

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE¹**

1 **Rule 3002.1. Chapter 13—Claim Secured by a Security**
2 **Interest in the Debtor’s Principal Residence**

3 (a) IN GENERAL. This rule applies in a ~~chapter~~
4 Chapter 13 case to a claim that is secured by a security
5 interest in the debtor’s principal residence and for which the
6 plan ~~requires~~ provides for the trustee or debtor to make
7 contractual payments. Unless the court orders otherwise, the
8 requirements of this rule cease when an order terminating or
9 annulling the automatic stay related to that residence
10 becomes effective.

11 (b) NOTICE OF A PAYMENT CHANGE;
12 ~~EFFECT OF AN UNTIMELY NOTICE; HOME-EQUITY~~
13 LINE OF CREDIT; EFFECT OF AN UNTIMELY
14 NOTICE; OBJECTION.

¹ New material is underlined in red; matter to be omitted is lined through. The changes shown are to the rule as published in 2021 (without showing changes to the existing rule).

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(Rule 3002.1 showing changes from publication)

15 (1) *Notice by the Claim Holder.* The
16 claim holder ~~shall~~must file a notice of any change in
17 the payment amount—including any change
18 resulting from an interest-rate or escrow-account
19 adjustment. Except as provided in (b)(2). ~~At at~~ least
20 21 days before the new payment is due, the notice
21 must be filed and served on:

- 22 • the debtor;
- 23 • the debtor’s attorney; and
- 24 • the trustee.

25 (2) ~~*Effect of an Untimely Notice.*~~ If the
26 ~~claim holder does not timely file and serve the notice~~
27 ~~required by (b)(1), the effective date of the new~~
28 ~~payment is as follows:~~

29 ~~(A) — when the notice concerns a~~
30 ~~payment increase, on the first payment due~~
31 ~~date that is at least 21 days after the untimely~~
32 ~~notice was filed and served, or~~

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33 ~~(B) — when the notice concerns a~~
34 ~~payment decrease, on the date stated in the~~
35 ~~untimely notice.~~

36 ~~(3) —~~ *Notice of a Change in a Home-Equity*
37 *Line of Credit.*

38 (A) *Deadline.* If the claim arises
39 from a home-equity line of credit, the notice
40 of a payment change shall must be filed and
41 served either as provided in (b)(1) or within
42 one year after the bankruptcy petition was
43 filed and then at least annually.

44 (B) *Contents of the Annual*
45 *Notice.* The annual notice shall must:

46 (1) state the payment
47 amount due for the month when the
48 notice is filed; and

49 (2) include a
50 reconciliation amount to account for

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51 any overpayment or underpayment
52 during the prior year.

53 (C) *Amount of the Next Payment.*

54 The first payment due ~~after the effective date~~
55 ~~of the annual notice shall be increased or~~
56 ~~decreased by the reconciliation amount~~ at
57 least 21 days after the annual notice is filed
58 and served must be increased or decreased by
59 the reconciliation amount.

60 (D) *Effective Date.* The new
61 payment amount stated in the annual notice
62 (disregarding the reconciliation amount)
63 ~~shall~~ will be effective on the first payment
64 ~~due date that is at least 21 days after the~~
65 ~~annual notice is filed and served~~ after the
66 payment under (C) is made and ~~shall~~will
67 remain effective until a new notice becomes
68 effective.

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69 (E) *Payment Changes Greater*
70 *Than \$10.* If the claim holder opts to give
71 annual notices under (b)(2) and the monthly
72 payment increases or decreases by more than
73 \$10 in any month, the claim holder ~~shall~~must
74 file and serve (in addition to the annual
75 notice) a notice under (b)(1) for that month.

76 (3) Effect of an Untimely Notice. If the claim
77 holder does not timely file and serve the notice
78 required by (b)(1) or (b)(2), the effective date of the
79 new payment is as follows:

80 (A) when the notice concerns a
81 payment increase, on the first payment due
82 date that is at least 21 days after the untimely
83 notice was filed and served, or

84 (B) when the notice concerns a
85 payment decrease, on the first payment due
86 date that is after the date of the notice.

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87 (4) *Party in Interest’s Objection.* A party
88 in interest who objects to a payment change noticed
89 under (b)(1) or (b)(2) may file and serve a motion to
90 determine ~~whether~~ the validity of the payment
91 change ~~is required to maintain payments under~~
92 § 1322(b)(5) of the Code. Unless the court orders
93 otherwise, if no motion is filed before the day the
94 new payment is due, the change goes into effect
95 ~~immediately~~ on that date.

96 (c) FEES, EXPENSES, AND CHARGES
97 INCURRED AFTER THE CASE WAS FILED; NOTICE
98 BY THE CLAIM HOLDER. The claim holder ~~shall~~ must
99 file a notice itemizing all fees, expenses, and charges that the
100 claim holder has incurred ~~or imposed~~ after the case was filed
101 that the claim holder asserts are recoverable against the
102 debtor or the debtor’s principal residence. Within 180 days
103 after the fees, expenses, or charges are incurred ~~or imposed~~,
104 the notice ~~shall~~ must be filed and served on: ~~the debtor;~~ the

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105 ~~debtor’s attorney; and the trustee.~~ the individuals listed in
106 (b)(1).

107 (d) FILING NOTICE AS A SUPPLEMENT TO
108 A PROOF OF CLAIM. A notice under (b) or (c) ~~shall~~must
109 be filed as a supplement to a proof of claim, and be prepared
110 using ~~the appropriate~~ Official Form 410S-1 or 410S-2,
111 respectively. The notice is not subject to Rule 3001(f).

112 (e) DETERMINING FEES, EXPENSES, OR
113 CHARGES. On a party in interest’s motion, the court
114 ~~shall~~must, after notice and a hearing, determine whether
115 paying any claimed fee, expense, or charge is required by the
116 underlying agreement and applicable nonbankruptcy law ~~to~~
117 ~~cure a default or maintain payments under § 1322(b)(5) of~~
118 ~~the Code.~~ The motion ~~shall~~must be filed within one year
119 after the notice under (c) was served, unless ~~the a~~ a party in
120 interest has requested and the court orders a shorter period.

121 (f) ~~TRUSTEE’S MIDCASE NOTICE OF THE~~
122 ~~STATUS OF A MORTGAGE CLAIM~~ MOTION TO

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123 DETERMINE STATUS; RESPONSE; COURT
124 DETERMINATION.

125 (1) *Timing; Content and Service.*
126 ~~Between 18 and 24 months~~ At any time after the
127 ~~bankruptcy petition was filed~~ date of the order for
128 relief under Chapter 13 and until the case is closed,
129 the trustee or debtor ~~shall~~ may file a ~~notice about~~
130 motion to determine the status of any any mortgage
131 claim described in (a). The ~~notice shall~~ motion must
132 be prepared using ~~the appropriate~~ Official Form []
133 and be served on:

- 134 • the debtor and the debtor's attorney, if the
- 135 trustee is the movant;
- 136 • ~~the debtor's attorney~~ the trustee, if the
- 137 debtor is the movant; and
- 138 • the claim holder.

139 (2) *Response; Motion to Compel a*
140 *Response; Objection to the Response; Court*

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141 ~~Determination~~—Content and Service. (A)

142 ~~——Deadline; Content and Service.~~ If theThe

143 claim holder disagrees with facts set forth in the

144 motion, it shall must file a response to the trustee’s

145 notice within 21 days after ~~it~~ the motion is served.

146 The response shall ~~must~~ be prepared using the

147 appropriate Official Form [] and be served on the

148 debtor; debtor’s counsel attorney; and the trustee the

149 individuals listed in (b)(1).

150 (B) ~~Motion for an Order~~

151 ~~Compelling a Response.~~ If the claim holder

152 does not timely file a response, a party in

153 interest may move for an order compelling one.

154 ~~——(C) Objection.~~ A party in interest

155 may file an objection to the claim holder’s

156 response.

157 (D~~3~~) Court Determination. If a party in

158 interest objects to the response the claim holder’s

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159 response asserts a disagreement with facts set forth
160 in the motion, the court ~~shall~~ must, after notice and a
161 hearing, determine the status of the ~~mortgage~~-claim
162 and enter an appropriate order. If the claim holder
163 does not respond to the motion, the court may enter
164 an order favorable to the moving party based on the
165 facts set forth in the motion.

166 (g) TRUSTEE’S END-OF-CASE
167 ~~MOTION TO DETERMINE THE STATUS OF NOTICE~~
168 ~~OF PAYMENTS MADE ON A MORTGAGE CLAIM;~~
169 RESPONSE; COURT DETERMINATION.

170 (1) *Timing; Content and Service.* Within
171 45 days after the debtor completes all payments due
172 to the trustee under a ~~chapter~~ Chapter 13 plan, the
173 trustee ~~—if the trustee has made any payments on a~~
174 claim described in (a) ~~—shall~~ must file a ~~motion~~
175 notice stating:

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176 ~~(A) to determine the status of a mortgage~~
177 ~~claim, including whether any prepetition~~
178 ~~arrears have been cured.~~ the amount, if any,
179 the trustee paid to the claim holder to cure
180 any default and whether the default has been
181 cured; and
182 (B) the amount, if any, the trustee paid to the
183 claim holder for contractual payments that
184 came due during the pendency of the case and
185 whether contractual payments are current as
186 of the date of the notice.
187 The notice must also inform the claim holder of its
188 obligation to respond under (g)(2). ~~The motion shall~~
189 ~~notice must~~ be prepared using ~~the appropriate~~
190 Official Form [] and be served on:
191 • the claim holder;
192 • the debtor;
193 • and debtor’s counsel attorney.

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194 (2) ~~Response; Motion to Compel a Response;~~
195 ~~Objection to the Res ponse. (A) — Deadline; — Content~~
196 ~~and Service.~~ The claim holder shall must file a response to
197 the ~~motion~~ notice within 28 days after its service ~~of the~~
198 ~~motion.~~ The response must be filed as a supplement to the
199 claim holder’s proof of claim and is not subject to Rule
200 3001(f). The response shall must be prepared using the
201 appropriate Official Form [] and be served on: ~~the debtor;~~
202 ~~debtor’s counsel; and the trustee~~ the individuals listed in
203 (b)(1).

204 (B) — ~~Motion — for — an — Order~~
205 ~~Compelling a Response.~~ If the claim holder
206 does not timely file a response, a party in
207 interest may move for an order compelling
208 one.

209 (C) — ~~Objection.~~ Within 14 days
210 after service of a response, a party in interest
211 may file an objection to the response.

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212 (h) ~~ORDER DETERMINING THE STATUS~~
213 ~~OF A MORTGAGE CLAIM.~~

214 (13) ~~No Response~~ *Court Determination of*
215 *Final Cure and Payment.* ~~If the claim holder fails to~~
216 ~~comply with an order under (g)(2)(B) to respond to~~
217 ~~the trustee’s motion, the court may enter an order~~
218 ~~determining that:~~

219 (A) ~~as of the date of the motion,~~
220 ~~the debtor is current on all payments that the~~
221 ~~plan requires to be paid to the claim~~
222 ~~holder including all escrow amounts; and~~

223 (B) ~~all postpetition legal fees,~~
224 ~~expenses, and charges incurred or imposed~~
225 ~~by the claim holder have been satisfied in~~
226 ~~full.~~

227 (2) ~~No Objection.~~ ~~If the claim holder~~
228 ~~timely responds and no objection is filed, the court~~
229 ~~may, by order, determine that the amounts stated in~~

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230 ~~the claim holder’s response reflect the status of the~~
231 ~~claim as of the date the response was filed.~~

232 ~~(3) — *Contested Motion.* If an objection is~~
233 ~~filed, the court shall, after notice and a hearing,~~
234 ~~determine the status of the mortgage claim and issue~~
235 ~~an appropriate order. On motion of the debtor or~~
236 ~~trustee and after notice and hearing, the court must~~
237 ~~determine whether the debtor has cured any default~~
238 ~~and paid all required postpetition amounts. The~~
239 ~~trustee or debtor may seek such a determination~~
240 ~~within the following time periods:~~

- 241 • ~~within 28 days after service of the~~
242 ~~response under (g)(2);~~
- 243 • ~~within 45 days after service of the~~
244 ~~trustee’s notice under (g)(1) if no~~
245 ~~response is filed by the claim holder~~
246 ~~under (g)(2); or~~

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- 247 • before the Chapter 13 case is closed
248 if the trustee does not file the notice
249 under (g)(1).

250 (4) — ~~Contents of the Order.~~

251 (A) — ~~Issued Under (h)(2) or (h)(3).~~

252 ~~An order issued under (h)(2) or (h)(3) shall~~
253 ~~include the following information, current as~~
254 ~~of the date of the claim holder’s response or~~
255 ~~such other date that the court may determine:~~

256 — (i) — ~~the principal balance owed;~~

257 — (ii) — ~~the date that the debtor’s next~~
258 ~~payment is due;~~

259 — (iii) — ~~the amount of the next~~
260 ~~payment separately identifying the amount~~
261 ~~due for principal, interest, mortgage~~
262 ~~insurance, taxes, and other escrow amounts,~~
263 ~~as applicable;~~

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264 ~~—— (iv) — the amounts held in any~~
265 ~~escrow, suspense, unapplied funds, or similar~~
266 ~~account; and~~

267 ~~(v) — the amount of any fees,~~
268 ~~expenses, or charges properly noticed under~~
269 ~~(e) that remain unpaid.~~

270 ~~(B) — Issued Under (h)(1). An order~~
271 ~~issued under (h)(1) may include any of the~~
272 ~~information described in (A) and may~~
273 ~~address the treatment of any payment that~~
274 ~~becomes delinquent before the court grants~~
275 ~~the debtor a discharge.~~

276 ~~(h)~~ CLAIM HOLDER’S FAILURE TO GIVE
277 NOTICE OR RESPOND. If the claim holder fails to provide
278 any information ~~as~~ required by this rule, the court may, after
279 notice and a hearing, do one or more of the following:

280 (1) preclude the holder from presenting
281 the omitted information in any form as evidence in

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282 any contested matter or adversary proceeding in the
283 case—unless the court determines that the failure
284 was substantially justified or is harmless; ~~or~~
285 (2) award other ~~appropriate~~—relief,
286 including reasonable expenses and attorney’s fees
287 caused by the failure and, in appropriate
288 circumstances, noncompensatory sanctions; and
289 (3) take any other action authorized by
290 this rule.

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Committee Note

The rule is amended to encourage a greater degree of compliance with its provisions and to ~~provide a more straight-forward and familiar procedure for determining the status of a mortgage claim at the end of a chapter 13 case. It also provides for a new midcase~~ allow assessments of the a mortgage claim’s status while a chapter 13 case is pending in order to give the debtor an opportunity to cure any postpetition defaults that may have occurred. Stylistic changes are made throughout the rule, and its title and subdivision headings have been changed to reflect the amended content.

Subdivision (a), which describes the rule’s applicability, ~~remains largely unchanged. However, the~~ is amended to delete the word “installment” in the phrase “contractual installment payment” ~~was deleted here and throughout the rule~~ in order to clarify the rule’s applicability to reverse mortgages, which are not paid in installments.

In addition to stylistic changes, subdivision (b) is ~~amended to add provisions about the effective date of late payment change notices and~~ to provide more detailed provisions about notice of payment changes for home-equity lines of credit (“HELOCs”) and to add provisions about the effective date of late payment change notices. ~~Subdivision (b)(2) now provides that late notices of a payment increase do not go into effect until the required notice period (at least 21 days) expires. There is no delay, however, in the effective date of an untimely notice of a payment decrease.~~

———The treatment of HELOCs presents a special issue under this rule because the amount owed changes frequently, often in small amounts. Requiring a notice for each change can be overly burdensome. Under new subdivision (b)(~~3~~2),

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a HELOC claimant ~~only needs~~ may choose to file only annual payment change notices—including a reconciliation figure (net overpayment or underpayment for the past year)—unless the payment change in a single month is for more than \$10. This provision also ensures at least 21 days’ notice before a payment change takes effect.

As a sanction for noncompliance, subdivision (b)(3) now provides that late notices of a payment increase do not go into effect until the first payment due date after the required notice period (at least 21 days) expires. The claim holder will not be permitted to collect the increase for the interim period. There is no delay, however, in the effective date of an untimely notice of a payment decrease.

~~Only stylistic~~ The changes are made to subdivisions (c) and (d) are largely stylistic. Stylistic changes are also made to subdivision (e). In addition, the court is given authority, upon motion of a party in interest, to shorten the time for seeking a determination of the fees, expenses, or charges owed. Such a shortening, for example, might be appropriate in the later stages of a chapter 13 case.

Subdivision (f) is new. It provides ~~the a~~ procedure for ~~a midcase assessment of~~ assessing the status of the mortgage at any point while the chapter 13 case is pending, ~~which~~ This optional procedure, which should be used only when necessary and appropriate for carrying out the plan, allows the debtor and the trustee to be informed of any deficiencies in payment and to reconcile records with the claim holder in time ~~in the chapter 13 case~~ to become current before the case is closed. The procedure ~~begins with the trustee providing notice of the status of the mortgage~~ is initiated by motion of the trustee or debtor. An Official Form has been adopted for this purpose. The ~~mortgage~~ claim holder then has to respond if it disagrees with facts

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stated in the motion, again using an Official Form to provide the required information. ~~If the claim holder fails to respond, a party in interest may seek an order compelling a response. A party in interest may also object to the claim holder's response. If an objection is made~~the claim holder's response asserts such a disagreement, the court, after notice and a hearing, will determines the status of the mortgage claim. If the claim holder fails to respond, the court may enter an order favorable to the moving party by default.

As under the former rule, ~~there is an assessment of the status of the mortgage at the end of a chapter 13 case—when the debtor has completed all payments under the plan. The procedure is changed, however, from a notice to a motion procedure that results in a binding order, and time periods for the trustee and claim holder to act have been lengthened~~the trustee must file a notice at the end of the case if the trustee has made payments to the claim holder on a claim covered by the rule. Under subdivision (g), ~~the trustee begins the procedure by filing—within 45 days after the last plan payment is made~~ to the trustee,—~~a motion to determine the status of the mortgage~~ the trustee must file a notice of final cure and payment. An Official Form has been adopted for this purpose. The notice will state the amount that the trustee has paid to cure any default on the claim and whether the default has been cured. It will also state the amount, if any, that the trustee has paid on contractual obligations that came due during the case and whether those payments are current as of the date of the notice. The claim holder then must respond within 28 days after service of the ~~motion~~notice, again using an Official Form to provide the required information. ~~If the claim holder fails to respond, a party in interest may seek an order compelling a response. A party in interest may also object to the response.~~

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~~This process ends with a court order detailing the status of the mortgage (subdivision (h)).~~ Either the trustee or the debtor may file a motion for a determination of final cure and payment. The motion must be filed within 28 days after the claim holder responds to the trustee’s notice under (g)(1), or if ~~If the claim holder fails to respond to the notice, within 45 days after the notice was served. If no notice was filed, the motion may be made at any time before the case is closed.~~ to an order compelling a response, the court may enter an order stating that the debtor is current on the mortgage. If there is a response and no objection to it is made, the order may accept as accurate the amounts stated in the response. If there is both a response and an objection, the ~~The~~ court must will then determine the status of the mortgage. Subdivision (h)(4) specifies the contents of the order. A Director’s Form provides guidance on the type of information that should be included in the order.

Subdivision (h) was previously subdivision (i). ~~It~~ has been amended to clarify that the listed sanctions are authorized in addition to any other actions that the rule authorizes the court to take if the claim holder fails to provide notice or respond as required by the rule. It also expressly states that noncompensatory sanctions may be awarded in appropriate circumstances. Stylistic changes have also been made to the subdivision.

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE¹**

1 **Rule 3002.1. ~~Notice Relating to Chapter 13~~ Claims**
2 **Claim Secured by a Security Interest in the**
3 **Debtor’s Principal Residence ~~in a Chapter~~**
4 **~~13~~ Case²**

5 (a) IN GENERAL. This rule applies in a Chapter
6 13 case to a claim that is secured by a security interest in the
7 debtor’s principal residence and for which the plan provides
8 for the trustee or debtor to make contractual ~~installment~~
9 payments. Unless the court orders otherwise, the ~~notice~~
10 requirements of this rule cease when an order terminating or
11 annulling the automatic stay related to that residence
12 becomes effective.

13 (b) NOTICE OF A PAYMENT CHANGE;
14 HOME-EQUITY LINE OF CREDIT; EFFECT OF AN
15 UNTIMELY NOTICE; OBJECTION.

¹ New material is underlined in red; matter to be omitted is lined through.

² The changes indicated are to the restyled version of Rule 3002.1, not yet in effect.

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(Rule 3002.1 as recommended for republication)

16 (1) *Notice by the Claim Holder.* The
17 claim holder must file a notice of any change in the
18 payment amount ~~of an installment payment~~
19 including any change resulting from an interest-rate
20 or escrow-account adjustment. Except as provided in
21 (b)(2). ~~At~~ at least 21 days before the new payment is
22 due, the notice must be filed and served on:

- 23 • the debtor;
- 24 • the debtor’s attorney; and
- 25 • the trustee.

26 ~~If the claim arises from a home equity line of~~
27 ~~credit, the court may modify this requirement.~~

28 (2) *Notice of a Change in a Home-Equity*
29 *Line of Credit.*

30 (A) *Deadline.* If the claim arises
31 from a home-equity line of credit, the notice
32 of a payment change must be filed and served
33 either as provided in (b)(1) or within one year

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34 after the bankruptcy petition was filed and
35 then at least annually.

36 (B) Contents of the Annual

37 Notice. The annual notice must:

38 (1) state the payment
39 amount due for the month when the
40 notice is filed; and

41 (2) include a reconciliation
42 amount to account for any
43 overpayment or underpayment during
44 the prior year.

45 (C) Amount of the Next Payment.

46 The first payment due at least 21 days after
47 the annual notice is filed and served must be
48 increased or decreased by the reconciliation
49 amount.

50 (D) Effective Date. The new
51 payment amount stated in the annual notice

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52 (disregarding the reconciliation amount) will
53 be effective on the first payment due date
54 after the payment under (C) is made and will
55 remain effective until a new notice becomes
56 effective.

57 (E) Payment Changes Greater
58 Than \$10. If the claim holder opts to give
59 annual notices under (b)(2) and the monthly
60 payment increases or decreases by more than
61 \$10 in any month, the claim holder must file
62 and serve (in addition to the annual notice) a
63 notice under (b)(1) for that month.

64 (3) Effect of an Untimely Notice. If the claim
65 holder does not timely file and serve the notice
66 required by (b)(1) or (b)(2), the effective date of the
67 new payment is as follows:

68 (A) when the notice concerns a
69 payment increase, on the first payment due

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70 date that is at least 21 days after the untimely
71 notice was filed and served, or
72 (B) when the notice concerns a
73 payment decrease, on the first payment due
74 date that is after the date of the notice.

75 (4) Party in Interest’s Objection. A party
76 in interest who objects to ~~the~~ a payment change
77 noticed under (b)(1) or (b)(2) may file and serve a
78 motion to determine ~~whether the change is~~
79 ~~required to maintain payments under~~
80 ~~§ 1322(b)(5)~~ the validity of the payment change.

81 Unless the court orders otherwise, if no motion is
82 filed ~~by~~ before the day ~~before~~ the new payment is
83 due, the change goes into effect on that date.

84 (c) FEES, EXPENSES, AND CHARGES
85 INCURRED AFTER THE CASE WAS FILED; NOTICE
86 BY THE CLAIM HOLDER. The claim holder must file a
87 notice itemizing all fees, expenses, and charges that the

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88 claim holder has incurred after the case was filed that the
89 holder asserts are recoverable against the debtor or the
90 debtor’s principal residence. Within 180 days after the
91 fees, expenses, or charges ~~were~~are incurred, the notice
92 must be filed and served on the individuals listed in (b)(1):

- 93 • ~~the debtor;~~
- 94 • ~~the debtor’s attorney; and~~
- 95 • ~~the trustee.~~

96 (d) FILING NOTICE AS A SUPPLEMENT TO
97 A PROOF OF CLAIM. A notice under (b) or (c) must be
98 filed as a supplement to ~~the~~a proof of claim using Form
99 410S-1 or 410S-2, respectively. The notice is not subject to
100 Rule 3001(f).

101 (e) DETERMINING FEES, EXPENSES, OR
102 CHARGES. On a party in interest’s motion ~~filed within one~~
103 ~~year after the notice in (c) was served~~, the court must, after
104 notice and a hearing, determine whether paying any claimed
105 fee, expense, or charge is required by the underlying

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106 agreement and applicable nonbankruptcy law, ~~to cure a~~
107 ~~default or maintain payments under § 1322(b)(5).~~ The motion
108 must be filed within one year after the notice under (c) was
109 served, unless a party in interest has requested and the court
110 orders a shorter period.

111 (f) MOTION TO DETERMINE STATUS;
112 RESPONSE; COURT DETERMINATION.

113 (1) Timing; Content and Service. At any
114 time after the date of the order for relief under
115 Chapter 13 and until the case is closed, the trustee or
116 debtor may file a motion to determine the status of
117 any claim described in (a). The motion must be
118 prepared using Official Form [] and be served on:

- 119 • the debtor and the debtor’s attorney, if the
- 120 trustee is the movant;
- 121 • the trustee, if the debtor is the movant; and
- 122 • the claim holder.

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123 (2) Response; Content and Service. If
124 the claim holder disagrees with facts set forth in the
125 motion, it must file a response within 21 days after
126 the motion is served. The response must be prepared
127 using Official Form [] and be served on the
128 individuals listed in (b)(1).

129 (3) Court Determination. If the claim
130 holder’s response asserts a disagreement with facts
131 set forth in the motion, the court must, after notice
132 and a hearing, determine the status of the claim and
133 enter an appropriate order. If the claim holder does
134 not respond to the motion, the court may enter an
135 order favorable to the moving party based on the
136 facts set forth in the motion.

137 ~~(f) NOTICE OF THE FINAL CURE~~
138 ~~PAYMENT.~~ TRUSTEE’S END-OF-CASE NOTICE OF
139 PAYMENTS MADE; RESPONSE; COURT
140 DETERMINATION.

Tab 4A – Attachment 2
(Rule 3002.1 as recommended for republication)

141 (1) ~~Contents of a Notice~~ Timing; Content
142 and Service. Within ~~30~~45 days after the debtor
143 completes all payments due to the trustee under a
144 Chapter 13 plan, the trustee ~~—if the trustee has made~~
145 any payments on a claim described in (a)— must file
146 a notice stating:

147 (A) ~~stating that the debtor has paid~~
148 ~~in full the amount required, if any, the trustee~~
149 paid to the claim holder to cure any default
150 ~~on the claim~~ and whether the default has been
151 cured; and

152 (B) the amount, if any, the trustee
153 paid to the claim holder for contractual
154 payments that came due during the pendency
155 of the case and whether contractual payments
156 are current as of the date of the notice.

157 ~~informing the claim holder of its obligation to file and~~
158 ~~serve a response under (g).~~

Tab 4A – Attachment 2
(Rule 3002.1 as recommended for republication)

159 The notice must also inform the claim holder of its
160 obligation to respond under (g)(2). The notice must
161 be prepared using Official Form [] and be served on:

- 162 • the claim holder;
- 163 • the debtor;
- 164 • and debtor’s attorney.

165 ~~(2) — *Serving the Notice.* The notice must be~~
166 ~~served on:~~

- 167 • ~~the claim holder;~~
- 168 • ~~the debtor; and~~
- 169 • ~~the debtor’s attorney.~~

170 (2) *Response.* The claim holder must file
171 a response to the notice within 28 days after its
172 service. The response must be filed as a supplement
173 to the claim holder’s proof of claim and is not subject
174 to Rule 3001(f). The response must be prepared
175 using Official Form [] and be served on the
176 individuals listed in (b)(1).

Tab 4A – Attachment 2
(Rule 3002.1 as recommended for republication)

177 (3) ~~The Debtor’s Right to File.~~ The
178 debtor may file and serve the notice if:

179 (A) ~~the trustee fails to do so; and~~
180 ~~the debtor contends that the final cure~~
181 ~~payment has been made and all plan payments~~
182 ~~have been completed.~~

183 Court Determination of Final Cure and
184 Payment. On motion of the debtor or trustee and
185 after notice and hearing, the court must determine
186 whether the debtor has cured any default and paid all
187 required postpetition amounts. The trustee or debtor
188 may seek such a determination within the following
189 time periods:

- 190 • within 28 days after service of the
191 response under (g)(2);
- 192 • within 45 days after service of the
193 trustee’s notice under (g)(1) if no

Tab 4A – Attachment 2
(Rule 3002.1 as recommended for republication)

212 ~~postpetition amounts, if any, that the claim~~
213 ~~holder contends remain unpaid as of the~~
214 ~~statement's date.~~

215 ~~(2) — *Persons to be Served.* The holder must~~
216 ~~serve the statement on:~~

- 217 ~~• the debtor;~~
- 218 ~~• the debtor's attorney; and~~
- 219 ~~• the trustee.~~

220 ~~(3) — *Statement to be a Supplement.* The~~
221 ~~statement must be filed as a supplement to the proof~~
222 ~~of claim and is not subject to Rule 3001(f).~~

223 ~~(h) — DETERMINING THE FINAL CURE~~
224 ~~PAYMENT. On the debtor's or trustee's motion filed within~~
225 ~~21 days after the statement under (g) is served, the court~~
226 ~~must, after notice and a hearing, determine whether the~~
227 ~~debtor has cured the default and made all required~~
228 ~~postpetition payments.~~

229 ~~(i)~~ CLAIM HOLDER'S FAILURE TO GIVE

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(Rule 3002.1 as recommended for republication)

230 NOTICE OR RESPOND. If the claim holder fails to provide
231 any information as required by ~~(b), (c), or (g)~~ this rule, the
232 court may, after notice and a hearing, ~~take one or both of~~
233 ~~these actions~~ do one or more of the following:

234 (1) preclude the holder from presenting
235 the omitted information in any form as evidence in
236 any contested matter or adversary proceeding in the
237 case—unless the court determines that the failure
238 was substantially justified or is harmless; ~~and~~

239 (2) award other ~~appropriate~~ relief,
240 including reasonable expenses and attorney’s fees
241 caused by the failure and, in appropriate
242 circumstances, noncompensatory sanctions; and

243 (3) take any other action authorized by
244 this rule.

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(Rule 3002.1 as recommended for republication)

Committee Note

The rule is amended to encourage a greater degree of compliance with its provisions and to allow assessments of a mortgage claim’s status while a chapter 13 case is pending in order to give the debtor an opportunity to cure any postpetition defaults that may have occurred. Stylistic changes are made throughout the rule, and its title and subdivision headings have been changed to reflect the amended content.

Subdivision (a), which describes the rule’s applicability, is amended to delete the word “installment” in the phrase “contractual installment payment” in order to clarify the rule’s applicability to reverse mortgages, which are not paid in installments.

In addition to stylistic changes, subdivision (b) is amended to provide more detailed provisions about notice of payment changes for home-equity lines of credit (“HELOCs”) and to add provisions about the effective date of late payment change notices. The treatment of HELOCs presents a special issue under this rule because the amount owed changes frequently, often in small amounts. Requiring a notice for each change can be overly burdensome. Under new subdivision (b)(2), a HELOC claimant may choose to file only annual payment change notices—including a reconciliation figure (net overpayment or underpayment for the past year)—unless the payment change in a single month is for more than \$10. This provision also ensures at least 21 days’ notice before a payment change takes effect.

As a sanction for noncompliance, subdivision (b)(3) now provides that late notices of a payment increase do not go into effect until the first payment due date after the required notice period (at least 21 days) expires. The claim

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holder will not be permitted to collect the increase for the interim period. There is no delay, however, in the effective date of an untimely notice of a payment decrease.

The changes made to subdivisions (c) and (d) are largely stylistic. Stylistic changes are also made to subdivision (e). In addition, the court is given authority, upon motion of a party in interest, to shorten the time for seeking a determination of the fees, expenses, or charges owed. Such a shortening, for example, might be appropriate in the later stages of a chapter 13 case.

Subdivision (f) is new. It provides a procedure for assessing the status of the mortgage at any point while the chapter 13 case is pending. This optional procedure, which should be used only when necessary and appropriate for carrying out the plan, allows the debtor and the trustee to be informed of any deficiencies in payment and to reconcile records with the claim holder in time to become current before the case is closed. The procedure is initiated by motion of the trustee or debtor. An Official Form has been adopted for this purpose. The claim holder then has to respond if it disagrees with facts stated in the motion, again using an Official Form to provide the required information. If the claim holder's response asserts such a disagreement, the court, after notice and a hearing, will determine the status of the mortgage claim. If the claim holder fails to respond, the court may enter an order favorable to the moving party by default.

As under the former rule, the trustee must file a notice at the end of the case if the trustee has made payments to the claim holder on a claim covered by the rule. Under subdivision (g), within 45 days after the last plan payment is made to the trustee, the trustee must file a notice of final cure and payment. An Official Form has been adopted for this

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purpose. The notice will state the amount that the trustee has paid to cure any default on the claim and whether the default has been cured. It will also state the amount, if any, that the trustee has paid on contractual obligations that came due during the case and whether those payments are current as of the date of the notice. The claim holder then must respond within 28 days after service of the notice, again using an Official Form to provide the required information.

Either the trustee or the debtor may file a motion for a determination of final cure and payment. The motion must be filed within 28 days after the claim holder responds to the trustee’s notice under (g)(1), or if the claim holder fails to respond to the notice, within 45 days after the notice was served. If no notice was filed, the motion may be made at any time before the case is closed. The court will then determine the status of the mortgage. A Director’s Form provides guidance on the type of information that should be included in the order.

Subdivision (h) was previously subdivision (i). It has been amended to clarify that the listed sanctions are authorized in addition to any other actions that the rule authorizes the court to take if the claim holder fails to provide notice or respond as required by the rule. It also expressly states that noncompensatory sanctions may be awarded in appropriate circumstances. Stylistic changes have also been made to the subdivision.