

### Part 3 Operational Requirements

#### **70D-2-301 Record retention.**

A lender, broker, or servicer shall keep and maintain at all times in its principal place of business the records of a mortgage loan transaction of the lender, broker, or servicer as required by the rules of the commissioner.

Renumbered and Amended by Chapter 72, 2009 General Session

#### **70D-2-302 Notice required with loan application.**

- (1) If the following is the case, a lender and broker shall notify in writing a person from whom the lender or broker receives or for whom the lender or broker prepares a written application for a mortgage loan that:
  - (a) the mortgage loan applied for may be sold or assigned;
  - (b) the servicing of the loan may be sold or assigned; and
  - (c) the mortgage loan will not necessarily be held or serviced by the lender that originates the mortgage loan.
- (2) A lender and broker shall provide a written notice required by this section at the time of receipt or preparation of the written application for a mortgage loan.

Renumbered and Amended by Chapter 72, 2009 General Session

#### **70D-2-303 Notice upon closing -- Ongoing duty to notify -- Statements required.**

- (1) At the time of closing of a mortgage loan, a lender shall notify the mortgagor in writing of:
  - (a) the name of the initial servicer that will service the loan; and
  - (b) the address at which a loan payment should be made.
- (2)
  - (a)
    - (i) If the servicing of a mortgage loan is assigned, the servicer that assigns the servicing and the successor servicer shall each mail, at least 10 days before the due date of the first mortgage payment due after the assignment, a written notice to the mortgagor notifying the mortgagor of:
      - (A) the assignment of servicing; and
      - (B) the address at which future loan payments should be made.
    - (ii) A notice required by this Subsection (2)(a) shall be mailed to the mortgagor's last known address contained in the assigning servicer's records.
  - (b) Unless an assigning servicer regularly provides the information in a monthly statement to a mortgagor, the notice from the assigning servicer shall include the following information in addition to the information required by Subsection (2)(a):
    - (i) the date and amount of the payments credited to the account within the previous 12-month period;
    - (ii) the balance in any escrow account held by the servicer; and
    - (iii) the total unpaid balance of the mortgage loan.
  - (c) The servicer that assigns the servicing and the successor servicer may, at their option, comply with the requirements of this Subsection (2) by both signing one notice and mailing the notice to the mortgagor.

- (d) A signature on a notice required by this section may be printed, stamped, or in another facsimile.
  - (e) A lender and a subsequent servicer of a mortgage loan shall comply with Section 7-17-6.
- (3)
- (a) An inadvertent error in a notice required in Subsection (2) may not be construed to waive a payment that would otherwise be due from a mortgagor.
  - (b) A late payment penalty may not be assessed against a mortgagor with respect to a payment that is misdirected because of:
    - (i) an error in a notice required in Subsection (2); or
    - (ii) a failure to timely mail a notice required in Subsection (2).
- (4) A lender or servicer must credit to the mortgagor's account a payment received as of the day on which the payment is received or by the next banking day, unless:
- (a) the payment is insufficient to pay the principal, interest, late charges, and reserves then due;
  - (b) the mortgage loan is referred to an attorney because of default; or
  - (c) the payment is received at an address other than the address for payment specified in writing to the mortgagor.

Renumbered and Amended by Chapter 72, 2009 General Session

**70D-2-304 Statement to be provided.**

- (1) Unless a servicer regularly provides the information described in this Subsection (1) in a monthly statement to a mortgagor, the servicer shall deliver to a mortgagor, within 15 days after receipt of a written request, a statement of the mortgagor's account including the following information:
- (a) the date and amount of the payments credited to the account within the previous 12-month period;
  - (b) the balance in any escrow account held by the servicer; and
  - (c) the total unpaid balance of the mortgage loan.
- (2) A servicer shall provide the first two statements requested for an account in a 12-month period without charge. If more than two statements are requested for the same account in a 12-month period, the servicer may charge a reasonable fee for an additional statement.

Renumbered and Amended by Chapter 72, 2009 General Session

**70D-2-305 Fee restrictions.**

- (1) A lender or broker may not accept a fee or deposit from an applicant for a mortgage loan unless at the time the lender or broker accepts the fee or deposit there is a written statement:
- (a) signed by the applicant;
  - (b) stating whether or not the fee or deposit is refundable; and
  - (c) describing the conditions, if any, under which all or a portion of the fee or deposit will be refunded to the applicant.
- (2) Notwithstanding Subsection (1), a lender or broker may accept a fee or deposit from an applicant for a mortgage loan if the lender or broker receives an email from the applicant acknowledging that the applicant was provided the information required by Subsections (1)(b) and (c).

Amended by Chapter 97, 2014 General Session

