

Servicers Face New Requirements for Responding to Consumer Error Claims

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The CFPB amendments to Regulation X, which implements the Real Estate Settlement Procedures Act (RESPA) that took effect January 10, impose onerous new requirements on servicers to correct errors and provide information that borrowers request. Under the new rules, consumers who notify servicers of claimed errors in loan servicing trigger new servicer obligations to act. The new regulation applies to "any written notice from the borrower that asserts an error and that includes the name of the borrower, information that enables the servicer to identify the borrower's mortgage loan account, and the error the borrower believes has occurred." First, servicers must provide written acknowledgement of the notice of error within five days. If the claimed error relates to failure to provide an accurate payoff balance, the servicer has only seven days from receipt of the notice to investigate and provide a response that either confirms the error and states that it has been corrected, or states that the servicer has determined that no error occurred, the basis for that determination, and the borrower's right to request documents supporting it. If the asserted error claims improper pursuit of foreclosure, the servicer must respond in the same manner within 30 days, or before the foreclosure sale, whichever is earlier. Servicers must generally respond to all other types of asserted errors within 30 days, although an additional 15-day extension may be obtained for errors other than those regarding the payoff balance and foreclosure proceedings. When requested, servicers must also provide documentation relied on in responding to error requests within 15 days, unless the documents include confidential, proprietary, or privileged information, and providing the servicer notifies the borrower of such a determination within 15 days of the request. The CFPB expects servicers to have compliance management systems in place to assure compliance with all of its new regulations, these included.

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