SEPTEMBER 23, 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 statement[1] each billing cycle showing:

- Your current bill due
  - 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.
  - The amount of any late payment fee and the date you must make the current payment to avoid the fee.
  - Payments made since the last statement
- Your past payments and activity
  - How previous payments were applied
  - Transaction activity describing the amount and date of any charge or credit which affects your current bill.

[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

    - Information on any monthly payments that you made that were less than the full amount owed (known as “partial payments”) and what must be done for the funds to be applied to your loan balance.
- Other account information
    - The amount of principal you currently owe
    - Your current interest rate, and if your interest rate may change the next date after which it is scheduled to change.
    - Whether there is a “prepayment penalty” that may be charged if you pay off your loan early.
    - Contact information for your servicer
    - How to contact a housing counselor for help

- Delinquency Information. If you are 45 or more days behind on your payments, you will also be informed of certain delinquency information. This includes the date you became delinquent, the possible risks and expenses you could face if you don’t bring your payments up to date, and a notice showing any loss mitigation you’ve agreed to, if applicable.

In place of monthly statements your servicer may provide 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 mortgage[3], 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. Under the rule, the servicer may only charge you what is permitted by state insurance regulations or charges that are reasonably related to the costs of providing the insurance.

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[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 statement should tell you the type of insurance needed and how you may provide proof to the servicer you have it.

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

If you provide proof of insurance after your servicer has billed you for force-place insurance, the servicer must cancel the force-placed insurance and issue a refund of all premiums and related charges for any time during which your own insurance was in effect.

You may have an escrow account from which the servicer pays your insurance bill. In that case, if you are no more than 30 days overdue on your payments, the servicer generally must continue your existing insurance policy, rather than buy force-placed insurance.

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. For certain errors related to foreclosure, servicers must respond prior to the date of any foreclosure sale.

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.
- Provides you inaccurate information about loss mitigation options and foreclosure. [5]
- Starts a foreclosure or foreclosure sale in violation of the loss mitigation rules.

Makes any error relating to the servicing of your mortgage loan.

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[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 complaints or information requests.
- 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.
- Inform you how to submit complaints and requests for information.
- 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 apply for a loan workout or alternative to foreclosure.

If you're having trouble paying your mortgage, you can apply for help from your servicer. To get help, you can submit an application for loss mitigation help or you can call your servicer, explain your situation and explain you need loss mitigation help. Once you submit an application or provide some information about your request for loss mitigation, your servicer has five days to acknowledge your request and tell you whether it needs more information. The servicer also needs to work with you to help you complete your application.

Within 30 days after you have submitted a complete application, the servicer generally must review you for all available options to avoid foreclosure, and let you know if you are eligible for any.

10. Give you certain protections as long as it’s not too late.

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 complete application more than 37 days before a scheduled foreclosure sale, your servicer has to evaluate you 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.

11. 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/.