

Do you know who really owns your mortgage?

So who holds the title to your house? Every month you have to pay your mortgage to some anonymous bank or lender. This is the payment that you promised to make each month in exchange for the privilege of being able to buy your house or condominium. What most home owners don't know is that they don't really owe anything to that specific lender that they send thousands of dollars to each month. In reality, that company never actually loaned you any money for your home. In truth, that big bank is actually just servicing the "true" investor of your mortgage. The ironic thing is in most cases, you don't even know who is in point of fact getting your hard earned money.

The issue of who owns your mortgage is especially important in the event that a bank is trying to foreclose upon your house. One of the reasons for this is that in order to conduct a foreclosure, many states, including Massachusetts, requires that the party conducting the foreclosure prove that they have standing to foreclose. That is, they must demonstrate the proper paperwork to show they actually own the mortgage and have a right to foreclose.

This became a major issue, back in the mid 2000's when capital investors started selling hundreds if not thousands of residential mortgages and bundling them together in securities, and selling them as packages. What happened is that so many mortgages were bundled together that in many situations, the paperwork was not transferred and now the original proof of ownership is lost forever. Making the situation much worse, many banks created forged counterfeit documents assigning mortgages to cover their tracks. The problem is that the bank must prove everything was done properly and that the owners must be able to prove they hold the notes in order to transfer title, or foreclose.

You can try to find out who owns your mortgage by making a request authorized by section 1641(f)(2) of the Federal Truth in Lending Act to your loan servicer. The problem is the loan servicer in many cases won't tell you, or worse yet, doesn't have a clue. More specifically, the act states, "Upon the request of the obligor, the servicer shall provide the obligor, to the best knowledge of the servicer, with the name, address and telephone number of the owner of the obligation or the master servicer of the obligation." Additionally, the Helping Families Save Their Homes Act of 2009 amended the Truth in Lending Act to provide a remedy for non-compliance of such a request whereby borrowers can recover actual damages, statutory damages, costs and fees.

Being educated with the proper information relative to the true ownership of your home loan is very important should you decide to try to negotiate a loan modification, short sale, deed in lieu or some other form debt relief or foreclosure prevention. Additionally, this is a major issue upon paying off your mortgage in order to get the title to the house. You must know who has the obligation to provide you that title, and to ensure the title can be legally transferred. To that end, if you are considering any sort of workout with your lender, you may want to seek the advice of an attorney in your state to make the proper requests, such as the Phillips Law Offices, in Massachusetts, Rhode Island, and Maryland.

This article on knowing who really owns your mortgage was drafted by [Michael Goldstein, Esquire](#)