What happens when I'm late on a mortgage payment?

A: The late charge provision in a mortgage calls for an additional charge if your payment is not received by your lender when due or within a grace period.

The minimum grace period before a mortgage encumbering a one-to-four unit, owner-occupied residential property is delinquent is ten days after the due date without receipt of the payment — even if no agreed-to or a shorter grace period is stated.

If you fail to pay a late charge when demanded, it is not a material breach of your mortgage. As a non-material breach, the failure to pay a late charge alone is not grounds for your lender to initiate foreclosure.

To be enforceable, the late charge may not be punitive in amount, as in an effort to coerce timely payment. The amount needs to be reasonably related to money losses incurred by your lender due to the delinquency.

The late charge on any mortgage secured by an owner-occupied single family residence (SFR) is limited to the greater of:

- 6% of the delinquent principal and interest installment; or
- $5.

Lenders give notice and make a demand for the late charge by providing the borrower either:

- a billing statement or notice sent prior to each payment's due date stating the late charge amount and the date on which it will be incurred; or
- a written statement or notice of the late charge amount sent concurrent with or within ten days of mailing a notice to cure a delinquency.

For mortgages secured by a one-to-four unit principal residence, the lender is not permitted to assess more than one late charge per delinquent monthly installment, no matter how many months the payment remains delinquent. Additionally, the late charge may only be charged on principal and interest payments, not on impound amounts or unpaid late charges.

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