

WAC 208-620-551 Residential mortgage loan servicers—What business practices are prohibited? (1) In addition to being subject to RCW 31.04.027, you are prohibited from requiring or encouraging a borrower to:

(a) Waive his or her legal defenses, counterclaims, and other legal rights against the servicer for future acts;

(b) Waive his or her right to contest a future foreclosure;

(c) Waive his or her right to receive notice before the owner or servicer of the loan initiates foreclosure proceedings;

(d) Agree to pay charges not enumerated in any agreement between the borrower and the lender, servicer, or owner of the loan; or

(e) Cease communication with the lender or investor.

(2) As to force placed insurance you are prohibited from:

(a) Purchasing insurance on a property secured by a loan you service without providing two prior written notices to the homeowner's last known address seeking verification of existing insurance coverage. The notices must state:

(i) How the homeowner provides proof there is insurance coverage in place;

(ii) That without proof of insurance the servicer may obtain coverage at the homeowner's expense, that such coverage may only protect the mortgage holder, and that the cost of the coverage may be higher than that the homeowner may be able to obtain privately;

(iii) That the homeowner may request the servicer to set up an escrow account to advance insurance payments and that upon establishment of an escrow account the servicer may charge the borrower the amount of the insurance payments advanced on the borrower's behalf respecting the mortgaged property including a cushion amount (see WAC 208-620-900 (4) (b));

(iv) The second written notice must be sent thirty days after the first written notice.

(b) Failing to advance payments to a property insurer regardless of the homeowner making a payment to the servicer when the homeowner has an escrow account for the payment of insurance.

(c) Purchasing force placed insurance at a price that is not commercially reasonable. You must terminate force placed insurance within thirty days of receiving evidence from the homeowner of the existence of coverage. You must refund to the homeowner all premiums for force placed insurance collected during any period of time for which the homeowner's private insurance was in place.

(3) You are additionally prohibited from:

(a) Knowingly misapplying or recklessly applying loan payments to the outstanding balance of a loan.

(b) Knowingly misapplying or recklessly applying payments to escrow accounts.

(c) Charging excessive or unreasonable fees to provide loan payoff information.

(d) Knowingly or recklessly providing inaccurate information to a credit bureau, thereby harming a borrower's creditworthiness.

(e) Knowingly or recklessly facilitating the illegal foreclosure of real property collateral.

(4) You are prohibited from referring a delinquent mortgage to foreclosure if you have received the homeowner's loan modification application and you have not evaluated the homeowner for all available loan modifications.

(5) You are prohibited from using any funds in a suspense account to pay your own fees for servicing.

(6) You are prohibited from pursuing any collection activities while a complete loan modification application is being reviewed or while the borrower is making payments pursuant to a trial or permanent modification. This prohibition includes activities conducted by others on your behalf.

(7) You are prohibited from collecting private mortgage insurance beyond the date for which private mortgage insurance is no longer required.

(8) You are prohibited from failing to service the loan pursuant to the loan terms and conditions unless agreed to in writing by the borrower.

(9) You are prohibited from knowingly or recklessly improperly onboarding a residential mortgage loan into your loan servicing system.

[Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 18-16-024, § 208-620-551, filed 7/24/18, effective 9/1/18; WSR 13-24-024, § 208-620-551, filed 11/22/13, effective 1/1/14; WSR 12-18-047, § 208-620-551, filed 8/29/12, effective 11/1/12. Statutory Authority: RCW 43.320.040, 31.04.165 and 2010 c 35. WSR 10-20-122, § 208-620-551, filed 10/5/10, effective 11/5/10.]