

**Bank traps mortgage holders under flood waters by denying forced mortgage payoff letter.**

# Forced PayOff

bank  
Home Mortgage

Home Condemned after the disaster?

Pray for a forced payoff in writing.

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Many of us never think to ask our home mortgage lenders if they would force us to pay off our mortgage if our home was destroyed by natural disaster.

When your home is condemned and your city says it has to be demolished you would think your mortgage lender would ask you to payoff the mortgage. Logical thinking would lead a person to that conclusion.

So when your home is destroyed in a natural disaster and your city tells you that your home is condemned because of the disaster you might not think your bank was out of place when they told you to pay off your mortgage before you demolished the home.

But, once your home was paid off and gone you might have at that point in time thought you did the right thing.

You were wrong.

You shouldn't have paid off your loan, you should have told the bank you were going to demolish the home and not pay off the loan, you should have forced your bank to demand payment and threaten you with legal action.

You should have waited until your bank sent you a "Forced Mortgage Payoff Demand Letter".

Then everything would be just fine.

That's is the whole issue, when you think you are doing the right thing and later, 1 year maybe 2 years later you find that what you did just cost you thousands of dollars.

Your home was demolished because it was destroyed by flood waters, hurricanes, tornadoes, it doesn't matter what natural disaster hit, it hit and it hit hard. Your city inspected your home and found it not suitable to live in.

They condemned your home at that minute and told you you need to rebuild and that requires you to demolish your old damaged home.

So you thought it was the right thing, taking your NFIP flood insurance money that was made out to you and your mortgage company and use that to pay off the mortgage.

Maybe your Mortgage company refused to allow you to pay off the loan. We have seen this as well, they refuse to force you to pay the mortgage off because they are under the impression you'll rebuild the home. After one year or so when your insurance company threatens to cancel your insurance because your home is demolished and has not be rebuilt your mortgage company will be demanding full payment for not having an insured asset.

It's just one more way of saying your that you were forced to pay off your mortgage. In most areas you can't have a mortgage without insurance and insurance companies will drop you for not having an insurable asset.

You fought for months then finally your mortgage company allowed you to pay off the loan and you then continued with the demolition of the home.

Now, HUD Community Development Block Grant program for Disaster Recovery pulls into town.

You sign up, you find they offer assistance to those that lost their homes to the disaster.

You see they calculate a condemned home based on square footage and offered you \$78/sf for reconstruction costs.

Things are looking up, they aren't paying for everything but they are looking to help you pay a large part of your reconstruction costs.

You were forced to demolish the home by city code and you did the right thing by forcing your mortgage company to take your payoff.

But now, the HUD CDGB-DR Grant program wants to see the documents that show you were forced to pay off your mortgage.

You call your bank, they tell you they don't have policy of forcing a mortgage to be paid simply because a home is condemned or your demolished it. ■

You asked them to draft a letter for you to give to HUD, they refused and cited that you didn't have to pay off the mortgage.

It's back and forth, how do you keep a mortgage on a structure and or home when you no longer have the home.

On top of that, when you canceled your homeowners insurance (not flood) you no longer had insurance to cover the home in case of other natural disasters.

The Bank still didn't want to assist the homeowner.

Now the homeowner is out over \$100,000.00 for doing what they thought was the right thing.

The HUD program is not taking into account that the home was condemned by the city and was required to be demolished and rebuilt. Because the bank didn't write a "Forced Payoff" letter to HUD the homeowner is now credited for receiving insurance money to make repairs.

That's just one more debt to an already impossible to financially survive disaster.

Flood, what does it cost, in one line, everything you own and have collected your whole life is now gone and needs to be replaced. What would that cost be?

Many banks just don't have a Forced Payoff policy like USBank. But that doesn't mean they can't write a letter saying they would force your mortgage to be paid off if you demolished the home or changed the foundation. (Slab on Grade to Elevated Slab)

Bankers need to be aware of the impact they are causing to disaster victims by not drafting a letter that actually matches the implied policies of what the mortgage covers.

We will keep a list of banks that do not work with disaster victims online as we hear from our neighbors in state and from around the nation as they too enter the realm of forced mortgage payoffs after a disaster.

**Resource: American Bar Association**

**REPRESENTING DISASTER SURVIVORS: CHALLENGES TO SURVIVORS AND LAWYERS**

**Reference [Forced mortgage payoff and "control" of funds](#)**

- Funds received will not be deemed duplicative if the client lacked legal control over the funds (i.e. the funds were not "available" to the client). 42 U.S.C. 5155 76 Fed. Reg. 71063.
- A mortgagee (lender) might determine that insurance funds received following a disaster are insufficient to restore or repair the home (mortgage security) and unilaterally decide to apply the insurance proceeds to the mortgage principal, pursuant to the following standard mortgage clause (italicized). "Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower."
- It is very rare for a mortgagee to invoke this provision to unilaterally apply insurance proceeds to unpaid mortgage principal (as opposed to trying to get the homeowner to consent to this use, or trying to treat the insurance funds as a payment toward mortgage arrears).
- If the mortgagee unilaterally applies insurance proceeds to pay down the unpaid principal balance, and if the homeowner did not consent to this, then those insurance funds may be excluded from a duplication-of-benefits calculation, based on the homeowner's lack of legal control over the funds.
- The client will need to prove forced mortgage payoff through a letter from the mortgagee stating that it has unilaterally applied the insurance funds to the principal balance

1. **USBank, Wells Fargo, Chase Bank, Quicken Loans**, do not offer any letter of forced payoff. But this did not stop homeowners from having their mortgage removed from the duplication of benefits calculation once it was determined the home had to be demolished and rebuilt new. The insurance funds were used to remove the lien on the property and the structures so they could be rebuilt differently. Technically nearly all mortgage companies we reviewed will not allow a mortgage to stand if it's not insured. Insurance companies will not insure an asset that is no longer existent. Think about it and write your letters to your insurance and your bank.

Example Forced Mortgage Payoff letters for Branch managers and Mortgage Managers.

The following are acceptable letters to have your customers Insurance used to pay off the mortgage without penalizing their HUD CBGD-DR Grant awards from HUD. Anything else has been found to add additional debt and limit reconstruction funds for the homeowner. It is very important to allow homeowners the HUD CDBG-DR Grant funds so they are not trapped into any SBA loans that will increase debt burden and increase the default rate on current mortgages.

**Example Letter Bank Forced Mortgage Payoff accepted by HUD CDBG-DR Grantees:**

===== **Example 1** =====

Bank ABC Inc.

Dear Mr. and Mrs. Jones

We have recently received notice that you do not plan to repair and restore your flooded property on 123 Elm St. Hubert N.C. mortgaged through Bank of XYZ Corporation to its previous condition prior to the presidential declared disaster Sept 16, 2018, catastrophic flooding caused by hurricane Florence.

Since you are unwilling or unable to repair the property then XYZ Inc Mortgage and Loan will consider all options and privileges available under the terms and conditions of the promissory note and mortgage. Therefore, all insurance proceeds shall be applied to the sums secured by the mortgage whether or not now due, with the excess, if any, paid to the borrower. Please consider this letter as XYZ Inc Mortgage and Loan demand for full payment of the mortgaged properties.

Sincerely,  
Your branch mortgage manager.  
Address Phone.

===== **Example 2** =====

To Whom It May Concern:

Mr. John Doe's collateral for our mortgage loan was affected by Hurricane Micheal October of 2018. As Mr. Doe's lender we released the NFIP insurance payment to Mr. Doe and had Mr. Doe sign a statement that the property would be restored to its original condition of the time of the loan. The statement also stated all invoices for labor and materials were to be paid in full for the repair and restoration of the home with Bank XYZ first lien holder on the property. On Oct. 15, 2018 Mr. Doe informed our branch #123 of Bank XYZ that the home was substantially damaged and would have to be demolished and elevated. Bank XYZ required a forced mortgage payoff on the mortgage lien in from from the NFIP insurance funds in full because Mr. Doe was not able to restore the home in its original condition. The paid off amount was \$145,269.27.

If you have any questions please feel free to call.

John Fred McAuthor  
President XYZ Bank of FL #123

===== **Example 3** =====

RE: Loan #123456789-0

To Whom it may concern:

This letter is verification that Bank of the XYZ required that loan number #123456789-0 be paid off in full

on property located at 123 Elm St. New Berry, FL with the flood insurance proceeds from the flood that occurred on Oct. 10, 2018.

This payoff took place on 10/17/2018 in the amount of \$123,296.01.

Should you have any questions please contact me at 1-226-555-1411 ext. 123 or email me at banker@something .com

Regards,  
Ms. Doris Depp  
VP / Loans Manager

===== End Examples =====

**Resource Reading:**

- FEMA Info: [Survivors have questions about Mortgage Pay Offs.](#)
- Katrina Era Road Home Program: [HAP Compliance](#)
- American Bar Association: "[Funds received will not be deemed duplicative if the client lacked legal control over the funds](#) (i.e. the funds were not "available" to the client). 42 U.S.C. 5155; 76 Fed. Reg. 71063.)

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