

### **535B.11 Servicing mortgages and payoffs.**

A licensee or other mortgagee who services mortgages on residential real estate located in this state shall do all of the following:

1. Disburse required funds paid by the mortgagor and held in escrow for the payment of real estate taxes and insurance payments no later than their final due date.
  2. Pay penalties incurred by the mortgagor due to the licensee's or mortgagee's failure to meet the due dates referred to in subsection 1 unless the licensee or mortgagee can show that the failure was due solely to the fact that the mortgagor received a statement of the amount due more than fifteen days before the due date and has failed to remit it to the licensee or mortgagee.
  3. Perform a complete escrow analysis yearly. A clear and legible copy of the yearly analysis shall be promptly mailed to the mortgagor. If there is a change in the payment amount, the analysis shall be mailed at least twenty days before the effective date of the change. The summary shall contain all of the following information:
    - a. The name and address of the mortgagee.
    - b. The name and address of the mortgagor.
    - c. A summary of escrow account activity during the year which includes all of the following:
      - (1) The balance of the escrow account at the beginning of the year.
      - (2) The aggregate amount of deposits to the escrow account during the year.
      - (3) The aggregate amount of withdrawals from the escrow account for each of the following categories:
        - (a) Payments against loan principal.
        - (b) Payments against interest.
        - (c) Payments against real estate taxes.
        - (d) Payments for real property insurance premiums.
        - (e) All other withdrawals.
      - (4) A summary of loan principal for the year as follows:
        - (a) The amount of principal outstanding at the beginning of the year.
        - (b) The aggregate amount of payments against principal during the year.
        - (c) The amount of principal outstanding at the end of the year.
  4. Answer in writing, within ten business days of receipt, any written request for payoff information received from a mortgagor or the mortgagor's designated representative.
- Compliance with sections 524.905, 533.16, 534.206, and 536A.20 shall constitute compliance with this subsection.

5. Execute and deliver a release after payoff and within forty-five days after receipt of correct payment. If the licensee or mortgagee fails to execute and deliver a release of lien to the mortgagor or the mortgagor's designated representative, the mortgagor or the mortgagor's designated representative may notify in writing the administrator and any other official to whom the mortgagee is primarily subject. The administrator shall promptly mail by certified mail to the licensee or mortgagee a notice stating that the licensee or mortgagee must both release the mortgage and deliver the release to the administrator within fifteen days of receipt of said notice or face a penalty as provided in this section. If the licensee or mortgagee fails to make the release and deliver it to the administrator, the administrator may assess a penalty not to exceed fifty dollars for each day of delinquency after the fifteen days. The administrator may waive the penalty if the administrator finds the failure was not intentional and resulted from bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid error.

6. If a person in connection with a mortgage loan has possession of an abstract of title and fails to deliver the abstract to the borrower within twenty calendar days of the borrower's request made by certified mail return receipt requested in connection with a proposed sale of the property, then the borrower may authorize the preparation of a new abstract of title to the property and the person failing to deliver the original abstract shall pay to the borrower the reasonable costs of preparation. If the borrower brings an action against the person failing to deliver to recover the payment and in the action recovers the payment, then the borrower shall also be entitled to recover attorney fees and court costs incurred in the action.

7. When the servicing of a mortgage loan is transferred, sold, purchased, or accepted by a licensee or registrant, the licensee or registrant who is transferring or selling the servicing shall issue to the mortgagor, within fifteen calendar days prior to the effective date of the transfer, a notice which shall include at a minimum:

- a.* The name and address of the licensee or registrant transferring or selling the servicing.
- b.* The name and address of the licensee or registrant accepting or purchasing the servicing.
- c.* The effective date of the transfer.
- d.* A statement concerning the effect of the transfer on the terms and conditions of the mortgage.
- e.* The address where payments are to be submitted for at least the next three months.
- f.* The name and address of the licensee or registrant to whom questions related to the mortgage may be addressed.

88 Acts, ch 1146, §11; 89 Acts, ch 133, §9; 2006 Acts, ch 1042, §22, 23