

**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)  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)
<b>Duty to Provide Annual Escrow Statements</b>	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)
<b>Duty to Perform Escrow Analysis and Calculate Proper Escrow Payment</b>	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		

<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 NCLC *Foreclosures*, Chapter 8.

<b>Requirements for Escrow Surpluses</b>	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)
<b>Requirements for Escrow Shortages</b>	Reg. X, Subpart B 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 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) Reg. X, Subpart B 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) 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	
<b>Duty to Respond to Notice of Error and Request for Information</b>	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	

<b>Duty to Respond to Request for Identity of Mortgage Owner</b>	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	
<b>General Servicing Requirements</b>	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 <sup>2</sup> - 12 C.F.R. § 1024.30(b)
<b>Early Intervention Requirements</b>	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)
<b>Continuity of Contact Requirements</b>	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)
<b>Duty to Comply with Loss Mitigation Procedures</b>	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)

<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  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
<b>Duty to Promptly Credit Payments</b>	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)	
<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	open-end and closed-end loans on principal residence	1 year  15 U.S.C. § 1640(e)	
<b>Duty to Provide Timely Payoff Statement</b>	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)	

<sup>3</sup> 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 (8<sup>th</sup> ed. 2012 and Supp.).

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