



## 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 <sup>1</sup>                                                                                             | APPLICATION                                                                              | STATUTE OF LIMITATION           | EXEMPTIONS                                                                                                                                        |
|----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                            | <b>RESPA</b>                                                                                  |                                |                                                                                                                 |                                                                                          |                                 |                                                                                                                                                   |
| <b>Duty to Make Timely Payments Out of Escrow</b>                          | 12 U.S.C. § 2605(g)<br><br>Reg. X, Subparts B and C<br>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<br><br>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) |
| <b>Duty to Provide Annual Escrow Statements</b>                            | 12 U.S.C. § 2609(c)(2)<br><br>Reg. X, Subpart B<br>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)                                                   |
| <b>Duty to Perform Escrow Analysis and Calculate Proper Escrow Payment</b> | 12 U.S.C. § 2609(a)<br><br>Reg. X, Subpart B<br>12 C.F.R. § 1024.17(c)                        |                                |                                                                                                                 | open-end and closed-end loans on principal and non-principal residence                   |                                 |                                                                                                                                                   |

<sup>1</sup> 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* National Consumer Law Center, Mortgage Servicing and Loan Modifications, chapter 5 (2019), *updated at* [www.nclc.org/library](http://www.nclc.org/library).

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|---------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|---------------------------------|---------------------------------------------------------------------|
| <b>Requirements for Escrow Surpluses</b>                                              | Reg. X, Subpart B<br>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)  |
| <b>Requirements for Escrow Shortages</b>                                              | Reg. X, Subpart B<br>12 C.F.R. § 1024.17(f)                                        |                                |                                                                                                                 | open-end and closed-end loans on principal and non-principal residence |                                 |                                                                     |
| <b>Requirements for Escrow Deficiencies</b>                                           | Reg. X, Subpart B<br>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) |
| <b>Duty to Provide Notice of Escrow Shortage or Deficiency</b>                        | 12 U.S.C. § 2609(b)<br><br>Reg. X, Subpart B<br>12 C.F.R. § 1024.17(f)(5)          |                                |                                                                                                                 | open-end and closed-end loans on principal and non-principal residence |                                 |                                                                     |
| <b>Duty to Provide Transfer of Servicing Statement and 60-day Payment Safe Harbor</b> | 12 U.S.C. § 2605(b)-(d)<br><br>Reg. X, Subpart C<br>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<br><br>12 U.S.C. § 2614 |                                                                     |
| <b>Duty to Respond to Notice of Error and Request for Information</b>                 | 12 U.S.C. § 2605(e)<br><br>Reg. X, Subpart C<br>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<br><br>12 U.S.C. § 2614 |                                                                     |

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| <b>Duty to Respond to Request for Identity of Mortgage Owner</b> | 12 U.S.C. § 2605(k)(1)(D)<br><br>Reg. X, Subpart C<br>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<br><br>12 U.S.C. § 2614 |                                                                                                                                                                                                                           |
| <b>General Servicing Requirements</b>                            | Reg. X, Subpart C<br>12 C.F.R. § 1024.38                                     |                                |                                                                                                                 | closed-end loans on principal and non-principal residence |                                 | small servicer; reverse mortgage; qualified lender <sup>2</sup> - 12 C.F.R. § 1024.30(b)                                                                                                                                  |
| <b>Early Intervention Requirements</b>                           | Reg. X, Subpart C<br>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<br><br>12 U.S.C. § 2614 | borrower in bankruptcy (partial exemption); small servicer; reverse mortgage; qualified lender - 12 C.F.R. § 1024.30(b) and § 1024.39(d)                                                                                  |
| <b>Continuity of Contact Requirements</b>                        | Reg. X, Subpart C<br>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)                                                                                                                                               |
| <b>Duty to Comply with Loss Mitigation Procedures</b>            | Reg. X, Subpart C<br>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<br><br>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) |

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

|                                                              | TILA                                                            |                     |                                                                                                                           |                                                                        |                                   |                                  |
|--------------------------------------------------------------|-----------------------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-----------------------------------|----------------------------------|
| <b>Duty to Send Interest Rate and Payment Change Notices</b> | 15 U.S.C. § 1638a<br><br>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<br><br>15 U.S.C. § 1640(e) | ARMs with term of 1 year or less |
| <b>Duty to Promptly Credit Payments</b>                      | 15 U.S.C. § 1639f<br><br>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<br><br>15 U.S.C. § 1640(e) |                                  |
| <b>Ban on Pyramiding of Late Fees</b>                        | 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), <sup>3</sup> costs and attorney's fees | closed-end loans on principal residence                                | 1 year<br><br>15 U.S.C. § 1640(e) |                                  |
| <b>Duty to Provide Timely Payoff Statement</b>               | 15 U.S.C. § 1639g<br><br>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<br><br>15 U.S.C. § 1640(e) |                                  |

<sup>3</sup> Because this requirement is found only in Reg. Z, some courts may find that no statutory damages are available.

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|---------------------------------------------------|----------------------------------------------------------------|---------------------|-------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Duty to Send Periodic Mortgage Statements</b>  | 15 U.S.C. § 1638(f)<br><br>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<br><br>15 U.S.C. § 1640(e) | limited exemption for borrowers in bankruptcy; small servicer; reverse mortgage; timeshares; fixed-rate mortgages with qualifying coupon books |
| <b>Duty to Send Escrow Cancellation Notices</b>   | 15 U.S.C. § 1639d(j)(1)(B);<br>Reg. Z, 12 C.F.R. § 1026.20(e)  | 15 U.S.C. § 1640(a) | actual damages, twice finance charge (up to \$4000 for closed-end mortgage), costs, and attorney fees | closed-end loans on principal and non-principal residence                                      | 1 year<br><br>15 U.S.C. § 1640(e) | reverse mortgage; subordinate-lien mortgages                                                                                                   |
| <b>Duty to Send Transfer of Ownership Notices</b> | 15 U.S.C. § 1641(g)(1)(A) – (E);<br>Reg. Z 12 C.F.R. § 1026.39 | 15 U.S.C. § 1640(a) | actual damages, twice finance charge (up to \$4000 for closed-end mortgage), costs, and attorney fees | closed-end loans secured by a dwelling or real property; open-end loans on principal residence | 1 year<br><br>15 U.S.C. § 1640(e) |                                                                                                                                                |