

Major Changes to Bankruptcy Rule 3002.1

John Rao

National Consumer Law Center



Overview

Rule 3002.1 amendments effective on December 1, 2025

1. Coverage of rule
2. HELOC payment changes
3. Untimely payment change notices
4. Status of mortgage claim
5. Determination of final cure
6. Sanctions

Coverage of Rule 3002.1

Expands Coverage of Rule 3002.1

- Rule 3002.1(a) now provides that rule applies to claims:
 - secured by a security interest in the debtor's principal residence and
 - “for which the plan provides that either the trustee or the debtor will make **contractual installment** payments”
- “Installment” was deleted to clarify that rule applies to reverse mortgages
- “Contractual” was deleted, making rule apply to paid in full claims

HELOC Payment Changes

HELOC Payment Changes

- Authority given to local courts under 2018 amendment to modify payment change notice (PCN) requirements for HELOCs was deleted
- Rule 3002.1(b)(2) now provides that PCN for HELOC claims must be filed and served either:
 - in same manner as other claims, as provided in Rule 3002.1(b)(1), or
 - within one year after the chapter 13 petition is filed, and then at least annually
- If creditor elects annual statements and monthly payment increases or decreases by more than \$10 in any month, creditor must file and serve PCN for that month, in addition to providing the annual notices
- If an annual notice is sent, it must include a reconciliation amount that accounts for any payment changes that were \$10 or less in any months during the prior year

Example

- Assume creditor elects to send annual notices and determines at year end that debtor's actual monthly payments resulted in an underpayment of \$90, and that debtor's new monthly payment amount for next year is \$600
- If creditor files and serves annual notice on April 5 and payments are due on the first of the month, debtor's first payment that is due on May 1 will be \$690 (new monthly payment plus \$90 reconciliation amount)
- Debtor's monthly payment will return to \$600 per month on June 1 and for rest of the year (assuming monthly payment does not increase or decrease by more than \$10 in any month and no new notice becomes effective)

Sanction for Untimely Payment Change Notice

New Rule 3002.1(b)(3)

- New Rule 3002.1(b)(3) deals with effect of PCN that is not timely filed and served
- If untimely PCN when filed indicates that debtor's payment has increased, the first payment due date must be at least 21 days after the untimely notice is filed and served
- If untimely PCN indicates that debtor's payment has decreased, the first payment is due on the actual payment due date based on mortgage contract terms, even if this date is earlier than when the untimely notice is filed and served
 - Advisory Committee Note refers to Rule 3002.1(b)(3) as "a sanction for noncompliance." As such, it should mean that:
 - creditor cannot seek reimbursement from the debtor for any underpayment resulting from an untimely notice
 - creditor should issue a credit to the account or a refund to the debtor or the trustee (if trustee is disbursing mortgage payments) for any overpayment

Example

- Assume mortgage contract requires creditor to increase debtor's monthly payment from \$900 to \$975, effective Aug. 1, 2025
- However, creditor does not file and serve PCN until Nov. 5, 2025, instead of early July as required by the Rule 3002.1(b)
- Rule 3002.1(b)(3)(A) provides that payment change does not go into effect until Dec. 1, 2025, at the earliest (preventing creditor from ever recovering underpayment resulting from lower \$900 payment made between Aug. 1 and Nov. 30)
- If untimely notice filed on Nov. 5 indicates that debtor's payment instead has decreased to \$850, Rule 3002.1(b)(3)(B) provides that this payment change went into effect on August 1 (entitling the debtor to a refund or credit for any months that debtor paid more than \$850)

Motion to Determine Status

New Rule 3002.1(f)

- New Rule 3002.1(f) creates a procedure for determining the status of a mortgage claim during the chapter 13 case
- At any time after the case is filed and until the trustee files the end-of-case notice of disbursements under Rule 3002.1(g)(1), the trustee or debtor may file a motion to determine the status of the claim
- Rule is intended to help debtors successfully complete cure plans, by allowing debtor and 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.”
- Rule does not limit how often a motion may be filed, but
 - Advisory Committee Note describes it as an “optional procedure” that should be used “only when necessary and appropriate for carrying out the plan”

Motion to Determine Status

- The motion to determine status must be prepared using new **Official Form 410C13-M1**
- This form instructs trustee or debtor to list the amount of payments disbursed to cure any arrearages as of the date of the motion (in paragraph 2)
- Trustee or debtor may also list:
 - amount of any payments disbursed for postpetition fees, expenses, and charges (in paragraph 3), and
 - any payments made on other postpetition obligations (in paragraph 4)

Creditor Response to Motion

- If creditor disagrees with facts set forth in the motion, it must file a response within 28 days after the motion is served, using new **Official Form 410C13-M1R**
- Form requests that creditor state:
 - total amount it has received to cure any arrearages as of response date.
 - whether or not the debtor is current on all postpetition payments, including “all fees, charges, expenses, escrow, and costs.”
- Creditor is required to attach a payoff statement containing various information as specified in paragraph 3(b) of form, to assist in verifying the status of the claim.
- Creditor must also attach an itemized payment history if it asserts that (1) arrearages have not been paid in full, (2) debtor is not current on all postpetition payments, or (3) fees, charges, escrow charges, and costs are due and owing

Court Determination

- If creditor's response disagrees with facts set forth in the motion, the court must:
 - after notice and a hearing, determine the status of the claim and enter an appropriate order
- If creditor does not respond to the motion or files a response agreeing with the facts set forth in it, the court may:
 - grant the motion based on those facts and enter an appropriate order

Trustee's End-of-Case Notice of Disbursements Made

Trustee's Notice of Disbursements Made

- Before 2025 amendments, trustees were required under former Rule 3002.1(f) to file a Notice of Final Cure Payment after the debtor completed all payments under the plan
- New Rule 3002.1(g)(1) provides that within 45 days after debtor completes all payments due to the trustee under the plan, the trustee must file an end-of-case notice of disbursements made
 - Trustee must use new **Official Form 410C13-N**, the “Trustee’s Notice of Disbursements Made”
 - Form instructs trustee to either attach a copy of the trustee’s disbursement ledger for all payments made to the creditor or provide a link or website address for accessing the ledger
- Requirement is mandatory even if debtor directly disburses postpetition payments

Creditor Response to Trustee's Notice

- Amended Rule 3002.1(g)(3) requires mortgage creditor to file a response within 28 days after service of trustee's notice, using new **Official Form 410C13-NR**, "Response to Trustee's Notice of Disbursements Made"
- Creditor must list information about the account, including whether (1) debtor has paid all arrearages to fully cure any default, and (2) debtor is current on all postpetition payments, including all fees, expenses, escrow charges, and costs
 - Creditor must attach a payoff statement that contains information specified on form, such as unpaid principal balance, escrow account balance, and due date and amount of next postpetition payment.
 - If creditor states prepetition arrearage has not been paid in full, debtor is not current on all postpetition payments, or that fees, escrow charges, and costs are due, it must attach an itemized payment history
- Form must be filed as supplement to the creditor's claim and is not entitled to presumptive validity under Rule 3001(f)

Court Determination of a Final Cure

Determination of Final Cure

- Debtor or trustee may obtain order from court determining that debtor has cured all defaults and paid all required postpetition amounts on mortgage claim
 - Request is made by filing motion within 45 days after service of creditor's response, or after service of end-of-case trustee's notice if creditor does not respond to that notice
 - New **Official Form 410C13-M2** must be used, "Motion Under Rule 3002.1(g)(4) to Determine Final Cure and Payment of the Mortgage Claim"
- If creditor disagrees with facts in motion, it must file a response within 28 days after motion is served, using new **Official Form 410C13-M2R**, "Response to [Trustee's/Debtor's] Motion to Determine Final Cure and Payment of the Mortgage Claim"
- After notice and a hearing, court must determine whether debtor has cured all defaults and paid all required postpetition amounts
- If creditor does not respond or files response agreeing with facts asserted in motion, court may enter an appropriate order based on those facts

Sanctions for Noncompliance

Sanctions for Noncompliance

- The sanction provision in Rule 3002.1(h) has been renumbered and is now 3002.1(i)
- This sanction provision was also amended to state that in addition to the actions listed in former Rule 3002.1(h) that a court may take if a creditor fails to provide any information required by Rule 3002.1, the court may also “take any other action authorized by Rule 3002.1”
- This change does not appear to expand the authority of the court to impose sanctions but rather to “clarify that the listed sanctions are authorized in addition to any other actions that the rule authorizes the court to take” (2025 Advisory Committee Note)