

MORTGAGE SERVICING CLAIMS CHART

REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA) and TRUTH IN LENDING ACT (TILA)

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CLAIM	CITATIONS	RIGHT OF ACTION	REMEDY ¹	APPLICATION	STATUTE OF LIMITATION	EXEMPTIONS
	RESPA					
Duty to Make Timely Payments Out of Escrow	12 U.S.C. § 2605(g) Reg. X, Subparts B and C 12 C.F.R. §§ 1024.17(k) and 1024.34(a)	12 U.S.C. § 2605(f) and § 2614	actual damages, costs and attorney's fees; plus \$2,000 per violation if pattern and practice of non-compliance	open-end (as to § 1024.17) and closed-end loans on principal and non-principal residence	3 years 12 U.S.C. § 2614	borrower more than 30 days overdue (except must pay borrower's hazard insurance rather than force place) - 12 C.F.R. § 1024.17(k)(1), (2), (5)(i)
Duty to Provide Annual Escrow Statements	12 U.S.C. § 2609(c)(2) Reg. X, Subpart B 12 C.F.R. § 1024.17(i)			open-end and closed-end loans on principal and non-principal residence		borrower more than 30 days overdue, or in foreclosure or bankruptcy - 12 C.F.R. § 1024.17(i)(2)
Duty to Perform Escrow Analysis and Calculate Proper Escrow Payment	12 U.S.C. § 2609(a) Reg. X, Subpart B 12 C.F.R. § 1024.17(c)			open-end and closed-end loans on principal and non-principal residence		

¹ If a remedy or right of action is not listed, the failure to comply with a servicing provision may possibly be pursued as a breach of contract or state UDAP statute violation. See NCLC *Foreclosures*, Chapter 8.

Requirements for Escrow Surpluses	Reg. X, Subpart B 12 C.F.R. § 1024.17(f)			open-end and closed-end loans on principal and non-principal residence		borrower more than 30 days overdue - 12 C.F.R. § 1024.17(f)(2)(ii)
Requirements for Escrow Shortages	Reg. X, Subpart B 12 C.F.R. § 1024.17(f)			open-end and closed-end loans on principal and non-principal residence		
Requirements for Escrow Deficiencies	Reg. X, Subpart B 12 C.F.R. § 1024.17(f)			open-end and closed-end loans on principal and non-principal residence		borrower more than 30 days overdue - 12 C.F.R. § 1024.17(f)(4)(iii)
Duty to Provide Notice of Escrow Shortage or Deficiency	12 U.S.C. § 2609(b) Reg. X, Subpart B 12 C.F.R. § 1024.17(f)(5)			open-end and closed-end loans on principal and non-principal residence		
Duty to Provide Transfer of Servicing Statement and 60-day Payment Safe Harbor	12 U.S.C. § 2605(b)-(d) Reg. X, Subpart C 12 C.F.R. § 1024.33(b) and (c)	12 U.S.C. § 2605(f) and § 2614	actual damages, costs and attorney's fees; plus \$2,000 per violation if pattern and practice of non-compliance	closed-end loans on principal and non-principal residence	3 years 12 U.S.C. § 2614	
Duty to Respond to Notice of Error and Request for Information	12 U.S.C. § 2605(e) Reg. X, Subpart C 12 C.F.R. §§ 1024.35 and 1024.36	12 U.S.C. § 2605(f) and § 2614	actual damages, costs and attorney's fees; plus \$2,000 per violation if pattern and practice of non-compliance	closed-end loans on principal and non-principal residence	3 years 12 U.S.C. § 2614	

Duty to Respond to Request for Identity of Mortgage Owner	12 U.S.C. § 2605(k)(1)(D) Reg. X, Subpart C 12 C.F.R. § 1024.36(d)	12 U.S.C. § 2605(f) and § 2614	actual damages, costs and attorney's fees; plus \$2,000 per violation if pattern and practice of non-compliance	closed-end loans on principal and non-principal residence	3 years 12 U.S.C. § 2614	
General Servicing Requirements	Reg. X, Subpart C 12 C.F.R. § 1024.38			closed-end loans on principal and non-principal residence		small servicer; reverse mortgage; qualified lender ² - 12 C.F.R. § 1024.30(b)
Early Intervention Requirements	Reg. X, Subpart C 12 C.F.R. § 1024.39	12 U.S.C. § 2605(f) and § 2614	actual damages, costs and attorney's fees; plus \$2,000 per violation if pattern and practice of non-compliance	closed-end loans on principal residence	3 years 12 U.S.C. § 2614	borrower in bankruptcy; small servicer; reverse mortgage; qualified lender - 12 C.F.R. § 1024.30(b) and § 1024.39(d)
Continuity of Contact Requirements	Reg. X, Subpart C 12 C.F.R. § 1024.40			closed-end loans on principal residence		small servicer; reverse mortgage; qualified lender - 12 C.F.R. § 1024.30(b)
Duty to Comply with Loss Mitigation Procedures	Reg. X, Subpart C 12 C.F.R. § 1024.41	12 U.S.C. § 2605(f) and § 2614	actual damages, costs and attorney's fees; plus \$2,000 per violation if pattern and practice of non-compliance	closed-end loans on principal residence	3 years 12 U.S.C. § 2614	small servicer (except per § 1024.41(j) must not initiate foreclosure if borrower performing on loss mitig. option and if not more than 120 days delinquent); reverse mortgage; qualified lender - 12 C.F.R. § 1024.30(b)

² A "qualified lender" is defined in 12 C.F.R. § 617.7000 (referring to mortgage loans made under the Farm Credit System).

	TILA					
Duty to Send Interest Rate and Payment Change Notices	15 U.S.C. § 1638a Reg. Z, 12 C.F.R. § 1026.20(c) and (d)	15 U.S.C. § 1640(a)	actual damages, plus twice finance charge (up to \$4,000 for closed-end mortgage), costs and attorney's fees	adjustable rate, closed-end loans on principal residence	1 year 15 U.S.C. § 1640(e)	ARMs with term of 1 year or less
Duty to Promptly Credit Payments	15 U.S.C. § 1639f Reg. Z, 12 C.F.R. § 1026.36(c)(1)	15 U.S.C. § 1640(a)	actual damages, plus twice finance charge (up to \$4,000 for closed-end mortgage), costs and attorney's fees	closed-end loans on principal residence	1 year 15 U.S.C. § 1640(e)	
Ban on Pyramiding of Late Fees	Reg. Z, 12 C.F.R. § 1026.36(c)(2)	15 U.S.C. § 1640(a)	actual damages, plus twice finance charge (up to \$4,000 for closed-end mortgage), ³ costs and attorney's fees	open-end and closed-end loans on principal residence	1 year 15 U.S.C. § 1640(e)	
Duty to Provide Timely Payoff Statement	15 U.S.C. § 1639g Reg. Z, 12 C.F.R. § 1026.36(c)(3)	15 U.S.C. § 1640(a)	actual damages, plus twice finance charge (up to \$4,000 for closed-end mortgage), costs and attorney's fees	open-end and closed-end loans on principal and non-principal residence	1 year 15 U.S.C. § 1640(e)	

³ Because this requirement is found only in Reg. Z, some courts may find that no statutory damages are available. See NCLC Truth in Lending, § 11.6.8 (8th ed. 2012 and Supp.).

Duty to Send Periodic Mortgage Statements	15 U.S.C. § 1638(f) Reg. Z, 12 C.F.R. § 1026.41	15 U.S.C. § 1640(a)	actual damages, costs and attorney's fees	closed-end loans on principal and non-principal residence	1 year 15 U.S.C. § 1640(e)	borrowers in bankruptcy; small servicer; reverse mortgage; timeshares; fixed-rate mortgages with qualifying coupon books
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