# Caveat Lender: Lenders Need to Review Procedures and Form Payoff Statement to Ensure Compliance with Payoff Statement Requirements

In December 2013, Wisconsin enacted a statute modeled on the Uniform Residential Mortgage Satisfaction Act. The Wisconsin version, however, applies with equal force to both residential and commercial properties—admittedly odd, given the title of the uniform law. Lenders are advised to revisit their existing procedures and forms of payoff letters to ensure compliance with the law. (See 2013 Wisconsin Act 66, codified in Chapter 708.15.)

A debtor, landowner or settlement agent may request a payoff statement to be provided within 30 days. The statute provides specific requirements for the method of delivery of such requests. Once the request is received by a lender, the statute proscribes very specific requirements on the lender to reply.

First, the reply for residential properties must be sent within seven days after effective receipt of the request; for commercial properties, lenders have a "reasonable time" (which may be longer than seven days. Upon replying to the request, the lender may no longer object to the form of the request it received.

Second, the reply must be sent to the person so requested in the notice sent to the lender. However, if the lender knows the notice it received was not from a party authorized to make such request, the lender has no such obligation.

Finally, the payoff statement itself must list the date on which it was prepared, information needed to calculate the payoff amount (including a per diem), any applicable cutoff time for a payment, and fees payable to lender (that is, $25 for each multiple payoff statement required to be provided in a two-month period).

Lenders need to comply with these requirements. If a lender fails to provide the payoff statement in accordance with these provisions, the lender is liable for actual damages and $500. If, after a request for payment, the lender fails to make that payment of damages, then the lender may also be liable for attorneys fees and costs.

Lenders should request assistance from Reinhart Boerner Van Deuren for a review of either specific payoff letters or the general policies, procedures or forms

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currently in use. Likewise, Reinhart can assist borrowers, landowners and settlement agents with questions about submitting a request for a payoff statement.

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