

Department of Financial Regulation

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S.136 MISCELLANEOUS CONSUMER PROTECTIONS

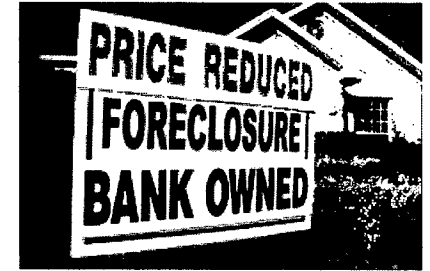
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APRIL 12, 2017



History Mortgage Crisis



- 2007 US Mortgage Crisis
- 2008 Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act)
- 2010 the Dodd-Frank Wall Street Reforms and Consumer Protection Act
- In 2011 the SAFE Act was transferred to the Consumer Financial Protection Bureau (CFPB)
- CFPB has issued escrow rules to amend Regulation Z (Truth in Lending) to implement certain amendments made by the Dodd-Frank Act.



Vermont Escrow Complexity

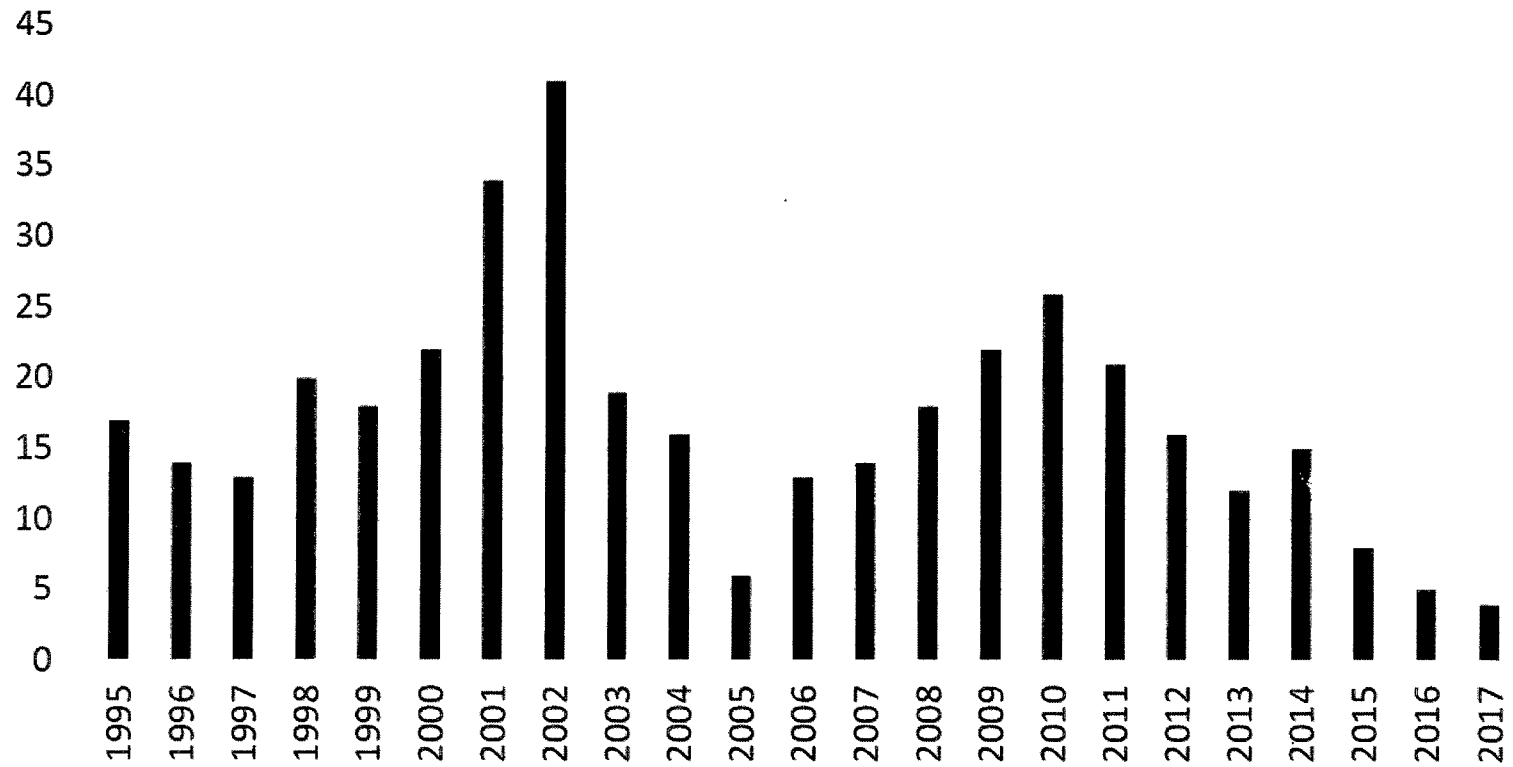


- Vermont's Unique Property Tax Adjustment for Qualifying Vermonters
 - Dates of adjustment calculation
 - Out-of-State Servicers lack of understanding of tax adjustment

- Current Vermont law only permits a one month cushion on required escrow accounts, not the two month cushion under RESPA. 8 V.S.A. §10404 (c).

- Escrow includes taxes, property and even flood insurance all of which can substantially vary in amount. year-over-year.

Escrow Complaints by Year



Vermont Department of Financial Regulation escrow complaints from 2005 – 2017.

Vermont New Mortgage Foreclosure Filings by County

County	2015	2016	Percentage Decrease 2015 to 2016
Addison	51	31	-39.22%
Bennington	105	70	-33.33%
Caledonia	65	53	-18.46%
Chittenden	138	92	-33.33%
Essex	14	14	0.00%
Franklin	111	69	-37.84%
Grand Isle	13	6	-53.85%
Lamoille	62	30	-51.61%
Orange	48	26	-45.83%
Orleans	56	32	-42.86%
Rutland	142	104	-26.76%
Washington	125	70	-44.00%
Windham	89	76	-14.61%
Windsor	127	111	-12.60%
Totals	1146	784	-31.59%

S.136 Proposed Legislation



Section 2 lines 2 – 4:

(g)(1) At least annually, a lender shall conduct an escrow account analysis at the completion of the escrow account computation year to determine the borrower's monthly escrow account payments for the next computation year based upon the borrower's current tax bill, after an adjustment for a state credit on property taxes, if any.

Questions:

- ***Have current federal CFPB escrow requirements been considered, since this is already a requirement?***
- ***Federal law allows for circumstances when the servicer can use a short year statement. Has this been considered?***

Federal Short Year Statement Option

A servicer may issue a short year annual escrow account statement to change one escrow account computation to another. Servicer is required to deliver short year statement to the borrower within 60 days from the end of the short year. Examples of short year statements:

- Servicing Transfer
- Loan Payoff



CFPB Regulation

- Escrow account computation year is a 12-month period that a servicer establishes for the escrow account beginning with the borrower's initial payment date. The term includes 12-month period thereafter, unless a servicer chooses to issue a short year statement under the conditions stated in § 1024.17(i)(4).

S.136 Proposed Legislation

Section 2 lines 5 – 10:

(2) Upon written or verbal notice from a borrower that his or her annual property tax bill has been revised, the lender shall review the property tax bill and upon verifying that it has been revised since the date of the last escrow account analysis, the lender shall, within 30 days of receiving notice from the borrower, conduct a new escrow account analysis, recalculate the borrower's monthly escrow payment accordingly, and notify the borrower of any change.

Questions:

How would a servicer respond to a verbal notification of a property tax bill revision without a copy of the tax bill?

S.136 Proposed Legislation

Section 3 lines 11 – 16:

(3) The lender shall provide financial statements relating to the borrower's escrow account in a manner and on a form consistent with the Real Estate Settlement Procedures Act to the borrower at least annually, and whenever an escrow account analysis is conducted or a borrower requests such information. The lender shall not charge the borrower for the preparation and transmittal of such statement.

Observation:

8 V.S.A. § 10404 (g) provides that, “the lender shall provide annually, or upon request of the borrower, financial statements relating to the borrower's escrow account in a manner and on a form approved by the commissioner.”

Comments & Considerations

S.136 grants the borrower a new right, which is not currently in Federal escrow law, if the borrower notifies the lender that there is a new property tax bill in writing or verbally, the lender must redo the analysis and adjust the payment accordingly.

Concerns:

- The legislation refers to property taxes specifically, yet other things can be paid through escrow and can also vary substantially in amount. Will the consumer be confused with ability to receive a new escrow analysis with a tax bill change but not insurance premium changes?

Comments & Considerations

Federal Consideration:

- If at the time the servicer conducts the escrow account analysis the borrower is more than 30 days overdue, then the servicer is exempt from the requirements of submitting an annual escrow account statement to the borrower under 1024.17(i).

Comments & Considerations

Concerns:

- This proposal is another, new departure from Federal law (see 1 month cushion) which will not likely be fully understood by the servicer community. The states are seeking to be more uniform with Federal requirements, not less.
- Due to the nature and complexity of escrow, there will more than likely be circumstances where there is a lag between changes in escrow disbursement amounts and mortgage payment increases, that is why there is a cushion.