COVIUS | COMPLIANCE SOLUTIONS

# REGULATORY AND LEGISLATIVE UPDATES

## NAVIGATING THE MORTGAGE INDUSTRY LANDSCAPE: 2025 REVIEW & 2026 OUTLOOK

*Prepared by the Compliance Solutions Team at Covius*

# REGULATION

## CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

### CFPB IN LIMBO: NEW LEADERSHIP & MASS LAYOFFS

The CFPB had an eventful 2025 as the new administration sought to reverse the agency's course from the previous four years. In early January, the Bureau engaged in a flurry of last-minute activity before the inauguration, but on January 20 President Trump issued a regulatory freeze and directed federal agencies to "consider postponing for 60 days" regulations that had been finalized but had not yet taken effect.

Director Rohit Chopra remained in charge of the CFPB until he was fired at the beginning of February and replaced with Treasury Secretary Scott Bessent as Acting Director. Four days later, Bessent was replaced by Office of Management and Budget Director Russell Vought, who has served as Acting Director since that time. Although President Trump nominated Jonathan Kernan as Director in mid-February, that nomination was withdrawn three months later.

Shortly after taking over, Acting Director Vought directed CFPB employees to stop working, and he temporarily closed the Bureau's Washington, D.C. headquarters. Over the next several months, the administration sought to lay off over 1,500 CFPB employees, or approximately 86% of the CFPB's workforce. The mass layoffs were temporarily halted as a result of a lawsuit brought by former employees; however, in mid-August, the D.C. Circuit Court vacated the lower court's injunction and remanded the case for further proceedings. Currently, the Bureau has a staff of approximately 1,300 employees who are still being paid, pending the outcome of the litigation. However, many have been sidelined and are not doing any meaningful work.

On November 10, the CFPB informed the D.C. District Court that it "anticipates exhausting its currently available funds in early 2026" and faces a potential lapse in appropriations due to the agency's inability to fund itself from the Federal Reserve. This lack of funding is based on the theory (advanced by the Department of Justice) that the CFPB can only draw funds from the Federal Reserve's net profits. The Federal Reserve has reported negative income since 2023.

### TABLE OF CONTENTS


**REGULATION**

CFPB in Limbo . . . . . 1

Regulatory Rollback . . . 2

Loss Mitigation Measures . . . . . 3

**LEGISLATION**

Uniform Mortgage Modification Act. . . . . 4

Disaster Relief Legislation . . . . . 5

New Foreclosure Requirements . . . . . 5

Statute of Limitations . . 7

Legislative Fixes . . . . . 7

**LITIGATION**

State Litigation . . . . . 7

Federal Litigation . . . . . 9

**LOOKING AHEAD TO 2026** . . . . . .10

## REGULATORY ROLLBACK

In addition to its goal of reducing the CFPB's workforce, Bureau leadership under the new administration has taken multiple steps to pull back the agency's regulatory, enforcement and supervisory activities.

On May 12, the CFPB announced that it was withdrawing a total of 67 guidance documents issued since 2011, including circulars, bulletins, interpretive rules, policy statements and advisory opinions. According to Acting Director Vought, the purpose of withdrawing these documents is to give Bureau staff "an opportunity to review and consider (1) whether the guidance is statutorily prescribed, (2) whether the interpretation therein is consistent with the relevant statute or regulation, and (3) whether it imposes or decreases compliance burdens."

Since February, the new administration has also reversed course on multiple regulations with the goal of reining in the CPFB's influence. Recent examples include revisions to the Consumer Financial Civil Penalty Fund Rule, the Personal Financial Data Rights Rule, the Equal Credit Opportunity Act rule (Reg B), and a new proposed rule to adopt a legal standard applicable to supervisory designation proceedings.

On the enforcement front, the Bureau has dismissed over 20 pending enforcement actions since the beginning of the year. These cases were brought under the previous administration, and Acting Director Vought described one dismissed case as "abusive" and "unjust." In connection with the CFPB's declaration that it soon may not be able to fund itself, the Bureau has handed all remaining enforcement litigation over to the Department of Justice.

Finally, in late November, the CFPB released a "Humility Pledge" that Bureau examiners will read to each supervised entity before conducting exams; the pledge promises a departure from previous practices and a commitment to greater transparency and a narrower scope than earlier examinations.

It is clear that the Trump Administration is trying to diminish the CFPB as much as possible in the absence of legislation related to the agency, and the same trajectory is expected to continue into 2026. However, the consumer protection laws that the Bureau is tasked with enforcing still exist even if the chief enforcer goes dormant. Those subject to these laws will need to stay compliant or chance facing scrutiny at the state level or by a resurrected CFPB under a future administration.

© 2026 Covius. All rights reserved.

## LOSS MITIGATION MEASURES

2025 saw major changes to loss mitigation programs offered by the Federal Housing Administration (FHA), Department of Veterans Affairs (VA), and United States Department of Agriculture (USDA) Rural Housing Service that kept servicers on their toes.

### USDA IMPLEMENTS 2024 OVERHAULS

In 2024, the USDA announced an overhaul of its loss mitigation guidance, set to take effect on February 11, 2025. After a delay caused by the Trump Administration's Executive Order that directed agencies to "consider postponing" regulations that had been finalized but had not taken effect, the new waterfall finally became effective on April 14, 2025 with minimal changes.

One of these updates was to make the new waterfall effective for borrowers who first submitted applications on or after April 14, 2025, resulting in a period of several months during which servicers were using both the prior waterfall and the new waterfall. As reported in our Regulatory & Legislative Update – 2024 Review & 2025 Outlook, one of the biggest changes in the new waterfall was the restructuring of the mortgage recovery advance as a servicing advance instead of a junior lien.

### FHA UPDATES DEFAULT SERVICING PROCEDURES AND LOSS MITIGATION WATERFALL

In the waning months of the Biden Administration, the FHA published multiple Mortgagee Letters overhauling FHA default servicing procedures, including modernizing communications with borrowers in default and a new set of permanent loss mitigation guidelines.

In April, the new administration published Mortgagee Letter 2025-12, which made further revisions, removed some of the more onerous requirements from the previously published guidance, and moved the effective date of the new loss mitigation waterfall up to October 1, 2025. Additional changes, which servicers were required to implement within the next two months, were published six days before the October 1 effective date.

> The streamlined loss mitigation application process is a win for servicers and borrowers.

The updated FHA loss mitigation waterfall streamlines loss mitigation application documentation requirements but requires a borrower affordability attestation and a 3- to 6-month trial payment plan for all permanent home retention options. It prevents borrowers from receiving more than one permanent home retention option in a 24-month period (with certain exceptions). The streamlined loss mitigation application process is a win for servicers and borrowers, as the pre-COVID era requirement to collect extensive documentation placed significant burdens on both parties. The new trial period requirements should ensure that borrowers can afford their modified loan payments, and the limitation on successive permanent loss mitigation review will prevent loan modifications in close succession and direct borrowers to more realistic options.


© 2026 Covius. All rights reserved.

## VA WORKS ON HOME RETENTION OPTIONS

While the VA did not have a complete waterfall overhaul, there were several major changes to its "last chance" home retention options. On April 23, 2025, the VA announced the wind-down of the Veterans Affairs Servicing Purchase (VASP) program, effective May 1, 2025. VASP was originally introduced in May 2024 as a final loss mitigation option. With the wind-down of VASP, the VA also rescinded its Home Retention Waterfall and amended its Servicer Handbook to remove the requirement for a minimum 10% reduction in monthly payments for 30- and 40-year modifications.

In July 2025, the VA Home Loan Program Reform Act was signed into law, directing the VA to establish a partial claim program for VA-guaranteed loans in default. This reinstated the VA partial claim program that had previously been discontinued in 2022. This will align the VA's loss mitigation options with USDA and FHA. However, specific program requirements have not yet been announced by the VA.

## GSEs TAKE A BREAK

After a busy 2024, Fannie Mae and Freddie Mac made limited changes to loss mitigation in 2025, only adding guidance for loans with temporary interest rate buydowns.

Fannie Mae and Freddie Mac made limited changes to loss mitigation in 2025.

# LEGISLATION

## UNIFORM MORTGAGE MODIFICATION ACT

In July 2024, the Uniform Law Commission formally approved the Uniform Mortgage Modification Act (UMMA), a model statute that defines safe-harbor rules for modifying existing residential and commercial mortgages in ways that preserve lien priority. Beginning in 2025, several states moved to adopt the Act.

Notably, Nevada enacted the UMMA via Assembly Bill 192 clarifying which types of modifications are required to be recorded to preserve the priority of certain mortgages in addition to outlining which types of modifications can be made without prejudice to the priority of the mortgage being modified.


© 2026 Covius. All rights reserved.

Utah and Wyoming also passed their own bills enacting the UMMA this year. These early adoptions reflect a broader trend of states embracing the UMMA's standardized framework around mortgage modifications.

## DISASTER RELIEF LEGISLATION

The federal posture toward disaster assistance is anticipated to shift, placing more responsibility on state and local governments. States like California worked proactively by putting forth legislation to support disaster-affected communities.

On September 22, California Governor Gavin Newsom signed the Mortgage Forbearance Act, a measure intended to provide temporary foreclosure relief for borrowers impacted by recent wildfires in the Golden State. The Act requires servicers to provide eligible borrowers with a mortgage payment forbearance "for a period of up to an initial 90 days, which shall be extended at the request of the borrower in 90-day increments, up to a maximum forbearance period of 12 months."

To qualify, a borrower must be experiencing financial hardship due to the specified wildfires and must submit a forbearance request to the servicer. Servicers must respond to forbearance requests within 10 days, must provide borrowers with a written explanation for any denied requests, and must identify any curable defects in the written notice. The Act also includes instructions on credit reporting for loans granted disaster-related mortgage payment relief.

## NEW FORECLOSURE REQUIREMENTS

Several states enacted new laws expanding foreclosure process requirements in 2025. In Maine, for example, House Bill 257 signed in June 2025 requires servicers to include additional verbiage in the Notice of Mortgagor's Right to Cure under 14 M.R.S. § 6111 warning borrowers about scammers offering assistance.

In Maine, House Bill 257 signed in June 2025 requires servicers to include additional verbiage in the Notice of Mortgagor's Right to Cure under 14 M.R.S. § 6111 warning borrowers about scammers offering assistance.

In Minnesota, the recently enacted House Bill 4 – a large budget bill – changes the way default notices are sent. Under the revised law, default notices to borrowers are now required to be sent via first-class mail instead of the previous certified mail requirement, and the option to send notice by email or other electronic communication (if agreed by the lender and the borrower in writing) was added.

The changes were effective immediately for new loans, bringing Minnesota statutes in line with the current notice provisions in Fannie Mae/Freddie Mac uniform security instruments. For loans originated prior to January 1, 2023, the standard Fannie Mae/Freddie Mac Uniform Security Instrument in Minnesota required mailing by certified mail, so certified mail will still be required for loans originated on that Security Instrument.


© 2026 Covius. All rights reserved.

California lawmakers passed a measure that added new requirements for servicers attempting to foreclose on subordinate mortgages. The legislation defines "unlawful practices" in connection with a subordinate mortgage, including:

- Not providing the borrower with any written communication regarding the loan for at least 3 years
- Failing to provide a transfer of loan servicing notice or transfer of loan ownership notice to the borrower when required
- Conducting or threatening to conduct a foreclosure sale after providing a form to the borrower indicating that the debt had been written off or discharged, or after the applicable statute of limitations has expired
- Failing to provide a periodic account statement to the borrower when required to provide that statement by law

Additionally, the legislation mandates that when a servicer initiates foreclosure on a subordinate mortgage and records the notice of default, the servicer must also simultaneously record a certification regarding the above unlawful practices. The servicer will need to either certify that it did not engage in any unlawful practices or list "all instances when it committed an unlawful practice."

After recording the certification, the servicer must then send a copy of the certification to the borrower along with a notice "providing that if the borrower believes the mortgage servicer engaged in an unlawful practice…or misrepresented its compliance history, the borrower may petition the court for relief before the foreclosure sale."

Servicers who are servicing junior lien loans in California must now take several additional proactive steps to ensure compliance with the new law that is presumably aimed at combatting "zombie mortgages" by restricting the enforceability of older loans in a junior lien position. The California Mortgage Bankers Association strongly opposed this legislation because of the overly stringent compliance requirements that the measure places on mortgage servicers. The mortgage industry has begun to file legal challenges to the new law.

The mortgage industry has begun to file legal challenges to the new law because of the overly stringent compliance requirements that the measure places on mortgage servicers.

© 2026 Covius. All rights reserved.

### STATUTE OF LIMITATIONS/ UNDISCHARGED MORTGAGES

In 2025, other states worked to address long-dormant mortgages and reform mortgage discharge processes. Connecticut's Senate Bill 1336 modifies the time period after which undischarged mortgages are considered invalid. SB 1336 establishes a 10-year statute of limitations for residential foreclosures and reduces the period to invalidate an undischarged mortgage from 20 years down to 10 years. The provisions of the bill were effective on January 1, 2026.

Meanwhile, New Hampshire's House Bill 437 takes a more aggressive approach by establishing automatic discharge periods for undischarged mortgages. Specifically, HB 437 provides that five years after a mortgage reaches its stated term or maturity (or 35 years after the time the mortgage is recorded where a maturity date is not specified) it will be discharged by operation of law absent the recording of an extension of the mortgage, or an acknowledgment, or affidavit that the mortgage is not satisfied.

### LEGISLATIVE FIXES

On July 30, 2025, President Trump signed the VA Home Loan Program Reform Act. The Act is a legislative fix aimed at restoring the VA Partial Claim Program, which had been discontinued in 2022. The Act directs the Secretary of Veterans Affairs (VA) to create a partial claim program for home loans guaranteed by the VA which are in default.

On the state level, the Maryland legislature enacted a legislative fix to address the Maryland Appellate Court's decision in *Estate of Brown v. Ward* holding that lenders, including mortgage trusts and their assignees, are subject to Maryland licensing requirements. The court's ruling along with updated emergency regulations issued by Maryland Office of Financial Regulation in order to adhere to the ruling, raised significant concerns in the mortgage industry and as a result Maryland lawmakers enacted the Secondary Market Stability Act of 2025. The new law amends the licensing statute to exclude entities such as passive trusts from licensure.

# LITIGATION

## STATE LITIGATION

### HAWAII'S SUPREME COURT RULES ON FORECLOSURE STATUTE OF LIMITATIONS

The Hawaii Supreme Court issued a decision in August that settled the question of what statute of limitations applies to foreclosures. In *Deutsche Bank Trust Co. Americas v. Szymanski*, the borrower argued that the judicial foreclosure was barred by Hawaii's 6-year statute of limitations for contract claims, while the lender contended that the state's 20-year statute of limitations for real property should govern foreclosures. It is surprising that this question had not been answered by Hawaii courts


© 2026 Covius. All rights reserved.

previously, but thankfully in this case the court sided with the lender and confirmed that lenders have up to 20 years to pursue foreclosure.

## HOME EQUITY INVESTMENTS AND STATE CONSUMER PROTECTION LAWS

Home equity investment (HEI) products have been in the news this past year, with several state lawsuits alleging that HEIs violate consumer protection laws.

In *Olson v. Unison Agreement Corporation*, the Ninth Circuit Court of Appeals ruled that a home equity investment agreement was a reverse mortgage under Washington state law and not a real estate option contract. The plaintiffs in *Olson* alleged that the HEI provider violated the Washington Consumer Loan Act (WCLA), and that the HEI product was akin to an illegally structured reverse mortgage loan.

The Court found in favor of the plaintiffs and ruled that the consumers were under an obligation to repay advanced funds, concluding the HEI product was a loan. This decision could influence similar cases in other states that are questioning the legality of HEI products.

Currently pending in Massachusetts is an HEI-related lawsuit filed in February by Attorney General Andrea Campbell under the state's Unfair and Deceptive Practices Act. The state alleges that Hometap, an HEI company, violated the state's consumer protection laws by offering unlawful reverse mortgages and luring homeowners into risky lending products with promises of no payments or interests for ten years.

According to the AG, the HEI offerings attempt to circumvent regulations designed to protect consumers in reverse mortgage contracts, such as age restrictions (over 60) and the requirement for third-party counseling. However, Hometap contends that the HEI product is a legitimate investment option and not a loan.

In September, the Suffolk County Superior Court rejected Hometap's motion to dismiss and allowed the lawsuit to proceed. The outcome of this lawsuit should help determine if HEIs are legitimate home equity investment products or illegally structured reverse mortgage loans. The AG's lawsuit has also prompted legislation in Massachusetts with the goal of defining HEIs more clearly and creating a licensing system for HEI companies.

## NEW YORK COURTS AFFIRM THE FORECLOSURE ABUSE PREVENTION ACT

New York's Foreclosure Abuse Prevention Act (FAPA), enacted in December 2022, restricts lenders from restarting foreclosure if a prior lawsuit on the same debt was dismissed or if the six-year statute of limitations has passed. After the Act became law, multiple lenders challenged the constitutionality of FAPA's retroactive application.

Several recent cases have asked courts to determine (1) if FAPA applies retroactively to foreclosure actions commenced before the law's enactment; and (2) if FAPA's retroactive application violates the right to substantive and procedural due process under the New York and U.S. Constitutions.


© 2026 Covius. All rights reserved.

In late November, the New York Court of Appeals issued opinions addressing these issues in two cases: *Article 13 LLC v. Ponce De Leon Fed. Bank* and *Van Dyke v. U.S. Bank, N.A. Article 13* is a federal case in which the federal Second Circuit sent certified questions to the NY court, and *Van Dyke* is a state case. Unfortunately for lenders in New York, the Court of Appeals held in both cases that FAPA does apply retroactively in some circumstances, and that this retroactivity does not violate the NY Constitution.

In another case, *U.S. Bank N.A. v. Fox*, the lender asked the U.S. Supreme Court to weigh in on whether FAPA's retroactive application would violate the Constitution's takings and due process clauses by extinguishing a lender's mortgage lien without just compensation and by imposing new legal burdens without fair notice. However, the Supreme Court declined to hear the case.

## FEDERAL LITIGATION

### FDCPA CLAIMS IN FORECLOSURE LITIGATION

Last year, the United States District Court for the Southern District of Florida complicated matters for servicers when it allowed a Fair Debt Collection Practices Act (FDCPA) lawsuit against a mortgage servicer to proceed. In *Cruz et al v. Selene Finance, LP*, borrowers argued that the servicer's default notices were "misleading" under the FDCPA because the letters threatened to accelerate the loan (or call the entire loan due) and foreclose even though the servicer did not intend to take that action.

The court declined to dismiss the borrowers' FDCPA claims, despite the fact that the wording at issue in the default notices is required by the Fannie Mae/Freddie Mac Uniform Security Instruments.

The *Cruz* litigation has spurred several similar cases in Florida and other states; multiple lawsuits alleging default notices with FDCPA violations are making their way through FL and GA federal courts (11th Circuit) and NC federal courts

(4th Circuit). However, in at least one case involving the same servicer (and the same borrowers' attorney from *Cruz*), the federal court in Georgia dismissed the borrowers' FDCPA claims. The borrowers have appealed, and the case is pending before the 11th Circuit.

*Cruz* and the cases that have followed have the potential to disrupt default servicing and foreclosures nationwide if courts ultimately rule in the borrowers' favor; some servicers have already made adjustments to their pre-foreclosure notices based on recent orders in these cases. Covius is following this significant litigation trend closely and will be updating our clients on the outcome of these cases.


© 2026 Covius. All rights reserved.

## LOOKING AHEAD TO 2026

### INCREASED STATE ACTIVITY

The CFPB is expected to continue its efforts to reduce its regulatory, supervisory and enforcement activities; lawmakers in some states will likely want state agencies to pick up the slack. The last time the CFPB stepped back from regulatory activities (in 2017 and 2018 under Acting Director Mulvaney), several states added new state-level consumer protection laws and regulations.

In fact, some states may get assistance in this effort from former CFPB Director Rohit Chopra: The Democratic Attorneys General Association (DAGA) has hired Chopra to lead the Consumer Protection and Affordability Working Group. Shortly before Chopra's departure from the CFPB earlier this year, the Bureau published a report titled "Strengthening State-Level Consumer Protections." This report provides recommendations on how to improve state consumer protection laws and could act as a blueprint for Chopra's ongoing work with DAGA.

### DELINQUENCIES ON THE RISE

Another driver of state legislation could be increased mortgage delinquencies. If more borrowers fall behind on their mortgages in 2026, the mortgage industry should expect to see renewed attention on foreclosure protection measures from state legislatures. Litigation over default servicing and foreclosure is also likely to intensify in a rising delinquency environment.

### NEW LEADERSHIP AT FEDERAL AGENCIES

Several of President Trump's picks to head federal housing-related agencies are advancing through the nomination process; Frank Cassidy has been named as Commissioner of the Federal Housing Administration (FHA), and Joseph Gormley has been nominated as President of Ginnie Mae. Both have been working in high level roles in their respective agencies since April 2025, and no major changes in direction are expected if these nominees are confirmed.

Meanwhile, Stuart Levenbach has been nominated to serve as Director of the CFPB despite his lack of experience in financial services. Some reports have stated that the sole purpose of Levenbach's nomination is to allow Russell Vought to continue to serve as the Acting Director, because the Federal Vacancies Reform Act allows an acting director to continue to serve while a nomination is pending in the Senate. Even if Levenbach were to be confirmed, the administration has given no indication that it intends to deviate from its goal of shuttering the CFPB.

Covius Compliance Solutions is continually tracking case law, legislation and regulation related to collections, default servicing, loss mitigation, and foreclosure. We use this information to maintain borrower letter template libraries and processes that are compliant and current and to communicate the latest developments to our clients. We appreciate the partnership with our clients and strive to provide valuable insights for the industry.


© 2026 Covius. All rights reserved.