

2015 COMMITTEE NOTE

Official Form 410, *Proof of Claim*, applies in all cases. Form 410 replaces Official Form 10, Proof of Claim. It is renumbered to distinguish it from the forms used by debtors for case opening, and includes stylistic changes throughout the form. It is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. Because the goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats, many of the open-ended questions and multiple-part instructions have been replaced with more specific questions.

Official Form 410 has been substantially reorganized. A new question has been added at line 10 that solicits information about claims based on leases.

Official Form 410A, *Mortgage Proof of Claim Attachment*, is revised in its content and format. Rather than requiring a home mortgage claimant to fill in blanks with itemized information about the principal, interest, and fees due as of the petition date and the amount necessary to cure a prepetition default, the form now requires the claimant to provide a loan history that reveals when payments were received, how they were applied, when fees and charges were incurred, and when escrow charges were satisfied. Because completion of the revised form can be automated, it will permit claimants to comply with Rule 3001(c)(2)(C) with efficiency and accuracy. Attachment of a loan history with a home mortgage proof of claim will also provide transparency about the basis for the claimant's calculation of the claim and arrearage amount.

The loan history should begin with the first date on which the borrower failed to make a payment in accordance with the terms of the note and mortgage, unless the note was subsequently brought current with no principal,

Official Form 10 (Committee Note)

interest, fees, escrow payments, or other charges immediately payable.

Official Forms 410S1 and 410S2, *Notice of Mortgage Payment Change* and *Notice of Postpetition Mortgage Fees, Expenses, and Charges*, are revised as part of the Forms Modernization Project. There are formatting changes throughout the forms.

HISTORICAL NOTES

2012 COMMITTEE NOTE

Section 7 of the form is amended to remind filers of the need to attach documents required by Rule 3001(c) for claims based on an open-end or revolving consumer credit agreement or claims secured by a security interest in the debtor's principal residence.

Section 8 is revised to delete the direction that an authorized agent attach a power of attorney if one exists. Rule 9010(c) does not require that an agent's authority to file a proof of claim be evidenced by a power of attorney.

2011 COMMITTEE NOTE

The form is amended in several respects. A new section—3b—is added to allow the reporting of a uniform claim identifier. This identifier, consisting of 24 characters, is used by some creditors to facilitate automated receipt, distribution, and posting of payments made by means of electronic funds transfers by chapter 13 trustees. Creditors are not required to use a uniform claim identifier.

Language is added to section 4 to clarify that the annual interest rate that must be reported for a secured claim is the rate applicable at the time the bankruptcy case was filed. Checkboxes for indicating whether the interest rate is fixed or variable are also added.

Section 7 of the form is revised to clarify that, consistent with Rule 3001(c), writings supporting a claim or evidencing perfection of a security interest must be attached to the proof of claim. If the documents are not available, the filer must provide an explanation for their absence. The instructions for this section of the form explain that summaries of supporting documents may be attached only in addition to the documents themselves.

Section 8—the date and signature box—is revised to include a declaration that is intended to impress upon the filer the duty of care that must be exercised in filing a proof

of claim. The individual who completes the form must sign it. By doing so, he or she declares under penalty of perjury that the information provided “is true and correct to the best of my knowledge, information and reasonable belief.” That individual must also provide identifying information— name; title; company; and, if not already provided, mailing address, telephone number, and email address—and indicate by checking the appropriate box the basis on which he or she is filing the proof of claim (for example, as creditor or authorized agent for the creditor). Because a trustee or debtor that files a proof of claim under Rule 3004 will indicate that basis for filing here, the checkbox on the first page of the form for stating the filer’s status as a trustee or debtor is deleted. When a servicing agent files a proof of claim on behalf of a creditor, the individual completing the form must sign it and must provide his or her own name, as well as the name of the company that is the servicing agent.

Amendments are made to the instructions that reflect the changes made to the form, and stylistic and formatting changes are made to the form and instructions. Spaces are added for providing email addresses in addition to other contact information in order to facilitate communication with the claimant. The provision of this additional information does not affect any requirements for serving or providing official notice to the claimant.

2011 COMMITTEE NOTE – ATTACHMENT A

This form [*Attachment A*] is new. It must be completed and attached to a proof of claim secured by a security interest in a debtor’s principal residence. The form, which implements Rule 3001(c)(2), requires an itemization of prepetition interest, fees, expenses, and charges included in the claim amount, as well as a statement of the amount necessary to cure any default as of the petition date. If the mortgage installment payments include an escrow deposit, an escrow account statement must also be attached to the proof of claim, as required by Rule 3001(c)(2)(C).

2011 COMMITTEE NOTE – SUPPLEMENT 1

This form [*Supplement 1*] is new and applies in chapter 13 cases. It implements Rule 3002.1, which requires the holder of a claim secured by a security interest in the debtor's principal residence—or the holder's agent—to provide notice at least 21 days prior to a change in the amount of the ongoing mortgage installment payments. The form requires the holder of the claim to indicate the basis for the changed payment amount and when it will take effect. The notice must be filed as a supplement to the claim holder's proof of claim, and it must be served on the debtor, debtor's counsel, and the trustee.

The individual completing the form must sign and date it. By doing so, he or she declares under penalty of perjury that the information provided is true and correct to the best of that individual's knowledge, information, and reasonable belief. The signature is also a certification that the standards of Rule 9011(b) are satisfied.

2011 COMMITTEE NOTE – SUPPLEMENT 2

This form [*Supplement 2*] is new and applies in chapter 13 cases. It implements Rule 3002.1, which requires the holder of a claim secured by a security interest in the debtor's principal residence—or the holder's agent—to file a notice of all postpetition fees, expenses, and charges within 180 days after they are incurred. The notice must be filed as a supplement to the claim holder's proof of claim, and it must be served on the debtor, debtor's counsel, and the trustee.

The individual completing the form must sign and date it. By doing so, he or she declares under penalty of perjury that the information provided is true and correct to the best of that individual's knowledge, information, and reasonable belief. The signature is also a certification that the standards of Rule 9011(b) are satisfied.

2008 COMMITTEE NOTE

The form is amended at box seven on page one, and instructions two and seven on page two, to instruct the claimant that the information contained in or attached to a

claim based on the delivery of health care goods or services should be limited so as to avoid embarrassment or the unnecessary disclosure of confidential information. The claimant is informed that additional disclosure may be required if the trustee or another party in interest objects to the claim.

Page two of the form is also amended to revise slightly the definitions of "creditor" and "claim" to conform more closely to the definitions of those terms in the Code.

2005-2007 COMMITTEE NOTE¹

The form is amended to conform to changes in the priority afforded the claims of certain creditors in § 507(a) of the Code as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (April 20, 2005).

In addition, the form and its instructions are amended in several respects based on the experiences of creditors and trustees in using it and on the technological changes that have occurred in the courts' processing of claims. A definition of the word "redacted" has been added in conformity with Rule 9037.

The creditor now has a space in which to provide a separate payment address if different from the creditor's address for receiving notices in the case. The checkboxes for indicating that the creditor's address provided on the proof of claim is a new address, and that the creditor never received any notices from the court in the case have been deleted. The computer systems now used by the courts make it unnecessary for a creditor to "flag" a new address or call attention to the fact that the creditor is making its first appearance in the case. In place of the deleted items is a new checkbox to be used when a debtor or a trustee files a proof of claim for a creditor; it will alert the clerk to send the notice required by Rule 3004. The box for indicating whether the claim replaces a previously filed claim also has

¹The 2005-2007 Committee Note incorporates the Committee Note previously published in 2005.

been deleted as no longer necessary in light of the 2005 amendments to Rules 3004 and 3005. The creditor simply will amend the claim filed by the other party.

Requests for the creditor to state the date on which the debt was incurred and the date on which any court judgment concerning the debt was obtained have been deleted, based on reports from trustees that they rely on the documents supporting the claim for this information. The checkboxes for stating the basis for the creditor's claim have been replaced with a blank in which the creditor is to provide this information. Examples of the most common categories, based on the former checkboxes, can be found in the instructions on the form. The request to state the account number by which the creditor identifies the debtor has been moved to paragraph 3 of the form and has been revised to request only the last four digits of the number, in conformity with Rule 9037. In addition, a new paragraph 3a gives the creditor a place to notify the trustee and the court of any change in the creditor's name, or that the claim has been transferred, or to provide any other information to clarify a difference between the proof of claim and the creditor's claim as scheduled by the debtor.

The adjective "total" is deleted from the sections of the form where the creditor states the amount of the claim and the creditor now simply reports the amount of the claim. If the claim is a general unsecured claim, no further details are stated on the form, although a creditor still must attach a copy of any writing on which the claim is based, as required by Rule 3001(c), and must attach a statement itemizing any interest or other charges (in addition to the principal) that are included in the claim. If the claim or any part of it is secured or entitled to priority under § 507(a) of the Code, the creditor is directed to provide details in the appropriate sections of the form. The creditor now states the amount to be afforded priority only once, in the section of the form designated for describing the specific priority being asserted. The introductory language in the section where the creditor describes any priority to which it is entitled has been revised for clarity. The word "collateral"

has been replaced with the less colloquial and more accurate phrase "lien on property" throughout the form.

Information about obtaining acknowledgment from the court of the filing of the proof of claim is revised and moved to a new section on the reverse side called "Information." This new section also alerts a creditor to the possibility that it may be approached about selling its claim, advises that the court has no role in any such solicitations, and states that a creditor is under no obligation to accept any offer to purchase its claim. A new instruction is added about signing a proof of claim. This instruction includes citations to Rules 9011 and 5005(a)(2) concerning signature requirements in an electronic filing environment.

Finally, all of the definitions and instructions on the reverse side of the form are amended generally to reflect the deletions, additions, and other changes made on page 1. These include a reminder to the creditor to keep the court informed of any changes in its address. The instructions now appear at the top of the page, and the text is revised both to reflect the substantive changes to the form and to improve the clarity and style of this explanatory material.

2005 COMMITTEE NOTE

The form is amended to conform to changes in the priority afforded the claims of certain creditors in § 507(a) of the Code as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (April 20, 2005).

2003 COMMITTEE NOTE

The form is amended to require a wage, salary, or other compensation creditor to disclose only the last four digits of the creditor's social security number to afford greater privacy to the creditor. A trustee can request the full information necessary for tax withholding and reporting at the time the trustee makes a distribution to creditors.

1997 COMMITTEE NOTE

Numbered sections 4. and 5. of the form have been reformatted to eliminate redundant information and make it easier to complete the form correctly. A creditor will report the total amount of the claim first, and will report only that amount unless the claim is secured by collateral or entitled to a priority under § 507 of the Code.

Explanatory definitions and instructions for completing the form also have been added.

1995 COMMITTEE NOTE

The form is amended to add the seventh priority granted by the Bankruptcy Reform Act of 1994 to debts for alimony, maintenance, or support of a spouse, former spouse, or child of the debtor. The form also amends the Code reference to the priority afforded to tax debts and the dollar maximums for the priorities granted to wages and customer deposits in conformity with amendments made by the 1994 Act to section 507(a) of the Code. The 1994 Act also amended section 104 of the Code to provide for future adjustment of the dollar amounts specified in section 507(a) to be made by administrative action at three-year intervals to reflect changes in the consumer price index. The form is amended to include notice that these dollar amounts are subject to change without formal amendment to the official form.

1993 COMMITTEE NOTE

The form has been amended to accommodate inclusion of the priority afforded in § 507(a)(8) of the Code, which was added by Pub. L. No. 101-647, (Crime Control Act of 1990), and to avoid the necessity of further amendment to the form if other priorities are added to § 507(a) in the future. In addition, sections 4 and 5 of the form have been amended to clarify that only prepetition arrearages and charges are to be included in the amount of the claim.

1991 COMMITTEE NOTE

Official Form 10 (Committee Note)

This form replaces former Official Forms No. 19, No. 20, and No. 21. The box format and simplified language are intended to facilitate completion of the form.

The form directs the claimant to attach documents to support the claim or, if voluminous, a summary of such documents. These include any security agreement (if not included in the writing on which the claim is founded), and evidence of perfection of any security interest. See Committee Note to Rule 3001(d) concerning satisfactory evidence of perfection. If the claim includes prepetition interest or other charges such as attorney fees, a statement giving a detailed breakdown of the elements of the claim is required.

Rule 2002(g) requires the clerk to update the mailing list in the case by substituting the address provided by a creditor on a proof of claim, if that address is different from the one supplied by the debtor. The form contains checkboxes to assist the clerk in performing this duty. The form also alerts the trustee when the claim is an amendment to or replacement for an earlier claim.