

# Instructions

## For Bankruptcy Forms for Non-Individuals

**General Instructions ..... 2**

Overview of the bankruptcy forms and filing bankruptcy ..... 3

Follow these privacy restrictions..... 3

Understand the terms used in the forms ..... 3

Things to remember when filling out and filing these forms..... 3

Filing amended forms ..... 3

On what date was a debt incurred? ..... 3

About the Process for Filing a Bankruptcy Case for Non-Individuals ..... 4

**Instructions for Selected Forms ..... 6**

Schedule A/B: Real and Personal Property (Official Form 206A/B) ..... 7

Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D) ..... 9

Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F) ..... 11

Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G) ..... 13

**Glossary ..... 14**

Definitions Used in the Forms for Non-Individuals Filing for Bankruptcy ..... 15

# General Instructions

This document provides instructions for completing selected forms that entities other than individuals and municipalities filing for bankruptcy must submit to the U.S. Bankruptcy Court. All of the required forms can be downloaded without charge from:

<http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

The instructions are designed to accompany the forms and are intended to help in understanding what information is required to properly file. The representatives of the debtor working on the forms should review each form and any pertinent instructions before supplying the information for each form.

Although the forms often parallel how businesses commonly keep their financial records, it is not always possible to do so

because information needed in a bankruptcy case is often different from that prescribed under generally accepted accounting principles. These instructions highlight some of the differences between the bankruptcy documents and accounting records. Debtors should complete all of the information required to the best of their ability.

These instructions are not a substitute for legal advice about bankruptcy and the required forms. Completing the forms is only a part of the bankruptcy process.

Non-individual debtors must have an attorney to file for bankruptcy. Although the attorney may prepare the forms using information supplied by the debtor, representatives of the debtor must ensure that the forms are accurate and complete and must sign the forms under penalty of perjury.

## Read This Important Warning

**Non-individual debtors must be represented by an attorney.**

**Bankruptcy can have serious long-term financial and legal consequences, including loss of property. Only an attorney can give legal advice regarding the possible consequences of filing for bankruptcy and the various options that are available.**

**Entities may not file bankruptcy if they are not eligible to file or do not intend to file the documents necessary to complete the bankruptcy.**

**Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.**

## Overview of the bankruptcy forms and filing bankruptcy

Use the forms in the 200 series if the debtor is a non-individual, such as a corporation, partnership, or limited liability company (LLC). Forms in the 100 series are used by individuals or married couples. Sole proprietors must use the forms in the 100 series.

When a bankruptcy petition is filed, the U.S. Bankruptcy Court opens a case. It is important that the answers to the questions on the forms be complete and accurate so that the case proceeds smoothly. A person who gives false information in connection with a bankruptcy case could be charged with a federal crime, and the debtor may lose the benefits of filing for bankruptcy.

Filing a bankruptcy case is not private. Anyone has a right to see a debtor's bankruptcy forms after the debtor files them. In some circumstances, the bankruptcy court may issue a protective order to keep trade secrets or other confidential proprietary information from being disclosed to the public. 11 U.S.C. § 107 and Bankruptcy Rule 9037.

### Follow these privacy restrictions

- Do not list a minor child's full name on any form. Instead, fill in only the child's initials and the full name and address of the child's parent or guardian. For example, write A.B., a minor child (*John Doe, parent, 123 Main St., City, State*). 11 U.S.C. § 112; Bankruptcy Rules 1007(m) and 9037.
- Do not list a person's date of birth.
- Do not list anyone's full Social Security number on any form.

## Understand the terms used in the forms

To understand terms used in the forms and the instructions, see the *Glossary* at the end of this document.

### Things to remember when filling out and filing these forms

- Be as complete and accurate as possible.
- If more space is needed, attach a separate sheet to the form. On the top of any pages added, write the debtor's name and case number, if known. Also identify the form and line number to which the additional information applies.
- Do not file these instructions with the bankruptcy forms that the debtor files with the court.
- For the debtor's records, be sure to keep a copy of the debtor's bankruptcy documents and all attachments that the debtor files.

### Filing amended forms

Check the box on the top of the form to show that the debtor is submitting an amendment.

### On what date was a debt incurred?

When a debt was incurred on a single date, fill in the actual date that the debt was incurred.

When a debt was incurred on multiple dates, fill in the range of dates. For example, if the debt is from a credit card, fill in the month and year of the first and last transactions, if known.

# About the Process for Filing a Bankruptcy Case for Non-Individuals

---

To file for bankruptcy, the debtor must give the court several forms and documents. Some must be filed at the time the debtor files the case. Others may be filed up to 14 days later.

## When the debtor files its bankruptcy case

The debtor must file the forms listed below on the date the debtor files its bankruptcy case. For copies of the forms listed here, go to <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

- ❑ *Voluntary Petition for Non-Individuals Filing for Bankruptcy* (Official Form 201). This form opens the case. Directions for completing it are included in the form itself.
- ❑ *A list of names and addresses of all of the debtor's creditors*, formatted as a mailing list according to instructions from the bankruptcy court in which the debtor files. (The bankruptcy court may call this a *creditor matrix* or *mailing matrix*.)
- ❑ *Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against Debtor and Are Not Insiders* (Official Form 204). Fill out this form only if the debtor files under chapter 11.
- ❑ *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11* (Official Form 201A). This form is filed only by non-individual debtors who file under chapter 11 and who are required to file periodic reports (for example, Forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

## When the debtor files its bankruptcy case or within 14 days after filing

The debtor must file the forms listed below with its *Voluntary Petition for Non-Individuals Filing for Bankruptcy* (Official Form 201) or within 14 days, or such additional time as the court may order, after filing. If the debtor does not do so, the case may be dismissed. Although it is possible to open a case by submitting only the documents listed under *When the debtor files its bankruptcy case*, the debtor should file the entire set of forms at one time to help its case proceed smoothly.

The debtor must fill out all of the forms completely even though some forms may ask similar questions.

The list below identifies the documents that all non-individuals must file as well as those that are specific to each chapter. For copies of the official forms, go to <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

**All non-individuals who file for bankruptcy must file these forms and the forms for the specific chapter:**

- ❑ *Schedules of Assets and Liabilities* (Official Form 206) which includes these forms:
  - ❑ *Schedule A/B: Real and Personal Property* (Official Form 206A/B)
  - ❑ *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D)
  - ❑ *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F)
  - ❑ *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G)
  - ❑ *Schedule H: Codebtors* (Official Form 206H)
  - ❑ *Summary of Assets and Liabilities for Non-Individuals* (Official Form 206Sum). This form gives an overview of the totals on the schedules.
- ❑ *Declaration Under Penalty of Perjury for Non-Individual Debtors* (Official Form 202–Declaration)
- ❑ *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy* (Official Form 207)
- ❑ *Disclosure of Compensation to Debtor’s Attorney* — Unless local rules provide otherwise, Director’s Form 2030 may be used.
- ❑ Statement of current income and current expenditures — Unless local rules provide otherwise, debtors may use *Schedule I/J: Monthly Receipts and Disbursements of Non-Individual Debtors Where Current Accounting Statements Are Unavailable* (Form 2060 I/J)

**If a small business debtor files under chapter 11, the debtor must also file:**

If the debtor files under chapter 11 and meets the criteria and debt limits outlined in 11 U.S.C. § 101(51D), the debtor qualifies as a small business debtor and must file with the petition its most recent

- ❑ balance sheet,
- ❑ statement of operations,
- ❑ cash-flow statement, and
- ❑ federal income tax return.

If the debtor does not have these documents, the debtor must file a statement made under penalty of perjury that the debtor has not prepared either a balance sheet, statement of operations, or cash-flow statement or the debtor has not filed a federal tax return.

# Instructions for Selected Forms

# Schedule A/B: Real and Personal Property (Official Form 206A/B)

---

*Schedule A/B: Assets – Real and Personal Property* (Official Form 206A/B) requires debtors to list most of the property interests that are involved in a bankruptcy case. All debtors filing for bankruptcy must honestly list everything they own or in which they have a legal, equitable, or future interest. *Legal, equitable, or future interest* are broad terms and include all kinds of property interests in both tangible and intangible property, whether or not anyone else has an interest in that property.

The information in this form is grouped by asset category and, in general, follows the layout and order of liquidity found in a balance sheet. Examples are included for some items and are meant to give debtors an idea of what to include in the categories. The examples are not intended to be complete lists of everything within that category.

An authorized representative of the debtor must verify under penalty of perjury that the information provided is true and correct. Bankruptcy Rule 1008.

If the debtor makes a false statement or conceals property, the debtor may be fined up to \$500,000 or be imprisoned for up to 20 years or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

## Understand the terms used in this form

### Current value

In this form, the debtor must report the *current value of the debtor's interest* in any property that it owns in each category. *Current value* is sometimes called *fair market value* and, for this form, it is the fair market value as of the date of filing the bankruptcy petition. *Current value* is how much the property is currently worth, which may be more or less than the amount the debtor paid for the property or the book value of the property.

### Valuation method used for current value

In certain asset categories, the debtor must also provide the valuation method used to calculate the current value. Select a reasonable method that provides an accurate estimation of current value.

Examples of valuation methods may include:

- **Appraisal** (provide the date the appraisal was conducted);
- **Comparable sales** (for example, blue-book values or comparable sales provided by a broker);
- **Revenue-based** (for example, present value of revenue streams calculated for a hotel or apartment complex based on rents and available rooms);



- **Liquidation value** (for example, the price of the property when it is not allowed sufficient time to sell in the open market—this figure is typically provided by a professional);
- **Expert** (for example, an accountant or advisor who has special expertise with regard to the property);
- **Replacement value** (the cost of replacing the property);
- **Tax records** (for example, the value assessed on the property by the county appraisal);
- **Recent cost-based valuations** (for example, first-in first-out inventory valuation method).

**Net book value of debtor’s interest (where available)**

If the debtor does not prepare a balance sheet for its financial records or for its tax returns, then it does not need to provide information in this column.

If the debtor prepares a balance sheet for its financial records or for its tax returns, then it must also provide the *net book value of debtor’s interest* for certain types of property. For purposes of this form, use the book value reported on the most recent balance sheet prepared before filing this case.

*Net book value* is the carrying value of an asset on the debtor’s books or financial records and is generally calculated by taking the original cost of the property and subtracting depreciation or amortization expenses (if any).

Depreciation and amortization expenses are calculated using accounting procedures that allocate the cost of certain property over its useful life. It represents the decline in value over time due to wear and tear, obsolescence, or other factors.

**How to list items on this form**

- List items only once on this form; do not list an item in more than one category. If an item could fit into more than one category, select the category the debtor thinks is the most suitable and list the item there. For example, a car dealership may report vehicles under *Part 4: Inventory* instead of under *Part 8: Machinery, equipment, and vehicles*.
- List property held for resale in *Part 4: Inventory*. If the debtor separates manufactured items into raw materials, work in progress, and finished goods, report those items in the categories provided as appropriate. If the debtor only purchases items and holds them for resale and does not do any manufacturing, then report the items under finished goods, not as raw materials or work in progress.
- The values reported on this form must match the values reported on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).
- In Schedule A/B, list any executory contracts or unexpired leases (for example, an unexpired lease for a building, a real estate listing agreement, or leases for machinery or equipment). Also list them on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G).

## Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)

---

The people or organizations to whom the debtor owes money are called its *creditors*. A *claim* is a creditor's right to payment.

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F).

Creditors with secured claims may be able to get paid from specific property in which that creditor has a security interest, such as a mortgage or a lien. That property is sometimes called *collateral* for the debt. Creditors with unsecured claims do not have rights against specific property, or the specific property in which the creditor has rights is not worth enough to pay the creditor in full.

### **Claims may be contingent, unliquidated, or disputed**

Many claims have a specific amount which the debtor clearly owes. But some claims are uncertain or become due only after the bankruptcy petition is filed. All claims must be listed in the schedules, even if they are contingent, unliquidated, or disputed.

A claim is *contingent* if the debtor is not obligated to pay it unless a particular event occurs after the bankruptcy petition is filed.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the amount of the claim has not been determined.

A claim is *disputed* if the debtor disagrees that it owes all or a portion of the debt.

A single claim can have one, more than one, or none of these characteristics.

### **Do not omit any secured creditors**

In alphabetical order, list all creditors that have judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and purchase money security interests or other consensual liens against property of the debtor. These categories can be used to describe the lien.

The form is divided into parts. List a debt in Part 1 only once and list any other entities that should be notified about that debt in Part 2. For example, if an attorney is trying to collect a debt that the debtor owes to someone else, list the person to whom the debtor owes the debt in Part 1 and list the attorney in Part 2.

**Determine the amount of each secured creditor’s claim or claims**

To determine the amount of a secured claim, compare the amount of the claim to the value of the debtor’s interest in the property that is collateral for the claim. If that value is greater than the amount of the claim, then the entire amount of the claim is *secured*.

If the value of the property that is collateral for the claim is less than the amount of the claim, the difference is *unsecured*.

For example, if the outstanding balance due on an equipment loan is \$100,000 and the equipment is worth \$80,000, the lender has a secured claim of \$80,000 and an unsecured claim of \$20,000. In that situation, list the creditor only once on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D). Do not list the creditor again on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F). In addition, if the case is a chapter 11 case and the creditor’s unsecured claim makes it one of the 20 largest unsecured creditors, the creditor must also be included on *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Who Are Not Insiders* (Official Form 204).

List a creditor in Schedule D even if it appears that no value exists to support that creditor’s secured claim, as long as the creditor has a security interest in some property owned by the debtor. If the claim is secured only by property owned by a non-debtor, list the claim in Schedule E/F.

If there is more than one secured claim against the same property, the amount of the claim that is entitled to be paid first must be subtracted from the property value to determine how much value remains for the next claim.

For example, if a building worth \$300,000 has a first mortgage of \$200,000 and a second mortgage of \$150,000, the first mortgage would be fully secured, and there would be \$100,000 of property value for the second mortgage, and the claim secured by the second mortgage would have an unsecured portion of \$50,000.

\$300,000	value of a building
- \$200,000	<u>first mortgage</u>
\$100,000	remaining property value
\$150,000	second mortgage
- \$100,000	<u>remaining property value</u>
\$ 50,000	unsecured portion of second mortgage claim

# Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)

---

The people or organizations to whom the debtor owes money are called its *creditors*. A claim is a creditor's right to payment.

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F).

Creditors with unsecured claims do not have rights against specific property, or the specific property in which the creditor has rights is not worth enough to pay the creditor in full.

Use *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F) to identify everyone who holds an unsecured claim against the debtor as of the date the bankruptcy petition is filed unless that creditor is already listed on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).

Creditors with secured claims have a right to take property from the debtor if the debtor does not pay them. They should be listed on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).

If a secured creditor's full claim exceeds the value of the property securing that claim, the creditor may have a secured claim for the value of the property and an unsecured claim for the deficiency. In that situation, list the creditor only once on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form

206D). Do not list the creditor again on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F).

List a creditor in Schedule D even if it appears that no value exists to support that creditor's secured claim.

## **Claims may be contingent, unliquidated, or disputed**

Many claims have a specific amount which the debtor clearly owes. But some claims are uncertain or become due only after the date the bankruptcy petition is filed. All claims, whether they are certain or uncertain as of the date of the filing, must be listed in the schedules, even if the claims are contingent, unliquidated, or disputed.

A claim is *contingent* if the debtor is not obligated to pay it unless a particular event occurs after the petition is filed.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the amount of the claim has not been set.

A claim is *disputed* if the debtor disagrees that it owes all or a portion of the debt.

A single claim can have one, more than one, or none of these characteristics.

## Unsecured claims may be either priority or nonpriority claims

---

### What are priority unsecured claims?

---

In bankruptcy cases, *priority unsecured claims* are those debts that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. The most common priority unsecured claims are certain tax debts. Priority unsecured claims include those the debtor owes for:

- **Taxes and certain other debts owed to the government**—If the debtor owes certain federal, state, or local government taxes, customs duties, or penalties.  
11 U.S.C. § 507(a)(8).
- **Wages, salaries, and commissions**—If the debtor owes wages, salaries, and commissions, including vacation, severance, and sick leave pay and those amounts were earned within 180 days before the bankruptcy petition was filed or the debtor ceased business. In either instance, only the first \$12,475 per claim is a priority claim.\*  
11 U.S.C. § 507(a)(4).
- **Contributions to employee benefit plans**—If the debtor owes contributions to an employee benefit plan for services an employee rendered within 180 days before the bankruptcy petition was filed, or within 180 days before the debtor ceased business. Only the first \$12,475 per employee, less any amounts owed for wages, salaries, and commissions, is a priority claim.\*  
11 U.S.C. § 507(a)(5).
- **Certain claims of farmers and fishermen**—Only the first \$6,150 per farmer or fisherman is a priority claim.\* 11 U.S.C. § 507(a)(6).

---

\* Subject to adjustment on 4/1/16, and every 3 years after that for cases begun on or after the date of adjustment.

- **Deposits by individuals** — If the debtor obtained from an individual a deposit for the purchase, lease, or rental of property or services for the individual or the individual's family, the deposit may be a priority claim. Unredeemed gift certificates are deposits. The priority is limited to \$2,775.\*  
11 U.S.C. § 507(a)(7).

Other categories exist.

---

### What are nonpriority unsecured claims?

---

*Nonpriority unsecured claims* are those debts that generally will be paid after priority unsecured claims are paid. The most common examples of nonpriority unsecured claims are trade debts, bank loans, contract obligations, and fees for professional services.

In Part 2, list every creditor owed money by the debtor not listed before, regardless of the amount and even if the debtor plans to pay a particular debt.

---

### What if a claim has both priority and nonpriority amounts?

---

If a claim has both priority and nonpriority amounts, list that claim in Part 1 and show both priority and nonpriority amounts. Do not list it again in Part 2.

---

### On what date was a debt incurred?

---

When a debt was incurred on a single date, fill in the actual date that the debt was incurred.

When a debt was incurred on multiple dates, fill in the range of dates. For example, if the debtor has a line of credit with multiple draws, fill in the month and year of the first and last transactions, if known.

## Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)

---

Use *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G) to identify the debtor's ongoing leases and certain contracts. List all of the debtor's executory contracts and unexpired leases.

*Executory contracts* are often described as contracts between the debtor and another party in which neither party has performed all of the requirements by the time the debtor files for bankruptcy. *Unexpired leases* are leases that are still in effect.

The debtor must list all agreements that may be executory contracts or unexpired leases, even if they are listed on *Schedule A/B: Property* (Official Form 206A/B) or *Schedule E/F: Creditors Who Have Unsecured Claims*, (Official Form 206 E/F) including the following:

- Equipment leases;
- Vehicle leases;
- Leases for business or investment property (for example, office or warehouse space);
- Contracts to sell a building, land, or other

real property;

- Service provider agreements (for example, maintenance contracts for office equipment, and contracts for cell phones, personal electronic devices, internet, and cable);
- Sales contracts;
- Supplier or service contracts;
- Leases or timeshare contracts;
- Employment contracts;
- Real estate listing agreements;
- Intellectual property license agreements (such as copyright, patent, trademark, and industrial rights);
- Development contracts; and
- Insurance contracts.

State the contract number of any government contract.

# Glossary

# Definitions Used in the Forms for Non-Individuals Filing for Bankruptcy

---

Here are definitions for some of the important terms used in the forms for non-individuals who are filing for bankruptcy. See *Bankruptcy Basics* (<http://www.uscourts.gov/FederalCourts>) for more information about filing for bankruptcy and other important terms.

**Affiliate** — As used in the Bankruptcy Code and Rules, an affiliate of the debtor is:

- (a) an entity that directly or indirectly owns, controls, or holds with power to vote at least 20% of the outstanding voting securities of the debtor (excluding entities that hold such securities in a fiduciary or agency capacity without sole discretionary power to vote such securities or solely to secure a debt, if the entity has not in fact exercised such power to vote);
- (b) a corporation 20% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20% or more of the outstanding voting securities of the debtor (again excluding entities that hold such securities in a fiduciary or agency capacity without sole discretionary power to vote such securities or solely to secure a debt, if the entity has not in fact exercised such power to vote);
- (c) a person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or
- (d) an entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

**Amortization** — 1. A non-cash accounting method that allocates the cost of an intangible asset over its useful life. 2. Paying off a liability in regular installments over a period of time.

**Amortization schedule** — A report that contains a listing of intangible assets and the amount of amortization and accumulated amortization that has been allocated over the life of those assets. These reports are typically maintained for purposes of calculating tax deductions and preparing tax returns.

**Annuity** — A contract for the periodic payment of money, either for the life of the recipient or for a fixed number of years.

**Book value** or **net book value** — The carrying value of an asset on the debtor's books or financial records. This amount is generally calculated by taking the original cost of the property and subtracting depreciation or amortization expenses (if any).

**Causes of action** — Claims where the debtor asserts money or other relief from a third party or where a third party is entitled to money or other relief from the debtor.



**Claim** — A creditor’s right to payment, even if contingent, disputed, unliquidated, or unmatured.

**Codebtor** — A person or entity that may also be responsible for paying a claim against the debtor.

**Collateral** — Property that secures a debt.

**Contingent claim** — Debt that is only payable if certain events occur.

**Creditor matrix or mailing matrix** — A list of names and addresses of all of the debtor’s creditors, formatted as a mailing list according to instructions from the bankruptcy court in which the debtor files the case.

**Creditor** — The person or organization to whom the debtor owes money.

**Current value or fair market value** — how much the property is worth, which may be more or less than the purchase price or the book value. See the instructions for specific forms regarding whether the value requested is as of the date of the filing of the petition, the date the debtor completes the form, or some other date.

**Debt** — Liability on a claim.

**Depreciation** — A non-cash accounting method that allocates the cost of a tangible asset over its useful life.

**Depreciation schedule** — A report that contains a listing of tangible assets and the amount of depreciation and accumulated depreciation that has been allocated over the life of those assets. These reports are typically maintained for purposes of calculating tax deductions and preparing tax returns.

**Discharge** — A discharge in bankruptcy relieves a debtor from having to pay certain debts. For non-individuals, it applies only in certain chapter 11 and chapter 12 cases.

**Disputed claim** — A claim about which there is a disagreement. A claim is disputed if the debtor disagrees that he or she owes all or a portion of the debt.

**Doubtful or uncollectible accounts** — Receivables that the debtor has little or no expectation of collecting. This amount is deducted from total receivables to calculate the amount that the debtor reasonably expects will be collected on its receivables.

**Executory contract** — Often described as a contract between the debtor and another party as to which neither the debtor nor the other party has performed all of the requirements by the time the bankruptcy case is filed.

**Goodwill** — Amount of a purchase price that exceeds the net tangible assets. It can also be the value of an intangible asset that has a quantifiable value in business. Examples include a strong brand or reputation or, in an acquisition, goodwill.

**Gross income** — A company's gross revenue minus cost of goods sold.

**Gross revenue** — Amount generated by all of a company's operations before deductions for expenses.

**Insider** — Insiders include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of a debtor and insiders of such affiliates, and any managing agent of a debtor.  
11 U.S.C. § 101.

**Intangible assets** — Types of property that are not physical in nature and cannot be touched, seen, or held. Examples include intellectual property and name recognition.

**Intellectual property** — An intangible asset that consists of human knowledge and ideas. Examples include patents, copyrights, trademarks, and software.

**Legal or equitable interest** — Any interest of the debtor in property, whether tangible or intangible, and whether or not anyone other than the debtor also has an interest in that property.

**Lien** — A charge against or interest in property to secure a debt.

**Nature of claim** — The legal type of a claim, not the factual basis for it. Examples include breach of contract, personal injury, malpractice, and fraud.

**Negotiable instrument** — A written and signed unconditional promise or order to pay a specified sum of money on demand or at a definite time payable to order or bearer. Negotiable instruments include government bonds, corporate bonds, personal checks, cashiers' checks, promissory notes, and money orders.

**Net operating loss (NOL)** — Occurs when allowable tax deductions exceed taxable income, resulting in negative taxable income. NOLs can generally be used to recover past tax payments (*carry-back*) or reduce future tax payments (*carry-forward*).

**Non-individual debtor** — A non-individual entity such as a corporation, partnership, or limited liability company (LLC), on whose behalf or against whom a bankruptcy case is filed.

**Non-negotiable instrument** — Financial instrument that cannot be transferred to another party by signing or delivering it.

**Nonpriority unsecured claim** — Debt that generally will be paid after priority unsecured claims are paid. Examples include amounts due for products purchased, professional services, and utilities.

**Priority unsecured claim** — Debt that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. Examples include certain income tax debts and certain employee wage claims.

**Secured claim** — A claim that may be satisfied in whole or in part either

- through collateral,
- through a charge against or an interest in the debtor's property, or
- through a right of setoff.

**Setoff** — Occurs when a creditor pays itself with money belonging to the debtor that it is holding, or by canceling a debt it owes to the debtor.

**Sole proprietorship** — A business that a debtor owns as an individual, rather than a separate legal entity such as a corporation, partnership, or LLC. Sole proprietors must use the bankruptcy forms in the 100 series.

**Tangible asset** — Types of property that have physical form and can be seen, touched, or held. Examples include cash, machinery, buildings, and land.

**Unexpired lease** — Lease that is in effect at the time the bankruptcy petition is filed.

**Unliquidated claim** — A debt for which the amount cannot be readily determined, such as by referring to an agreement or by a simple computation.

# Official Form 410

## Instructions for Proof of Claim

United States Bankruptcy Court

12/15

These instructions and definitions generally explain the law. In certain circumstances, such as bankruptcy cases that debtors do not file voluntarily, exceptions to these general rules may apply. You should consider obtaining the advice of an attorney, especially if you are unfamiliar with the bankruptcy process and privacy regulations.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both.  
18 U.S.C. §§ 152, 157 and 3571.

### How to fill out this form

- Fill in all of the information about the claim as of the date the case was filed.
- Fill in the caption at the top of the form.
- If the claim has been acquired from someone else, then state the identity of the last party who owned the claim or was the holder of the claim and who transferred it to you before the initial claim was filed.
- Attach any supporting documents to this form.  
Attach redacted copies of any documents that show that the debt exists, a lien secures the debt, or both. (See the definition of *redaction* on the next page.)  
Also attach redacted copies of any documents that show perfection of any security interest or any assignments or transfers of the debt. In addition to the documents, a summary may be added. Federal Rule of Bankruptcy Procedure (called “Bankruptcy Rule”) 3001(c) and (d).
- Do not attach original documents because attachments may be destroyed after scanning.
- If the claim is based on delivering health care goods or services, do not disclose confidential health care information. Leave out or redact confidential information both in the claim and in the attached documents.

- A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, individual’s tax identification number, or financial account number, and only the year of any person’s date of birth. See Bankruptcy Rule 9037.
- For a minor child, fill in only the child’s initials and the full name and address of the child’s parent or guardian. For example, write *A.B., a minor child (John Doe, parent, 123 Main St., City, State)*. See Bankruptcy Rule 9037.

### Confirmation that the claim has been filed

To receive confirmation that the claim has been filed, either enclose a stamped self-addressed envelope and a copy of this form or go to the court’s PACER system ([www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)) to view the filed form.

### Understand the terms used in this form

**Administrative expense:** Generally, an expense that arises after a bankruptcy case is filed in connection with operating, liquidating, or distributing the bankruptcy estate.  
11 U.S.C. § 503.

**Claim:** A creditor’s right to receive payment for a debt that the debtor owed on the date the debtor filed for bankruptcy. 11 U.S.C. §101 (5). A claim may be secured or unsecured.

**Creditor:** A person, corporation, or other entity to whom a debtor owes a debt that was incurred on or before the date the debtor filed for bankruptcy. 11 U.S.C. §101 (10).

**Debtor:** A person, corporation, or other entity who is in bankruptcy. Use the debtor's name and case number as shown in the bankruptcy notice you received. 11 U.S.C. § 101 (13).

**Evidence of perfection:** Evidence of perfection of a security interest may include documents showing that a security interest has been filed or recorded, such as a mortgage, lien, certificate of title, or financing statement.

**Information that is entitled to privacy:** A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, an individual's tax identification number, or a financial account number, only the initials of a minor's name, and only the year of any person's date of birth. If a claim is based on delivering health care goods or services, limit the disclosure of the goods or services to avoid embarrassment or disclosure of confidential health care information. You may later be required to give more information if the trustee or someone else in interest objects to the claim.

**Priority claim:** A claim within a category of unsecured claims that is entitled to priority under 11 U.S.C. §507(a). These claims are paid from the available money or property in a bankruptcy case before other unsecured claims are paid. Common priority unsecured claims include alimony, child support, taxes, and certain unpaid wages.

**Proof of claim:** A form that shows the amount of debt the debtor owed to a creditor on the date of the bankruptcy filing. The form must be filed in the district where the case is pending.

**Redaction of information:** Masking, editing out, or deleting certain information to protect privacy. Filers must redact or leave out information entitled to **privacy** on the *Proof of Claim* form and any attached documents.

**Secured claim under 11 U.S.C. §506(a):** A claim backed by a lien on particular property of the debtor. A claim is secured to the extent that a creditor has the right to be paid from the property before other creditors are paid. The amount of a secured claim usually cannot be more than the value of the particular property on which the creditor has a lien. Any amount owed to a creditor that is more than the value of the property normally may be an unsecured claim. But exceptions exist; for example, see 11 U.S.C. § 1322(b) and the final sentence of 1325(a).

Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment may be a lien.

**Setoff:** Occurs when a creditor pays itself with money belonging to the debtor that it is holding, or by canceling a debt it owes to the debtor.

**Uniform claim identifier:** An optional 24-character identifier that some creditors use to facilitate electronic payment.

**Unsecured claim:** A claim that does not meet the requirements of a secured claim. A claim may be unsecured in part to the extent that the amount of the claim is more than the value of the property on which a creditor has a lien.

## Offers to purchase a claim

Certain entities purchase claims for an amount that is less than the face value of the claims. These entities may contact creditors offering to purchase their claims. Some written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court, the bankruptcy trustee, or the debtor. A creditor has no obligation to sell its claim. However, if a creditor decides to sell its claim, any transfer of that claim is subject to Bankruptcy Rule 3001(e), any provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.) that apply, and any orders of the bankruptcy court that apply.

**Do not file these instructions with your form.**

# Official Form 410A

## Instructions for Mortgage Proof of Claim Attachment

United States Bankruptcy Court

12/15

### Introduction

This form is used only in individual debtor cases. When required to be filed, it must be attached to *Proof of Claim* (Official Form B410) with other documentation required under the Federal Rules of Bankruptcy Procedure.

### Applicable Law and Rules

Rule 3001(c)(2)(A) of the Federal Rules of Bankruptcy Procedure requires for the bankruptcy case of an individual that any proof of claim be accompanied by a statement itemizing any interest, fees, expenses, and charges that are included in the claim.

Rule 3001(c)(2)(B) requires that a statement of the amount necessary to cure any default be filed with the claim if a security interest is claimed in the debtor's property.

If a security interest is claimed in property that is the debtor's principal residence, Rule 3001(c)(2)(C) requires this form to be filed with the proof of claim. The form implements the requirements of Rule 3001(c)(2)(A) and (B).

If an escrow account has been established in connection with the claim, Rule 3001(c)(2)(C) also requires an escrow statement to be filed with the proof of claim. The statement must be prepared as of the date of the petition and in a form consistent with applicable nonbankruptcy law.

### Directions

#### Definition

This form must list all transactions on the claim from the *first date of default* to the petition date. The *first date of default* is 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, interest, fees, escrow payments, or other charges immediately payable.

#### Information required in Part 1: Mortgage and Case Information

Insert on the appropriate lines:

- the case number;
- the names of Debtor 1 and Debtor 2;
- the last 4 digits of the loan account number or any other number used to identify the account;
- the creditor's name;
- the servicer's name, if applicable; and
- the method used to calculate interest on the debt (i.e., fixed accrual, daily simple interest, or other method).

## Information required in Part 2: Total Debt Calculation

---

Insert:

- the principal balance on the debt;
- the interest due and owing;
- any fees or costs owed under the note or mortgage and outstanding as of the date of the bankruptcy filing; and
- any *Escrow deficiency for funds advanced*—that is, the amount of any prepetition payments for taxes and insurance that the servicer or mortgagee made out of its own funds and for which it has not been reimbursed.

Also disclose the *Total amount of funds on hand*. This amount is the total of the following, if applicable:

- a positive escrow balance,
- unapplied funds, and
- amounts held in suspense accounts.

Total the amounts owed—subtracting total funds on hand—to determine the total debt due.

Insert this amount under *Total debt*. The amount should be the same as the claim amount that you report on line 7 of Official Form 410.

## Information required in the Part 3: Arrearage as of the Date of Petition

---

Insert the amount of the principal and interest portion of all prepetition monthly installments that remain outstanding as of the petition date. The escrow portion of prepetition monthly installment payments should not be included in this figure.

Insert the amount of fees and costs outstanding as of the petition date. This amount should equal the *Fees/Charges balance* as shown in the last entry in Part 5, Column P.

Insert any *escrow deficiency for funds advanced*. This amount should be the same as the amount of *escrow deficiency* stated in Part 2.

Insert the *Projected escrow shortage* as of the date the bankruptcy petition was filed. The *projected escrow shortage* is the amount the claimant asserts should exist in the escrow account as of the petition date, less the amount actually held. The amount actually held should equal the amount of a positive escrow account balance as shown in the last entry in Part 5, Column O.

This calculation should result in the amount necessary to cure any prepetition default on the note or mortgage that arises from the failure of the borrower to satisfy the amounts required under the Real Estate Settlement Practices Act (RESPA). The amount necessary to cure should include 1/6 of the anticipated annual charges against the escrow account or 2 months of the monthly pro rata installments due by the borrower as calculated under RESPA guidelines. The amount of the projected escrow shortage should be consistent with the escrow account statement attached to the *Proof of Claim*, as required by Rule 3001(c)(2)(C).

Insert the amount of funds on hand that are unapplied or held in a suspense account as of the petition date.

Total the amounts due listed in Part 3, subtracting the funds on hand, and insert the calculated amount in *Total prepetition arrearage*. This should be the same amount as “Amount necessary to cure any default as of the date of the petition” that your report on line 9 of Official Form 410.

**Information required in Part 4: Monthly Mortgage Payment**

---

Insert the principal and interest amount of the first postpetition payment.

Insert the monthly escrow portion of the monthly payment. This amount should take into account the receipt of any amounts claimed in Part 3 as escrow deficiency and projected escrow shortage. Therefore, a claimant should assume that the escrow deficiency and shortage will be paid through a plan of reorganization and provide for a credit of a like amount when calculating postpetition escrow installment payments.

Claimants should also add any monthly private mortgage insurance amount.

Insert the sum of these amounts in *Total monthly payment*.

**Information required in Part 5: Loan Payment History from the First Date of Default**

---

Beginning with the First Date of Default, enter:

- the date of the default in Column A;
- amount incurred in Column D;
- description of the charge in Column E;
- principal balance, escrow balance, and unapplied or suspense funds balance as of that date in Columns M, O, and Q, respectively.

For (1) all subsequently accruing installment payments; (2) any subsequent payment received; (3) any fee, charge, or amount incurred; and (4) any escrow charge satisfied since the date of first default, enter the information in date order, showing:

- the amount paid, accrued, or incurred;
- a description of the transaction;
- the contractual due date, if applicable;
- how the amount was applied or assessed; and
- the resulting principal balance, accrued interest balance, escrow balance, outstanding fees or charges balance, and the total unapplied funds held or in suspense.

If more space is needed, fill out and attach as many copies of *Mortgage Proof of Claim Attachment: Additional Page* as necessary.