

PUBLICATION

New QWR Requirements Under the CFPB

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The new year will be bringing many new changes to the mortgage servicing industry. In perhaps one of the most significant but least talked about changes, mortgage servicers will be facing several newly modified statutes regarding qualified written requests (more commonly known as QWRs) under the Real Estate Settlement Procedures Act (RESPA).

Consistent with the overall theme of the Dodd-Frank Act, Section 1463(c) will modify RESPA to allow borrowers to obtain faster responses to their QWRs as well as to impose heftier damages for a servicer's failure to respond. In fact, the timeframe for acknowledging and responding to QWRs will decrease significantly, and the allowable statutory damages for a QWR violation will double.

Section 1463(c) goes into effect on January 10, 2014, and will contain three noteworthy modifications to the QWR statute:

- First, a mortgage servicer's timeframe in which to acknowledge receipt of a QWR will change from 20 days to 5 days (excluding public holidays, Saturdays and Sundays). Essentially, a mortgage servicer will have five business days in which to acknowledge, in writing, its receipt of a borrower's QWR – as opposed to the 20 days previously allowed.
- Second, a servicer will have only 30 days (excluding public holidays and weekends) to provide a substantive, detailed response to the QWR – as opposed to the 60 days previously allowed.
- Third, servicers will be able to obtain an extension of time in which to respond to a QWR. According to the brand new rule 2605(e)(4), a servicer can now obtain a 15-day extension to the 30-day period in which to respond a QWR. The only thing a servicer must to do to receive the extension is notify the borrower of the extension and provide the reasons for the delay in responding. Even with the extension, however, servicers will have a maximum of 45 days in which to substantively respond to a borrower's QWR.

In addition to the tighter timeframe for responding to QWRs, the statutory damages available to a borrower will increase sharply. As of January 2014, an individual borrower may obtain statutory damages, in addition to actual damages, of as much as \$2,000. Prior to the Dodd-Frank amendment, statutory damages available for a servicer's failure to respond to a QWR in a timely manner were capped at \$1,000. Furthermore, in the case of a class action lawsuit, the maximum allowable amount of statutory damages available will double from \$500,000 to \$1 million.