

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

Filed By The Court
11/30/22
L. Jefferson Davis, IV
Clerk of Court
US Bankruptcy Court

IN RE:

CONDUIT MORTGAGE PAYMENTS IN
CHAPTER 13 CASES ASSIGNED TO
JUDGE DUNCAN AND JUDGE
GASPARINI

OPERATING ORDER 22-04¹

Effective December 1, 2022, the following procedures shall apply in Chapter 13 cases assigned to Judge David R. Duncan and Judge Elisabetta G.M. Gasparini:

- I. Requirement for the Debtor to make Mortgage Payments to the Trustee.** The debtor is required to propose Mortgage Payments² through a Conduit Plan³ for claims secured by a first priority security interest in the debtor's principal residence (including real property and/or manufactured homes).

- II. Exceptions from Conduit Mortgage Payment Requirement.** A Conduit Plan is not required if:
 - a. the debtor files a plan that proposes to pay a mortgage creditor in full over the life of the plan pursuant to 11 U.S.C. §§ 1322(b)(2) or (c)(2);
 - b. the real property and/or manufactured home securing the mortgage creditor's debt is the subject of a motion to value or surrender;
 - c. the Mortgage Payment is being paid in full directly to the mortgage creditor by a co-debtor;
 - d. at the time of filing the petition or the Conversion Date, the debtor is current on the Mortgage Payments or any delinquency is less than one Mortgage Payment (without consideration of escrow shortages, advances for taxes and/or insurance, or allowed pre-petition fees, expenses, and charges);
 - e. the plan provides for loss mitigation/mortgage modification;
 - f. the claim is for a home equity line of credit (HELOC); or
 - g. the debtor is granted an exception by Court order pursuant to a motion for good cause filed with the plan.

¹ This Operating Order is intended to supplement SC LBR 3015-1.

² "Mortgage Payments" is defined by SC LBR 3015-1(b) as post-petition contractual installment payments secured by a properly perfected mortgage on the debtor's principal residence.

³ A "Conduit Plan" is defined as a Chapter 13 plan that provides for the debtor to make Mortgage Payments to the Chapter 13 Trustee for payment to the mortgage creditor through the Chapter 13 plan.

III. Claims Subject to Payment Through a Conduit Plan. The debtor may propose a Conduit Plan to address:

- a. claims provided in SC LBR 3015-1(b)(1)(B)(5)(a);
- b. with the consent of the Trustee,
 - i. claims provided in SC LBR 3015-1(b)(1)(B)(5)(b);
 - ii. Mortgage Payments for claims secured by a junior priority security interest (but not for home equity line of credit mortgage loans); and/or
 - iii. post-petition contractual installment payments secured by a properly perfected mortgage on real property other than the debtor's principal residence.

AND IT IS SO ORDERED.

/s/David R. Duncan
David R. Duncan, Judge

/s/Elisabetta G.M. Gasparini
Elisabetta G.M. Gasparini, Judge

December 1, 2022