

12/01/2017 TXSB Chapter 13 Plan Instructions (updated 2/16/2018)

The new Chapter 13 plan form has some specific ways to handle payments to creditors. These are instructions as to how to get creditors to appear in the corresponding paragraphs. If you don't see any instructions, enter the creditor as you have in the past. BankruptcyPRO will also create the Statistical Summary form based on the way your creditors are set in the plan.

If BankruptcyPRO is unable to determine where a creditor should print in the plan, you will get a warning about adding a special provision when you print the plan. However, even if you enter a special provision for that creditor, BankruptcyPRO will continue to alert you.

Paragraph 5: Priority Claims for Domestic Support Obligations

For a creditor to appear in this paragraph, it must be a priority creditor to be paid in the plan. The type of priority will be Domestic Support. It cannot be a direct pay or notice only creditor.

Paragraph 6: Priority Claims (Other than Domestic Support Obligations)

A creditor will appear in this paragraph if it is a priority creditor being paid through the plan. The type of priority will not be Domestic Support. It will not be a direct pay or notice only creditor.

Paragraph 7: Secured Claims for which Collateral is Surrendered

Creditors will appear in this paragraph if they are secured and set to Surrender collateral on the Plan tab. They will not be Notice Only creditors.

Paragraph 8A: Principal Residence (Option A)

Note: Should you wish to have a separate arrearage claim in Paragraph 8, 9 or 11 (e.g., escrow shortage) appear on the Cure Claim row, rather than the Total Debt Claim row, we have added a checkbox on the Special button for the Plan to cause this to happen. This would be a setting for the case; you would need to set it in each case where you want it to happen. We have had several requests for this option.

For the new plan, you will need to "relate" creditors for them to appear in the correct paragraphs. For example, if you have an arrearage claim on a mortgage, you will need to add it using the Make Arrearage Claim button on the Plan tab in the original Mortgage Creditor. The Make Arrearage Claim button effectively clones the original creditor and asks for the amount of the arrearage. When you enter that amount, BankruptcyPRO creates a new Secured Creditor where the claim and value are equal to the amount of the arrearage you entered. The Plan tab will have Principal Residence, Real Property, and For Arrearage checked. For the plan calculator to work correctly, you will need to create your arrearage claims using this method so the creditors will be linked together.

In addition, you will now see a Make Escrow Claim button on the Plan tab. You'll need to use this button to add the Escrow amount so the escrow creditor will be linked (related) to the mortgage creditor in the plan. When you click the Make Escrow Claim, the dialog that pops up asks for a monthly escrow amount and a number of months, or a Total Escrow Amount. Once you click OK, an additional creditor will be created using the first creditor. The claim and value will be equal to the escrow amount (whether calculated or entered by you as a Total Escrow Amount) and the User-Defined Class will be set to Escrow.

Creditors showing in Paragraph 8A will be secured creditors to be paid through the plan. They will be set to Principal Residence on the Plan tab. They will not be arrearage creditors. The user-defined class will not be Class4B (used in the old plan), and it will not be PrinResB (which relates to option B in the new plan), or Class4C (used in the old plan). The user-defined class will not be PrinResC (which relates to option C in the new plan). The user-defined class will not be Class 8 (used in the old plan), or OtherSec, or Escrow.

Escrow Regular. To show the regular Escrow amount, the creditor must be a “related” creditor based on the above criteria for this paragraph. It must be Secured, not arrearage and the user-defined class will be Escrow. To create an Escrow creditor, open the main creditor and use the Make Escrow Claim on the Plan tab.

Arrearage Regular. To show the regular arrearage claim, the creditor must be a “related” creditor based on the above criteria for this paragraph. It must be Secured, Arrearage and the user-defined class cannot be Escrow. To create an Arrearage Claim, open the regular creditor and use the Make Arrearage Claim button on the Plan tab.

Escrow Arrearage. To show an Escrow arrearage claim, the creditor must be a “related” creditor based on the above criteria for this paragraph. It must be Secured, Arrearage and the user-defined class will be Escrow. To create an Escrow arrearage claim, open the Arrearage claim and use the Make Escrow Claim button.

Paragraph 8B: Principal Residence (Option B) (Refinance)

Note: BankruptcyPRO currently only supports one creditor in this section. The information appearing in the table is entered in the special button dialog, but a creditor still needs to be added to the case so the plan calculator allocates the necessary funds. In order for this creditor to be calculated in the plan, it will need to be Secured, Principal Residence, not Arrearage, Retain Collateral. The user-defined class will either be Class4B (from the old plan) or PrinResB. It will not be Notice Only. The checkbox for pay directly or pay through the trustee at the end of the paragraph is handled by the treatment in the plan for the case creditor you added.

Paragraph 8C: Principal Residence (Option C) (Lien-Stripping)

Creditors will appear in this paragraph if they are Secured creditors, Principal Residence, paid through the plan and are attached to a real property asset. They must also have a user-defined class of Class4C (from the old plan) or PrinResC, or the value is less than or equal to \$0.00. They will not have any of the following user-defined classes: Class4A, PrinResA, Class4b, PrinResB, Escrow, or OtherSec. When you order the liens on the assets, BankruptcyPRO will calculate the lien-strip amounts.

Note: If you have a mortgage creditor that will be paid off from the sale of the property and do not wish to show it in the plan (other than Non-Standard Provisions), change the User-Defined Class to NonStdProv. The creditor will no longer print in the Plan form. However, the creditor will show in the plan calculator. To cause the plan calculator not to calculate any payment to that creditor, set the Pay Method/Interest to Long-Term Debt and enter no payments. You will still need to add the Non-Standard Provision on the Special Provisions tab in the Plan Calculator.

Paragraph 9: Secured 910 Day or 1 Year Claims

Creditors will appear in this paragraph if they are Secured creditors. They will not be arrearage creditors. On the Plan tab in the creditor, you'll need to check the box for § 1325(a) (hanging paragraph) applies. The amount to be paid in plan below that checkbox should be set to Claim (disregard unsecured portion, if any). It will not be an arrearage creditor. It should not have appeared in any other paragraph.

Paragraph 9 Arrearage

The arrearage creditor here must be "related" to the ongoing creditor listed in the preceding paragraph. Again, to "relate" a creditor, simply use the Make Arrearage Claim button to create the arrearage creditor. BankruptcyPRO will then link them together in its calculations. This creditor will be the same as the one it came from with the exception that it will have the For Arrearage checkbox checked on the plan tab. When you "Make Arrearage Claim," BankruptcyPRO prompts you for the amount of the arrearage and creates a new creditor where the claim and value are both set to the arrearage amount. The creditor is then treated as fully secured in the plan.

Paragraph 10: Secured Debts on Which There is No Default and to be Paid Directly by the Debtor(s)

Creditors in this paragraph will be Secured and Direct Pay. They will not be surrendered, or avoid lien creditors, or Notice Only creditors. They will not appear in any other paragraphs.

Note: For "Date Last Payment is Due", BankruptcyPRO will print the Plan Summary Remarks.

Paragraph 11: Other Secured Claims (Property to be Retained)

Creditors in this paragraph will be Secured creditors, not Arrearage, and not Escrow. They will not have appeared in any other paragraph. There is a column for Escrow, but it is only applicable if an escrow form ad valorem taxes or property insurance has been required by the holder of the security interest. If the collateral is a vehicle or other personal property, the Escrow amount should be \$0.00 (i.e., don't enter an Escrow claim in BankruptcyPRO).

If you do have to enter an Escrow creditor in Paragraph 11, the creditor will be a secured creditor, paid in the plan, and the user-defined class will be Escrow. (You should use the button to Make Escrow Claim if you need to create one of these creditors.)

Paragraph 11 Arrearage

If you do need to show an Arrearage claim Paragraph 11, the creditor will be a secured creditor, paid in the plan, you should use the Make Arrearage Claim button on the plan tab to create that creditor.

Paragraph 11 Escrow Arrearage

If you do have to enter an Escrow Arrearage creditor in Paragraph 11, you should use the Make Escrow Claim button on the original Arrearage creditor to create the creditor.

Paragraph 14: Secured Claims Satisfied by Transfer of Real Property in Satisfaction of Secured Claim

Creditors in this paragraph must all be attached to the same asset. The creditor(s) will be set to Secured, and Surrender collateral will be selected on the Plan tab. The Transferee creditor

will also be set to Surrender collateral on the Plan tab, but the user-defined class will be Transfer. The user-defined class for the other liens will be set to Secured.

Paragraph 15: Secured Claims on Which Lien is Avoided Under 11 U.S.C. § 522(f)

Creditors in this paragraph will have Claim as exempt and avoid lien selected on the Plan tab. They will be attached to an asset.

Paragraph 16: Specially Classified Unsecured Claims

Creditors in this paragraph will be Special Class Unsecured creditors. They may be treated in the plan, e.g., student loans. These can be paid through the plan or direct pay.

Note: For the "Treatment" portion of the 2nd column, BankruptcyPRO will print the Plan Summary Remarks. If Plan Summary Remarks are not entered, then BankruptcyPRO will generate something based on the calculated monthly payment amount.

Paragraph 18: Executory Contracts

This paragraph will not show Rejected Executory Contracts, but will show Assumed or Assigned Executory Contracts and arrearages.

If an ongoing payment is pushed to the creditors using the Add to Schedule button, BankruptcyPRO will assign a user-defined class of ExecPay. The ongoing creditor should be Direct Pay, and not arrearage. BankruptcyPRO will assign a user-defined class of ExecPay. The form indicates that the Debtor will pay the ongoing and arrearage payments directly.

If an Executory Contract arrearage is pushed to the creditors using the Add to Schedule button. These claims are also set to Direct Pay.

Note: For the treatment column (3rd column), BankruptcyPRO will print the Plan Summary Remarks from the Executory Contract record.

Paragraph 22: Emergency Savings Fund

This will be a special class unsecured creditor. The user-defined class should be set to ESF. In the plan calculator, on the Pay Method Interest tab, choose Pass-Thru. On the fixed payments tab, enter the monthly amounts.

Paragraph 23: Reserve Funds

Reserve for Ad Valorem Taxes, add a Special Class creditor for the amount of the reserve. Set the user-defined class to ResAdValT. It should be available on the user-defined class dropdown list. In the Plan calculator, the pay method will not be ProRata or Pass-Thru.

Reserve for Federal Income Taxes, add a Special Class creditor for the amount of the reserve. Set the user-defined class to ResIncTax. It should be available on the user-defined class dropdown list. In the Plan calculator, the pay method will not be ProRata or Pass-Thru.

Reserve for HOA Fees, add a Special Class creditor for the amount of the reserve. Set the user-defined class to ResHOAFees. It should be available on the user-defined class dropdown list. In the Plan calculator, the pay method will not be ProRata or Pass-Thru.

Reserve for Other Reserve, add a Special Class creditor for the amount of the reserve. Set the user-defined class to ResOther. It should be available on the user-defined class dropdown list. In the Plan calculator, the pay method will not be ProRata or Pass-Thru.

Note: BankruptcyPRO will print the creditor name for the Other Reserve description.

Other Filters Used Either by the Plan or Plan Summary:

Used in the Plan Summary to identify direct payments by debtor(s) under the plan in satisfaction of prepetition priority claims. See Best Interest of Creditors Test (Line 12).

These will be Priority, Direct Pay, and will have a user class of PRDirect.

12/01/2017 TXSB Chapter 13 Plan Modification Instructions

Updated 2/16/2018

The new Chapter 13 plan modification form has some specific ways to handle payments to creditors. These are instructions as to how to get creditors to appear in the corresponding paragraphs. If you don't see any instructions, enter the creditor as you have in the past. BankruptcyPRO will also create the Statistical Summary form based on the way your creditors are set in the plan.

If BankruptcyPRO is unable to determine where a creditor should print in the plan, you will get a warning about adding a special provision when you print the plan. However, even if you enter a special provision for that creditor, BankruptcyPRO will continue to alert you.

Note: Should you wish to have a separate arrearage claim in Paragraph 8, 9 or 11 (e.g., escrow shortage) appear on the Cure Claim row, rather than the Total Debt Claim row, we have added a checkbox on the Special button for the Plan to cause this to happen. This would be a setting for the case; you would need to set it in each case where you want it to happen. We have had several requests for this option. Paragraph 3: Description of Events Causing Need to Modify Plan: These boxes are checked from the Special button on the print dialog for the Modified Plan. You can enter the descriptions there as well.

To initiate a Modified Plan, you will need to set the Start Month for Modified Plan in the Plan Calculator (13 button). When you set that month, a tab will appear for Actual Payments. Enter the amount the Debtor(s) have paid to the trustee so far. You can enter a lump sum in the last month of the grid if you like. Be sure to Enter the First Plan Payment due date on the General tab in the plan, so the grid will show you a month/year display (e.g. 12/2017).

The Variable Payments tab is where you will enter the projected payments going forward in the Modification. The boxes for the months prior to the modification will show the amounts from the Actual Payments tab, but they will be grayed out. These payments will print in Paragraph 4.B of the modified Plan.

You will also need to indicate how much each creditor was paid prior to the Modification. When you set the Start Month for Modified Plan, you enable some additional tabs in the Creditors in the plan. When you double-click on a creditor, you will now see a tab for Pay Method/Interest, a tab for Fixed Payments, and a tab for Actual Distributions. If you choose to do so, you can enter the monthly amounts from the Trustee's website on the Actual Distributions tab. You can also enter a total amount for Principal Paid and for Interest Paid. If you enter the single amounts, BankruptcyPRO will offer to add a record in the last month for you. This is your starting point for the Modified Plan. You generally do not need to enter the Principal Owed or Interest Due amounts unless the amounts calculated by BankruptcyPRO do not agree with the amounts showing on the Trustee's website. The Fixed Payments tab is where you can specify payments going forward in the Modification. If you will be paying the creditor on a pro rata basis going forward, you'll set the Pay Method to Pro Rata and you will

not need to enter any payments on the Fixed Payments tab. These options apply to all creditors which were in the original plan.

It is important that arrearage and escrow creditors be created initially using the Make Arrearage Claim and Make Escrow Claim buttons on the plan tab in the creditors. That will "tie them together" in BankruptcyPRO for purposes of calculation.

You will now see a new section at the bottom left on the Plan tab in the creditors. There will be choices to report the balance in the Remaining Claim column, in the Post-Confirmation Claim Column, or Auto-Detect. There is also a checkbox to tell BankruptcyPRO "Don't show this creditor on Modified Plan." To the right of those choices, there is a button to Add a Post-Confirmation Claim for that creditor. In a modification, if any distributions have been made and Auto-Detect is selected, BankruptcyPRO will list the balance going forward under the Remaining Claim. Otherwise it will list it in the Post-Confirmation Claim column. If necessary, you can control where the amount prints.

NOTE: If you are simply adding a new non-related Post-Confirmation claim, you'll just add a new creditor record.

The "Add Post-Confirmation Claim" button adds a claim for the selected creditor. If there is interest, you may need to set the start month for interest so it does not calculate from the original plan date. If the claim will pay off during the life of the Plan, it will be listed as a total debt claim.

The "Don't Print on Modified Plan" checkbox could be used if there is nothing to pay under the Plan, rather than show a \$0.00 amount. You will probably only use it if it is absolutely necessary to manually suppress a creditor from the Modified Plan.

These adjustment scenarios usually come into play when you are modifying a plan late in the 5-year period:

Scenario 1: Trustee intends to take their whole fee, but hasn't so far.

- a. Check the box to Enter Actual Trustee Fees and enter the amount posted on the Trustee website on the Actual Trustee Fees tab.
- b. Run the plan.
- c. On the length tab, note the Calculated Trustee Fees. (This assumes that the plan pays out.).
- d. Print preview the Modified Plan Summary. Note Line 13 of the Modified Plan Summary. (Chapter 13 Trustee fees).
- e. Subtract the Calculated Trustee Fees (shown on the Length tab in the Plan Calculator) from the Line 13 figure. This will be a manual calculation.

- f. Add a Special Class Unsecured creditor for that amount. Make sure the User-Defined Class is set to TrusteeAdd. That class should appear on the dropdown. The creditor name can be whatever you want to call it since it won't print.
- g. Re-run the Plan.
- h. To get the desired return to Unsecured Creditors, you may need to extend the length of the plan. This will adjust the Total Trustee Fees amount on the tab. When you Print Preview the Modified Plan summary again, that new amount should show on Line 13. There may be a penny or two difference due to rounding.

Scenario 2:

- a. Propose a plan that pays less than the posted amount to the trustee of the pre-modification payments made. (The Trustee may not have taken the full 5.95% pre-modification.)
- b. Check the box to Enter Actual Trustee Fees and enter the amount posted on the Trustee website on the Actual Trustee Fees tab.
- c. Run the plan.
- d. Go to the Print icon. Select the TXSB Modified Plan Summary. Click on the Special button. On the Modified Plan tab, you'll see a checkbox at the bottom to "Report Actual Pre-Modification Trustee Fees on Modified Plan Summary." Check the box. You may need to add a nonstandard provision.
- e. Print/Preview the Modified Plan Summary. Line 12 will now reflect the amount you entered for the Actual Trustee Fees creditor. The calculated amount on the Length tab in the plan calculator may not match what is displayed on the Modified Plan Summary since you are overriding the calculation. This is used when you want to calculate less to the Trustee, and thus, possibly more to the unsecured creditors.