

JANUARY 17, 2013

What the new mortgage servicing rules mean for consumers



Consumer Financial
Protection Bureau

New rules from the Consumer Financial Protection Bureau will help to give you better information about your mortgage. These rules will also give you tools to help if you have problems making your mortgage payments, and give you protections from wrongful actions taken by mortgage servicers.

Your mortgage servicer is the company that collects your monthly mortgage payments. Your mortgage servicer also is supposed to work with you if you have trouble making your payments.

Mortgage servicers must start following the new rules by **Jan 10, 2014**. Here's what mortgage servicers will have to do starting next year:

1. Give you billing information in writing.

Servicers have to give you a written mortgage statement¹ each billing cycle showing:

- What you owe on the current bill, and how much, if any, will be applied to principal, interest, and escrow. If your mortgage loan has multiple payment options, the statement must show whether the principal balance will increase, decrease, or stay the same for each option listed.
- Payments made since the last statement
- How previous payments were applied
- Transaction activity (including any fees or charges to your account)

¹ Learn more about monthly mortgage statements:

<http://www.consumerfinance.gov/askcfpb/195/what-kind-of-information-may-be-available-on-my-periodic-mortgage-statement.html>

- Three days before your loan closing, your lender must give you a free copy of all appraisals it obtained.
- Contact information for your servicer
- How to contact a housing counselor for help
- Late payment information (if you're behind on your payments)

If you have a fixed-rate mortgage, your servicer can skip the monthly statement if it sends you a book of coupons to send in with your payments. The coupon book must also contain certain information about your account and about how to contact the servicer.

2. Give you at least two months' warning if a change in your adjustable-rate mortgage interest rate means that your payments are about to change.

If you have an adjustable-rate mortgage (ARM)², your servicer has to give you at least 60 days' notice before your interest rate changes if that change will result in a new payment amount. This notice will alert you that your payment is about to rise.

The first time your interest rate is scheduled to change, you'll get even more advanced warning. Seven to eight months before your first payment is due at the new rate, you'll get a notice telling you what's ahead. The notice will show your new rate and payment, or at least an estimate of your new rate and payment.

² Learn more about the difference between fixed-rate and adjustable-rate mortgages:
<http://www.consumerfinance.gov/askcfpb/100/what-is-the-difference-between-a-fixed-rate-and-adjustable-rate-mortgage-arm-loan.html>

Learn how you can tell whether your mortgage has a fixed or adjustable rate:
<http://www.consumerfinance.gov/askcfpb/196/how-do-i-tell-if-i-have-a-fixed-or-adjustable-rate-mortgage.html>

3. Promptly credit your payments.

Servicers have to give you credit for your full payments as of the day they come in. If you pay only part of what you owe, the servicer may hold your partial payment(s) in a special account. But, the servicer must tell you about this on your monthly statement. When that special account collects enough money to make a full payment of principal, interest, and any escrow, the servicer has to credit that payment to your account.

4. Respond quickly when you ask about paying off your loan.

If you write to ask how much it will cost to pay off your mortgage³, the servicer generally has seven business days to answer you.

5. Not charge you for insurance you don't need, or over-charge you for force-placed insurance.

If you fail to keep your home insured, your lender has the right to buy and charge you for insurance to cover the lender's interest in your home. This insurance is called "force-placed insurance."⁴

Force-placed insurance is usually more expensive than a policy you buy, and it generally only protects the lender, not you.

³ Learn what a payoff amount is, including the difference between the payoff amount and your current balance: <http://www.consumerfinance.gov/askcfpb/205/what-is-a-payoff-amount-is-my-payoff-amount-the-same-as-my-current-balance.html>

⁴ Learn what a force-placed insurance policy is and how it works: <http://www.consumerfinance.gov/askcfpb/827/what-force-placed-insurance-can-my-lender-make-me-pay-insurance-they-provide.html>

The new rule says the servicer must warn you at least 45 days before it charges you for a force-placed insurance policy. This gives you time to buy your own policy.

The servicer has to warn you again at least 30 days later if you still haven't provided proof to the servicer that you have purchased the insurance you need.

You may have an escrow account from which the servicer pays your insurance bill. In that case, the servicer generally must continue your existing insurance policy, rather than buy force-placed insurance.

Lastly, generally when billing you for force-placed insurance, the servicer can't over-charge you.

6. Quickly resolve complaints and share information.

When you write to your mortgage servicer to ask for information or to complain about certain errors, the servicer generally has five days to acknowledge your letter. The servicer generally has 30 to 45 days (excluding Saturdays, Sundays and federal holidays) to fix the error or send you the information you requested or investigate and explain why no error occurred or the information is not available.

If the servicer thinks it didn't make an error, it has to explain in writing why. If it can't find the information you want, it has to explain why the information isn't available.

Examples of "errors" include when the servicer:

- Does not apply your payment correctly.
- Charges improper fees.
- Starts a foreclosure or foreclosure sale in violation of the loss mitigation rules.⁵
- Makes any error relating to the servicing of your mortgage loan.

⁵ Learn more about mortgage loan modifications. What are they and how do they work?
<http://www.consumerfinance.gov/askcfpb/269/what-is-a-mortgage-loan-modification.html>

7. Have and follow good customer service policies and procedures.

Mortgage servicers have to set up their business so they can:

- Access correct information about your loan.
- Respond promptly and correctly to your problems.
- Pass along correct information about your account when the servicer sells your loan servicing to another company.
- Properly evaluate an application for relief if you are having difficulties paying your loan.
- Keep records for at least one year after you pay off your loan.

8. Contact you to help you when you're having trouble making your payments.

When you don't pay your mortgage, your mortgage servicer must try to contact you to talk about the situation no later than 36 days after your payment was due.

The servicer has to tell you about mortgage workout options that may be available no later than 45 days after you are late on the payment.

The mortgage servicer has to assign personnel to help you once you're 45 days late on your mortgage and sometimes sooner.

9. Work with you, if you are having trouble paying your mortgage, before starting or continuing foreclosure.

If you're having trouble paying your mortgage, you can apply for help from your servicer. To get help, you must tell the servicer you are interested in a loan workout. The servicer will have you submit an application that includes certain information. Once you have done that, the servicer has five days to tell you whether it needs more information and, if so, what information it needs.

Within 30 days after you have submitted a complete application, the servicer has to let you know if there is an option to save your home.

But, you need to act fast. Once you're 120 days behind on your payments, the servicer can start the foreclosure process if you haven't submitted a complete application.

If you send in your application after the 120-day mark, and foreclosure has started, you may still have protections. If you send in your application more than 37 days before a scheduled foreclosure sale, your servicer generally has to see if you're eligible for a loan workout before foreclosing on your home.

So, if you've sent in a complete application for help before foreclosure is initiated or more than 37 days before a scheduled foreclosure sale, one of the following things has to occur before your servicer can start or complete the foreclosure process:

- The servicer decides you don't qualify for any workout.
- You reject the workout options the servicer offers you.
- You make a workout agreement and then don't do what you promised to do in the workout agreement (like making trial payments).

But you have to respond quickly to the options your servicer offers. If your foreclosure date is close, you may get only seven days to say yes to a loan workout.

10. Allow you to seek review of the mortgage servicer's decision about your loan workout request.

As long as you sent in your loan workout application at least 90 days before your foreclosure sale, you can seek review of the servicer's decision. The servicer has to assign the review to someone who was not involved in the initial decision.

What to do if your servicer doesn't follow the rules

If you think your lender is not following the mortgage servicing rules, the Consumer Financial Protection Bureau wants to know. You can get in touch with us these ways:

Online: www.consumerfinance.gov/complaint

By telephone (in 187 languages):

(855) 411-CFPB (2372)

Español (855) 411-CFPB (2372)

TTY/TDD (855) 729-CFPB (2372)

8 a.m. to 8 p.m. Eastern, Monday–Friday:

By mail: Consumer Financial Protection Bureau

P.O. Box 4503

Iowa City, Iowa 52244

By fax: (855) 237-2392

The mortgage servicing rules are among many rules that protect you when you get a mortgage. Information about these and other rules is available at <http://consumerfinance.gov/regulations>.

You can see answers to frequently asked questions about home mortgages at <http://consumerfinance.gov/askcfpb/>.