
STC&W

STAGG TEREZI CONFUSIONE & WABNIK

ATTORNEYS AT LAW

“Regulation X Disclosure Requirements”

401 Franklin Avenue, Suite 300
Garden City, New York 11530

516.812.4500

STCWlaw.com

275 Madison Avenue, Suite 705
New York, New York 10016

212.324.3800

With offices also in New Jersey and Connecticut

Representing financial institutions, corporations, municipalities and individuals in litigation, creditors' rights, workouts, foreclosure, and labor and employment.

“The legal information provided below is general and should not be relied on as legal advice. Legal advice cannot be given without full consideration of all relevant information relating to your individual situation”

“Regulation X Disclosure Requirements”

The Real Estate Settlement Procedures Act (“RESPA”), commonly known as Regulation X, was enacted to effectuate changes in the settlement process for residential real estate. *See generally* 12 U.S.C. §§ 2601 – 2617 (2012). Pursuant to RESPA, the Secretary of Housing and Urban Development has issued regulations that supplement the Act. *See generally* 24 C.F.R. §§ 1024, 1026 (2013). RESPA requires, among other things (1) more effective advance disclosure to homebuyers and sellers of settlement costs; (2) the elimination of kickback or referral fees; (3) reducing the amount that homeowners are required to place in escrow to insure the payment of taxes and insurance; and (4) the reformation and modernization of local housekeeping of land title information. Simply put, RESPA requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. The chart below contains important disclosure and timing information contained in RESPA.

| Event Triggering Action | Action that Must Follow | Time |
|--|--|---------------------------------|
| If a servicer receives a loss mitigation application 45 days or | Then the servicer shall notify the borrower in writing that they received the application and | Within 5 days of receipt |

| | | |
|--|--|---|
| <p>more before a foreclosure sale</p> <p>§ 1024.41 Loss Mitigation Procedures</p> | <p>whether the application is complete or incomplete</p> | <p>(excludes legal public holidays, Saturdays, and Sundays)</p> |
| <p>If a servicer receives a complete loss mitigation application more than 37 days before a foreclosure sale</p> <p>§ 1024.41 Loss Mitigation Procedures</p> | <p>Then the servicer shall evaluate and provide in writing to the borrower all loss mitigation options available to the borrower</p> | <p>Within 30 days of receipt</p> |
| <p>If a servicer receives a complete loss mitigation application 90 days or more before a foreclosure sale</p> <p>§ 1024.41 Loss Mitigation Procedures</p> | <p>Then the servicer may require borrower to accept or reject an offer of a loss mitigation option</p> | <p>14 days or more after the servicer provides the offer</p> |
| <p>If a servicer receives a complete loss mitigation application between 37 days and 90 days before a foreclosure sale</p> <p>§ 1024.41 Loss Mitigation Procedures</p> | <p>Then the servicer may require the borrower to accept or reject an offer of a loss mitigation option</p> | <p>7 days or more after the servicer provides the offer</p> |
| <p>If a borrower requests changes to the federally related mortgage loan identified in the Good Faith Estimate</p> | <p>Then the loan originator may provide a revised GFE to the</p> | <p>Within 3 business days of the borrower's request</p> |

| | | |
|--|--|--|
| <p>(GFE) that changes the settlement charges or terms of the loan</p> <p>§ 1024.7 Good Faith Estimate</p> | <p>borrower</p> | |
| <p>If a borrower pays off a federally related mortgage loan during the escrow account computation year</p> <p>§ 1024.17 Escrow Accounts</p> | <p>Then the servicer shall submit a short year statement to the borrower</p> | <p>Within 60 days of receiving the payoff funds</p> |
| <p>If a person applies for a first-lien mortgage loan</p> <p>§ 1024.33 Mortgage Servicing Transfers</p> | <p>Then either a lender, mortgage broker who anticipates using table funding, or dealer in a first-lien dealer loan shall provide them a servicing disclosure statement that states whether the servicing of the mortgage loan may be assigned, sold, or transferred to any other person at any time</p> | <p>Within 3 days after the person applied</p> |
| <p>If there is a transfer of the servicing of the mortgage loan</p> | <p>Then the transferor servicer shall provide the notice of transfer to the borrower</p> | <p>At least 15 days before the effective date of the transfer</p> |

| | | |
|---|--|--|
| <p>§ 1024.33 Mortgage Servicing Transfers</p> | <p>Then the transferee servicer shall provide the notice of transfer to the borrower</p> | <p>15 days or less after the effective date of the transfer</p> |
| <p>If the borrower paid the mortgage loan in full</p> <p>§ 1024.34 Timely Escrow Payments and Treatment of Escrow Account Balances</p> | <p>Then the servicer shall return to the borrower any amounts remaining in an escrow account that is within the servicer's control</p> | <p>Within 20 days of borrower's payment</p> |
| <p>If a servicer received a notice of error from a borrower</p> <p>§ 1024.35 Error Resolution Procedures</p> | <p>Then the servicer shall provide to the borrower a written response acknowledging receipt of the notice of error</p> | <p>Within 5 days of receipt</p> |
| <p>If a borrower requests documents and information relied upon by the servicer in making its determination that no error occurred</p> <p>§ 1024.35 Error Resolution</p> | <p>Then the servicer shall provide copies of these documents, at no charge</p> | <p>Within 15 days of borrower's request</p> |

| Procedures | | |
|--|--|---|
| <p>If a servicer withholds documents relied upon in determining that no error occurred because such documents constitute confidential, proprietary or privileged information</p> <p>§ 1024.35 Error Resolution Procedures</p> | <p>Then the servicer must notify the borrower of its determination in writing</p> | <p>Within 15 days of receipt of borrower's request</p> |
| <p>If a servicer received an information request from a borrower</p> <p>§ 1024.36 Requests for Information</p> | <p>Then the servicer shall provide to the borrower a written response acknowledging receipt of the information request</p> | <p>Within 5 days of receipt</p> |