

Focused on a Housing Finance Comeback: Regulatory and Legislative Servicing Trends

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Regulatory and Legislative Developments – CFPB & FHA



■ CFPB

– TILA-RESPA Integrated Disclosure Rule

- Effective Date: August 1, 2015
- HR 2213/Congressional Letters – Seeking Temporary Safe Harbor from Enforcement
- Servicing Provisions

– Proposed Servicing Rule Amendments

- Anticipate Final Rule – Spring of 2016.
- Key Provisions: (1) Successors in Interest; (2) Early Intervention; (3) Loss Mitigation; (4) Periodic Statements for Borrowers in Bankruptcy
- Effective date: 1 year for bankruptcy billing statements; 280 days - rest

– Fair Debt Collection Practices Act – Proposed Rule TBD

■ FHA Developments

Regulatory and Legislative Developments – Federal Rules of Bankruptcy Procedures



- **Effective Date:** December 1, 2015
- **Revised Forms**
 - Proof of Claim and Attachment (410 and 410A replaces B10 and B10A)
 - Notice of Mortgage Payment Change (410S1 replaces B10S1)
 - Notice of Post-petition Mortgage Fees, Expenses, and Charges (410S2 replaces B10S2)
- **Key Considerations**
 - POC & Attachment: Detailed ledger/accounting
 - “From date of first default” defined: “the first date on which the borrower failed to make a payment in accordance with the terms of the note and mortgage, unless the note was subsequently brought current with no principal, interest, fees, escrow payments, or other charges immediately due and payable.”

Regulatory and Legislative Developments – Federal Rules of Bankruptcy Procedures – B10A



B 10A (Attachment A) (12/11)

B 10A (Attachment A) (12/11)

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Mortgage Proof of Claim Attachment

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See Bankruptcy Rule 3001(c)(2).

Name of debtor: Case number:

Name of creditor: Last four digits of any number you use to identify the debtor's account:

Part 1: Statement of Principal and Interest Due as of the Petition Date

Itemize the principal and interest due on the claim as of the petition date (included in the Amount of Claim listed in Item 1 on your Proof of Claim form).

1. Principal due (1) \$

2. Interest due

Interest rate	From mm/dd/yyyy	To mm/dd/yyyy	Amount
<input type="text"/> %	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
<input type="text"/> %	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
<input type="text"/> %	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
Total interest due as of the petition date			\$ <input type="text"/> Copy total here ▶ (2) + \$ <input type="text"/>

3. Total principal and interest due (3) \$

Part 2: Statement of Prepetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges due on the claim as of the petition date (included in the Amount of Claim listed in Item 1 on the Proof of Claim form).

Description	Dates incurred	Amount
1. Late charges		(1) \$ <input type="text"/>
2. Non-sufficient funds (NSF) fees		(2) \$ <input type="text"/>
3. Attorney's fees		(3) \$ <input type="text"/>
4. Filing fees and court costs		(4) \$ <input type="text"/>
5. Advertisement costs		(5) \$ <input type="text"/>
6. Sheriff/auctioneer fees		(6) \$ <input type="text"/>
7. Title costs		(7) \$ <input type="text"/>
8. Recording fees		(8) \$ <input type="text"/>
9. Appraisal/broker's price opinion fees		(9) \$ <input type="text"/>
10. Property inspection fees		(10) \$ <input type="text"/>
11. Tax advances (non-escrow)		(11) \$ <input type="text"/>
12. Insurance advances (non-escrow)		(12) \$ <input type="text"/>
13. Escrow shortage or deficiency (Do not include amounts that are part of any installment payment listed in Part 3.)		(13) \$ <input type="text"/>
14. Property preservation expenses. Specify: <input type="text"/>		(14) \$ <input type="text"/>
15. Other. Specify: <input type="text"/>		(15) \$ <input type="text"/>
16. Other. Specify: <input type="text"/>		(16) \$ <input type="text"/>
17. Other. Specify: <input type="text"/>		(17) + \$ <input type="text"/>
18. Total prepetition fees, expenses, and charges. Add all of the amounts listed above.		(18) \$ <input type="text"/>

Part 3: Statement of Amount Necessary to Cure Default as of the Petition Date

Does the installment payment amount include an escrow deposit?

- No
- Yes Attach to the Proof of Claim form an escrow account statement prepared as of the petition date in a form consistent with applicable nonbankruptcy law.

1. Installment payments due Date last payment received by creditor mm/dd/yyyy

Number of installment payments due (1)

2. Amount of installment payments due

installments @ \$

installments @ \$

installments @ + \$

Total installment payments due as of the petition date \$ Copy total here ▶ (2) \$

3. Calculation of cure amount

Add total prepetition fees, expenses, and charges Copy total from Part 2 here ▶ + \$

Subtract total of unapplied funds (funds received but not credited to account) - \$

Subtract amounts for which debtor is entitled to a refund - \$

Total amount necessary to cure default as of the petition date (3) \$

Copy total onto Item 4 of Proof of Claim form

Reset

Save As...

Print

Regulatory and Legislative Developments – Federal Rules of Bankruptcy Procedures – 410A



Part 1: Mortgage and Case Information		Part 2: Total Debt Calculation		Part 3: Arrearage as of Date of the Petition		Part 4: Monthly Mortgage Payment	
Case number:	14-00001	Principal balance:	\$103,000.00	Principal & interest due:	\$2,000.00	Principal & interest:	\$500.00
Debtor 1:	John Smith	Interest due:	\$1900.00	Prepetition fees due:	\$1,000.00	Monthly escrow:	\$200.00
Debtor 2:	Jane Smith	Fees, costs due:	\$1,000.00	Escrow deficiency for funds advanced:	\$1,600.00	Private mortgage insurance:	n/a
Last 4 digits to identify:	6789	Escrow deficiency for funds advanced:	\$1,600.00	Projected escrow shortage:	\$1,000.00	Total monthly payment:	\$700.00
Creditor:	Mortgage Trust 2012	Less total funds on hand:	– \$200.00	Less funds on hand:	– \$200.00		
Servicer:	Mortgage Servicer A	Total debt:	\$107,900.00	Total prepetition arrearage:	\$5,400.00		
Fixed accrual/daily simple interest/other:		Fixed Accrual					

Part 5 : Loan Payment History from First Date of Default

A.	B.	Account Activity			F.	G.	How Funds Were Applied/Amount Incurred					Balance After Amount Received or Incurred				
		C.	D.	E.			H.	I.	J.	K.	L.	M.	N.	O.	P.	Q.
Date	Contractual payment amount	Funds received	Amount incurred	Description	Contractual due date	Prin, int & esc past due balance	Amount to principal	Amount to interest	Amount to escrow	Amount to fees or charges	Unapplied funds	Principal balance	Accrued interest balance	Escrow balance	Fees / Charges	Unapplied funds balance
4/1/13	\$700.00			Monthly payment	4/1/2013	\$700.00						\$103,050			0	
4/16/13			\$50.00	Late fee	4/1/2013	\$700.00				\$50.00		\$103,050			\$50.00	
4/25/14			\$600.00	Property taxes	4/1/2013	\$700.00			\$600.00			\$103,050		-\$600.00	\$50.00	
5/1/13	\$700.00			Monthly payment	4/1/2013	\$1400.00						\$103,050		-\$600.00	\$50.00	
5/16/13			\$50.00	Late fee	4/1/2013	\$1400.00				\$50.00		\$103,050		-\$600.00	\$100.00	
6/1/13	\$700.00			Monthly payment	4/1/2013	\$2100.00						\$103,050		-\$600.00	\$100.00	
6/16/13			\$50.00	Late fee	4/1/2013	\$2100.00				\$50.00		\$103,050		-\$600.00	\$150.00	
6/25/13			\$1200.00	Insurance	4/1/2013	\$2100.00			\$1200.00			\$103,050		-\$1800.00	\$150.00	
7/1/13	\$700.00			Monthly payment	4/1/2013	\$2800.00						\$103,050		\$1800.00	\$150.00	
7/16/13			\$50.00	Late fee	4/1/2013	\$2800.00						\$103,050		\$1800.00	\$150.00	
7/25/13			\$850.00	Foreclosure fee	4/1/2013	\$2800.00				\$850.00		\$103,050		\$1800.00	\$1000.00	
7/27/13		\$820.00		Payment	5/1/2013	\$2100.00	\$50.00	\$450.00	\$200.00		\$120.00	\$103,000		\$1600.00	\$1000.00	\$120.00
8/1/13	\$700.00			Monthly payment	6/1/2013	\$2800.00						\$103,000		\$1600.00	\$1000.00	
8/3/13				Bankruptcy Filed												

Source: August 19, 2014 Proposal

Regulatory and Legislative Developments – Regulatory Reform Bills



- **Sen. Shelby Bill – Some Key Provisions:**
 - Delays enforcement of TRID until CFPB certifies disclosures compliant with state law.
 - Removes TRID 3-day wait period if only change is a reduction in interest rate.
 - QM Safe Harbor for certain loans in portfolio (D: other limitations)
 - QM definition of points & fees would exclude escrows for insurance/accident insurance.
 - Exception from Annual Written Privacy Notice under GLBA with conditions (D)
 - Study of capital treatment of MSR and Basel III
 - Study of DFA impact on credit and product availability, market for non-QM loans, and state foreclosure laws that impact investors' ability to transfer property after foreclosure.

- **Senate Democratic Alternative (Some Key Items Not in Shelby Bill):**
 - Allow CFPB to enforce certain SCRA provisions
 - Permanently extend Protecting Tenants at Foreclosure Act that expired at end of 2014.