How to Manage Your Mortgage If Your Lender Closes or Files for Bankruptcy

When a mortgage company closes or files for bankruptcy, its customers may be left wondering about the impact on their own loans. The Federal Trade Commission (FTC) says consumers should continue to make their mortgage payments as usual. The nation's consumer protection agency has several situation-based tips for consumers who need to know what to expect in today's mortgage market:

If your lender files for bankruptcy after your loan closes: Loans and the rights to service them often are bought and sold. A mortgage servicer collects your monthly loan payments, credits your account, and handles your escrow account, if you have one. If your mortgage servicer is different from your original lender — and your original lender goes out of business — continue to make your payments to the mortgage servicer by the date they're due.

If your mortgage servicer files for bankruptcy or goes out of business: It's very likely that a mortgage servicer that files for bankruptcy will sell its assets under the supervision of the bankruptcy court to another financial institution and transfer the servicing of your loan to another company. A mortgage servicer that simply goes out of business probably would transfer the servicing of your loan to another company as well.

How will you know if your loan has been transferred? Read your mail and your email — and pay attention to phone calls and messages that deal with a change of lender, a late payment, or a payment that wasn't received. To avoid a scam, the FTC says, review the notices and call to confirm the new loan servicer before you send a payment.

If your loan is transferred to another servicer: Regardless of the reason for a loan transfer, you should get two notices: one from your current servicer and one from the new servicer. The current servicer must notify you at least 15 days before the effective date of the transfer — unless you got a written notice at your settlement. The effective date is when the first payment is due at the new servicer's address. The new servicer also must notify you within 15 days of the transfer.

By law, the notices must include particular information:

- the name and address of the new servicer;
- the date your current servicer will stop accepting your payments;
- the date the new servicer will begin accepting your payments;
- telephone numbers for both the current and the new servicer that you can use to call toll-free or collect for more information about the transfer; and
- whether you can continue any optional insurance, like life or disability insurance, whether you need to do anything to maintain coverage, and whether the insurance terms will change.

The notices also must include a statement that the transfer will not affect any terms or conditions of your mortgage contract, except those directly related to the servicing of your loan. For example, if your mortgage contract has an escrow account to pay property taxes and insurance premiums, the new servicer can't close the escrow account.

In addition, you have a 60-day grace period after a transfer to a new servicer. That means you can't be charged a late fee if you send your mortgage payment to the old servicer by mistake — and your new servicer can't report that payment as late to a credit bureau.

The FTC advises all mortgage holders to read their monthly statements. If your statement is late — even by just a few days — call the mortgage company to track it down. Keep records of your payments, including billing statements, canceled checks, bank account statements, or online account histories if appropriate. If you have a dispute, continue to make your mortgage payments, but challenge the servicing in writing and keep a copy of your letter and any enclosures for your records. Send your letter by certified mail, and request a return receipt, or send it via fax, and keep the transmittal confirmation.

If you have an escrow account: An escrow account is a fund held by your servicer. You pay into the fund to cover charges like property taxes and homeowners insurance. Typically, your payments are included as part of your monthly mortgage payment, and the servicer pays your taxes and insurance from this fund as they come due. Even if your servicer files for bankruptcy or goes out of business, it is responsible for making the escrow payments in a timely way.

The Real Estate Settlement Procedures Act (RESPA) covers escrow accounts. If your mortgage servicer administers an escrow account for you, it is required to make escrow payments for taxes, insurance, and any other charges when they are due. The mortgage servicer also is required to give you a free statement every year that details the activity of your escrow account. This statement should show your account balance and reflect payments for your property taxes, homeowners insurance, and other charges. But it is your responsibility to review the statement to make sure the appropriate entities and payments are made.

If one recipient of escrow funds lets you know that a payment is overdue, call the others that are supposed to be paid from your escrow account — for example, state or county governments for property taxes, insurance companies, or homeowners associations — to make sure the funds are being transferred in a timely way. The Department of Housing and Urban Development (HUD) enforces the Real Estate Settlement Procedures Act. Contact HUD with questions or comments about RESPA by email (hsg-respa@hud.gov) or by phone (202-708-0502).

If your lender files for bankruptcy before your loan closes: If you've been pre-approved for a mortgage and learn that the lender has filed for bankruptcy, call to find out if or when the company intends to make good on your loan. If the lender can't — or has gone out of business altogether — start shopping around for another mortgage immediately.

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

RESPA-related Inquiries and Disputes

Under the Real Estate Settlement Procedures Act (RESPA), your mortgage servicer must respond promptly to your written inquiries. If you think you have been charged a penalty or a late fee that you don't owe — or if you have other problems with the servicing of your loan — continue to make your regular monthly mortgage payment, and contact your servicer in writing in a separate communication. Send your letter — including your account number and an explanation of why you think your account is incorrect — to the customer service address. Don't write your note on your payment coupon.

Timeline: The servicer must acknowledge your inquiry in writing within 20 business days of receiving it, and take action within 60 business days. The servicer must correct your account or determine that the accounting is accurate, and then send you a written notice of the action it took and why, and the name and phone number of someone to contact for more information or help.

In any case, do not subtract the disputed amount from your mortgage payment. Some mortgage servicers may refuse to accept what they consider a "partial" payment: they could return your check and charge you a late fee, or claim that your mortgage is in default and start foreclosure proceedings.

Facts for Consumers

The Federal Trade Commission (FTC) is the nation's consumer protection agency. Here are some tips from the FTC to help you be a more savvy consumer.

1. Know who you're dealing with. Do business only with companies that clearly provide their name, street address, and phone number.
2. Protect your personal information. Share credit card or other personal information only when buying from a company you know and trust.
3. Take your time. Resist the urge to "act now." Most any offer that's good today will be good tomorrow, too.
4. Rate the risks. Every potentially high-profit investment is a high-risk investment. That means you could lose your investment — all of it.
5. Read the small print. Get all promises in writing and read all paperwork before making any payments or signing any contracts. Pay special attention to the small print.
6. "Free" means free. Throw out any offer that says you have to pay to get a gift or a "free" gift. If something is free or a gift, you don't have to pay for it. Period.
7. Report fraud. If you think you've been a victim of fraud, report it. It's one way to get even with a scam artist who cheated you. By reporting your complaint to 1-877-FTC-HELP or ftc.gov, you are providing important information to help law enforcement officials track down scam artists and stop them!

Federal Trade Commission	ftc.gov
1-877-FTC-HELP	For The Consumer

Federal Trade Commission
Bureau of Consumer Protection
Division of Consumer and Business Education

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