trustee may lodge and serve a proposed dismissal order. If the deficiency is not cured or a hearing is not requested within fourteen (14) days of service of the proposed dismissal order, the Court may dismiss the case without further notice or a hearing.

Notes 2022: The language of subsection (b) is updated to clarify that the conduit payment requirement applies to defaulted obligations secured by a consensual non-HOA security interest in the debtor’s principal residence, not just to mortgage obligations. This rule is not intended to apply to HOA liens, tax liens, or judicial liens. This subsection is also amended to limit the notice required for motions to waive conduit payments. Other technical changes made. See also FRBP 3002.1.

Notes 2023: This rule has been amended in response to *Matter of Evans*, 69 F.4th 1101 (9th Cir. 2023).

Notes 2025: Technical revisions to ensure conformity with amended FRBP 3002.1.