

WAC 208-620-900 Servicing residential mortgage loans—General requirement. (1) Other applicable laws, regulations, and programs. A violation of an applicable state or federal law, regulation, or program is a violation of this act. In addition to complying with all other provisions of this act, you must comply with the following:

(a) Chapter 61.24 RCW and any other applicable state or federal law, regulation, and program.

(b) The federal Servicemembers Civil Relief Act.

(2) Servicing and ownership transfers or sales.

(a) When acquiring servicing rights from another servicer you must:

(i) Continue processing loan modification requests and honoring trial and permanent modifications;

(ii) Designate the homeowner as a third-party intended beneficiary in any subsequent contract for transfer or sale, unless doing so would violate another state law or GSE modification program requirements; and

(b) When transferring or selling the servicing of loans with pending modification requests or trial or permanent modifications you must:

(i) Inform the successor servicer if a loan modification is pending;

(ii) Obligate the successor servicer to accept and continue processing loan modification requests and to honor trial and permanent loan modification agreements; and

(iii) Designate the homeowner as a third-party intended beneficiary in any contract for transfer or sale, unless doing so would violate state law or GSE modification program requirements.

(3) Payment processing and fees.

(a) You must accept and credit all amounts received within one business day of receipt when the borrower has made the payment to the address where instructed, provided, that the borrower has provided sufficient information to credit the account. If you use the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date must be credited no later than the due date. You must apply the payment as specified in the loan documents.

(b) You may enter into a written contract with the borrower whereby you hold funds of a certain type or sent by a certain method for a period of time until the funds are available before crediting them to the borrower's account.

(c) You must notify the borrower if a payment is received but not credited and instead placed in a suspense account. You must mail the notification to the borrower within ten business days by mail at the borrower's last known address. The notification must identify the reason the payment was not credited or treated as credited to the account, as well as any actions the borrower must take to make the residential mortgage loan current. If you provide monthly or more frequent statements that include this information you are not required to provide the information in a notice in addition to the monthly or more frequent statement. In the event of a conflict between this subsection (3)(c) or (d) of this section immediately following or both, and the requirements of an applicable bankruptcy court order, compliance with the bankruptcy court requirements are considered compliance with the subsections.

(d) When the suspense account contains enough money to make a full payment, you must apply that payment to the mortgage as of the date the full amount became available in the suspense account.

(e) You must assess any incurred fees to a borrower's account within forty-five days of the date on which the fee was incurred. You must clearly and conspicuously explain the fee in a statement mailed to the borrower at the borrower's last known address no more than thirty days after assessing the fee. If you provide monthly or more frequent statements that include this information you are not required to provide the information in a notice in addition to the monthly or more frequent statement.

(4) Contracting with other parties. You must adopt written policies and procedures for the oversight of third-party providers including, but not limited to, foreclosure trustees, foreclosure firms, subservicers, agents, subsidiaries, and affiliates. You must maintain the policies and procedures as part of your books and records and must provide them to the department when directed to do so.

(5) See also WAC 208-620-551.

[Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 18-16-024, § 208-620-900, filed 7/24/18, effective 9/1/18. Statutory Authority: Chapter 43.320 RCW, RCW 31.04.165. WSR 16-08-026, § 208-620-900, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 13-24-024, § 208-620-900, filed 11/22/13, effective 1/1/14; WSR 12-18-047, § 208-620-900, 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, § 208-620-900, filed 10/5/10, effective 11/5/10.]