

MY MORTGAGE COMPANY ISN'T REPORTING MY PAYMENTS ON MY CREDIT REPORT! WHAT CAN I DO??

When you filed your Chapter 7 bankruptcy case (or if you “surrender” your home in the Plan filed in your Chapter 13 case), your mortgage loan is technically discharged. This means that you really don't owe the mortgage company personally. However, there is still a lien on your home that will allow the mortgage company to foreclose if you do not make your required payments to them (as required by the loan documents you signed). When you continue to make these payments on the discharged loan (in order to keep your house), you are exercising your right to “retain and pay” for the property. The nice thing is that, since you are not personally responsible for the loan any more, should you later decide to surrender the home and give it back to the mortgage company, they will not be able to sue you personally to collect any deficiency balance owed to them. Of course, if you do finish making the payments (either over time as required in the mortgage or by paying the full balance when you sell your home), you will be entitled to get the mortgage (Deed of Trust) cancelled. Occasionally, a mortgage company operator will tell you that you should have “re-affirmed” your loan. However this is a bad idea, so bad that most attorneys won't sign off on a reaffirmation agreement and in Colorado, the Judges RARELY are willing to approve them. Such an agreement would subject you to the risk of immense personal liability should (for some reason) the market or your life circumstances later require you to surrender the home. **THEY ARE NOT WORTH SIGNING** simply for the purpose of having your payments recorded with the Credit Bureaus. Of course, the mortgage companies don't care – they'd love to be able to sue you later if the payments stop coming in. **NEVER BELIEVE** that a mortgage company is looking out for your best interest.

However, since you really are not personally obligated for your mortgage any longer, the mortgage company will stop sending information to the credit reporting companies (Experian, TransUnion, Equifax, etc) regarding your good (or bad) payment history. If you then try to refinance your home, your good payments to the mortgage company will not show. So, how can you refinance when your current mortgage company does not report your good payments? The best way would be to simply provide your new mortgage broker or lender with proof of your timely payments over the past year using cancelled checks and bank statement. Second, you can write to your mortgage company (servicer) at their listed RESPA address (not the normal payment address) and request a payment history over the past year or two. In addition, many mortgage brokers have access to a program known as Rapid Rescore where your mortgage payment history can be added to the credit reports for the sole purpose of mortgage refinance. Normally this must be done by the mortgage originator in cooperation with the credit reporting agencies. This “re-scoring” will not be a permanent fix, but will suffice for the purposes of that application for refinance.

Finally, once you have refinanced the property, you will (once again) be personally liable for the new mortgage and from that point on, the mortgage company will report your payment history to the credit reporting agencies once again.