

Is My Mortgage Payment Included in the Chapter 13 Plan? What is a Conduit Mortgage Payment?

If you are a resident of Pima or Pinal County and you are behind on your mortgage, your Chapter 13 plan will have to include your mortgage payments, also known as conduit mortgage payments. Prior to the standing order regarding conduit mortgage payments, debtors who were behind on their mortgage were able to pay their mortgage company directly outside of the plan.

You may be wondering why it matters that your mortgage payments are included in your Chapter 13 plan? Although the trustee takes on the responsibility of paying your mortgage company, there is a 10% fee for each conduit mortgage payment. As a result, I see a significant number of clients who are simply unable to afford their plan payments due to the fact that they have very little disposable income.

Is There Any Way to Avoid Conduit Mortgage Payments?

First, you can petition the court and ask to be excused from the standing order on conduit mortgage payments. However, I have found that bankruptcy judges are reluctant to excuse a debtor from conduit mortgage payments without good cause. The additional cost to the debtor does not alone constitute good cause. You should consult with a qualified Tucson bankruptcy lawyer in handling this motion.

Second, if you are only a couple of months behind on your mortgage, you will want to get current before you file your Chapter 13 bankruptcy. If you are current on your mortgage payments when you file, your mortgage payments will not be included in your Chapter 13 plan. You will pay your mortgage company directly outside of the plan. However, this may not be an option if you are 15 months behind on your mortgage payments.

I have found that conduit mortgage payments have made Chapter 13 very difficult for those with minimal disposable income. A lot of my clients file for Chapter 13 bankruptcy to get caught up on their mortgage payments and are unable to afford the additional fees associated with paying the mortgage through the plan. On the other hand, those Chapter 13 filers who have enough disposable income are unaffected by conduit mortgage payments as the additional cost comes out of the portion that would otherwise go to their unsecured creditors.

If you are resident of Pima or Pinal County and find yourself behind on your mortgage payments, you should consult with an experienced Tucson bankruptcy lawyer or Casa Grande bankruptcy attorney in figuring out whether you will be able to afford your Chapter 13 plan payments.