

United States Bankruptcy Court

District of \_\_\_\_\_

In re \_\_\_\_\_, Debtor

Case No. \_\_\_\_\_

Chapter 13

**Response to [Trustee's/Debtor's] Motion to Determine Final Cure and Payment of the Mortgage Claim**

\_\_\_\_\_ (claim holder) states as follows:

1. The following information relates to the mortgage claim at issue:

**Name of Claim Holder:** \_\_\_\_\_ **Court claim no.** (if known): \_\_\_\_\_

**Last 4 digits** of any number used to identify the debtor's account: \_\_\_\_\_

**Property address:** \_\_\_\_\_

\_\_\_\_\_

City

\_\_\_\_\_

State

\_\_\_\_\_

ZIP Code

2. Arrearages

The total amount received to cure any arrearages as of the date of this response is

\$ \_\_\_\_\_.

Check all that apply:

☐ As of the date of this response, the debtor has paid in full the amount required to cure any arrearage on this mortgage claim.

☐ As of the date of this response, the debtor has not paid in full the amount required to cure any prepetition arrearage on this mortgage claim. The total prepetition arrearage amount remaining unpaid as of the date of this response is:

\$ \_\_\_\_\_.

☐ As of the date of this response, the debtor has not paid in full the amount required to cure any postpetition arrearage on this mortgage claim. The total postpetition arrearage amount remaining unpaid as of the date of this response is:

\$ \_\_\_\_\_.

### 3. Postpetition Payments

(a) Check all that apply:

- ☐ The debtor is current on all postpetition payments, including all fees, charges, expenses, escrow, and costs.
- ☐ The debtor is not current on all postpetition payments. The debtor is obligated for the postpetition payment(s) that first became due on: \_\_\_\_/\_\_\_\_/\_\_\_\_.
- ☐ The debtor has fees, charges, expenses, negative escrow amounts, or costs due and owing.

(b) The claim holder attaches a payoff statement and provides the following information as of the date of this response:

- i. Date last payment was received on the mortgage: \_\_\_\_/\_\_\_\_/\_\_\_\_
- ii. Date next postpetition payment from the debtor is due: \_\_\_\_/\_\_\_\_/\_\_\_\_
- iii. Amount of the next postpetition payment that is due: \$ \_\_\_\_\_
- iv. Unpaid principal balance of the loan: \$ \_\_\_\_\_
- v. Additional amounts due for any deferred or accrued interest: \$ \_\_\_\_\_
- vi. Balance of the escrow account: \$ \_\_\_\_\_
- vii. Balance of unapplied funds or funds held in a suspense account: \$ \_\_\_\_\_
- viii. Total amount of fees, charges, expenses, negative escrow amounts, or costs remaining unpaid: \$ \_\_\_\_\_

### 4. Itemized Payment History

Include if applicable:

Because the claim holder disagrees that the arrearages have been paid in full or states that the debtor is not current on all postpetition payments or that fees, charges, expenses, escrow, and costs are due and owing, the claim holder attaches an itemized payment history disclosing the following amounts from the date of the bankruptcy filing through the date of this response:

- all prepetition and postpetition payments received;

- the application of all payments received;
- all fees, costs, escrow, and expenses that the claim holder asserts are recoverable against the debtor or the debtor's principal residence; and
- all amounts the claim holder contends remain unpaid.

[5. If needed, add other information relevant to the response].

\_\_\_\_\_  
Signature Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Print \_\_\_\_\_ Title \_\_\_\_\_  
Name

Company \_\_\_\_\_

If different from the notice address listed on the proof of claim to which this response applies:

Address \_\_\_\_\_  
Number Street  
\_\_\_\_\_  
City State ZIP Code

Contact phone (\_\_\_\_\_) \_\_\_\_-\_\_\_\_ Email \_\_\_\_\_

The person completing this response must sign it. Check the appropriate box:

- ☐ I am the claim holder.
- ☐ I am the claim holder's authorized agent.

### **Committee Note**

Official Forms 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R are new. They are adopted to implement new and revised provisions of Rule 3002.1 that prescribe procedures for determining the status of a home mortgage claim in a chapter 13 case.

Official Forms 410C13-M1 and 410C13-M1R implement Rule 3002.1(f). Form 410C13-M1 is used if either the trustee or the debtor moves to determine the status of a home mortgage at any time during a chapter 13 case prior to the trustee's Notice of Disbursements Made. If the trustee files the motion, she must disclose the payments she has made to the holder of the mortgage claim so far in the case. If the debtor, rather than the trustee, has been making the postpetition payments, the trustee should state in part 4 that she has paid \$0. If the debtor files the motion, he should provide information about any payments he has made and any payments made by the trustee of which the debtor has knowledge.

Within 28 days after service of the trustee's or debtor's motion, the holder of the mortgage claim must file a response, using Official Form 410C13-M1R, if it disputes any facts set forth in the motion. *See* Rule 3002.1(f)(2). The claim holder must indicate whether the debtor has paid the full amount required to cure any arrearage and whether the debtor is current on all postpetition payments. The claim holder must provide a payoff statement, and, if the claim holder says that the debtor is not current on all payments, it must attach an itemized payment history for the postpetition period.

Official Form 410C13-N is to be used by a trustee to provide the notice required by Rule 3002.1(g)(1) to be filed at the end of the case. This notice must be filed within 45

days after the debtor completes all payments due to the trustee, and it requires the trustee to report on the amounts the trustee paid to cure any arrearage, for postpetition mortgage obligations, and for postpetition fees, expenses, and charges. The trustee must also provide her disbursement ledger for all payments she made to the claim holder or provide the web address where it can be accessed.

Within 28 days after service of the trustee's notice, the holder of the mortgage claim must file a response using Official Form 410C13-NR. *See* Rule 3002.1(g)(3). The claim holder must indicate whether the debtor has paid the full amount required to cure any arrearage and whether the debtor is current on all postpetition payments. It must also provide a payoff statement. If the claim holder says that the debtor is not current on all payments, it must attach an itemized payment history for the postpetition period. The response, which is not subject to Rule 3001(f), must be filed as a supplement to the claim holder's proof of claim.

Official Forms 410C13-M2 and 410C13-M2R implement Rule 3002.1(g)(4). Form 410C13-M2 is used if either the trustee or the debtor moves at the end of the case to determine whether the debtor has cured all arrearages and paid all required postpetition amounts. If the trustee files the motion, she must disclose the payments she has made to the holder of the mortgage claim. If the debtor, rather than the trustee, has been making the postpetition payments, the trustee should state in part 4 that she has paid \$0. If the debtor files the motion, he should provide information about any payments he has made and any payments made by the trustee of which the debtor has knowledge.

Within 28 days after service of the trustee's or debtor's motion, the holder of the mortgage claim must file a response, using Official Form 410C13-M2R, if it disputes

any facts set forth in the motion. *See* Rule 3002.1(g)(4)(B). The claim holder must indicate whether the debtor has paid the full amount required to cure any arrearage and whether the debtor is current on all postpetition payments. The claim holder must provide a payoff statement, and, if the claim holder says that the debtor is not current on all payments, it must attach an itemized payment history for the postpetition period.

Official Form 410S1, Notice of Mortgage Payment Change, is amended to provide space for an annual HELOC notice. As required by Rule 3002.1(b)(2), new Part 3 solicits disclosure of the existing payment amount, a reconciliation amount representing underpayments or overpayments for the past year, the next payment amount (including the reconciliation amount), and the new payment amount thereafter (without the reconciliation amount). The sections of the form previously designated as Parts 3 and 4 are redesignated Parts 4 and 5, respectively.

## **Instructions for Response to [Trustee's/Debtor's] Motion Under Rule 3002.1(g)(4) to Determine Final Cure and Payment of the Mortgage Claim**

United States Bankruptcy Court

12/25

### **Introduction**

This form is used only in chapter 13 cases. It is filed by the holder of a claim secured by a security interest in the debtor's principal residence in response to the trustee's or debtor's Motion to Determine Final Cure and Payment of the Mortgage Claim.

### **Applicable Law and Rules**

Rule 3002.1 of the Federal Rules of Bankruptcy Procedure addresses claims secured by a security interest in a chapter 13 debtor's principal residence. Subdivision (g) of that rule requires the trustee at the end of the case to file a notice stating the total amount the trustee disbursed to the claim holder to cure any default and the total amount disbursed for payments that came due during the pendency of the case. The claim holder must respond to the notice. Thereafter Rule 3002.1(g)(4) authorizes the trustee or debtor to file a motion seeking a court determination of whether the debtor has cured all defaults and paid all required postpetition amounts. The claim holder must respond to the motion if it disagrees with the facts set forth in the motion. The response must be filed within 28 days after the motion is served, using this form. The response must be served on the debtor, the debtor's attorney, and the trustee.

### **Directions**

#### **Information required in 1**

Insert on the appropriate spaces:

- the claim holder's name;
- the court claim number, if known;
- the last 4 digits of the loan account number or any other number used to identify the account;
- the address of the principal residence securing the claim.

#### **Information required in 2**

This section responds to line 2 of the motion.

- Insert in the appropriate space the total amount received, as of the date of the response, to cure any prepetition or postpetition arrearage. This amount should include payments received to cure any default occurring as of the date of the petition or thereafter, but not payments for postpetition fees, charges, expenses, escrow, and costs, which are reported in line 3.
- Check all the applicable boxes and provide the information requested.

**Information required in 3**

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This section responds to lines 3 and 4 of the motion.

- In (a), indicate by checking the appropriate box(es) whether the debtor is current on payments that came due postpetition or, if not, whether past due payments are owed for postpetition obligations on the loan (such as regular monthly payments on the loan); fees, charges, expenses, negative escrow amounts, or costs; or both.
- In (b), attach a payoff statement and provide the information requested.

**Information required in 4**

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If the claim holder has indicated that the debtor is not current on all payments due on the claim, attach an itemized payment history that provides the specified information.

**Information required in 5**

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The person completing the form should sign it and provide the requested information.