

7. Force-Placed Insurance

I. What does the force-placed insurance rule require? (§ 1024.37)

This rule puts limits on the use of force-placed insurance. These limits include:

- You must have a reasonable basis to believe that a consumer has failed to maintain required hazard insurance before charging for force-placed insurance.
- You must send 2 notices to the consumer and not have received in response to these notices evidence that the consumer has had in place, continuously, required hazard insurance before you charge for force-placed insurance.
- You must notify the consumer and not have received in response to this notice evidence that the consumer has purchased required hazard insurance before you charge the consumer for renewing force-placed insurance.
- You must cancel force-placed insurance within 15 days of receiving evidence that the consumer has required hazard insurance in place and refund to the consumer any fees or charges for periods of overlapping coverage.
- Force-placed insurance charges imposed by a servicer on a borrower, beyond those subject to state regulation as insurance charges, must be bona fide and reasonable.

Additional rules apply for consumers with escrow accounts, as described in § 1024.17. (See “What additional rules apply for consumers with escrow accounts for payment of hazard insurance?” on page 51.)

II. What is the scope of the force-placed insurance rule?

The rule applies to federally related mortgage loans (as defined in § 1024.2(b)) except for the exemptions in §§ 1024.5(b) and 1024.17(k)(5)(iii), and open-end lines of credit.

For more information on § 1024.17(k)(5)(iii), see “What is the small servicer exemption from the escrow provisions?” on page 52.

III. Is there a small servicer exemption to the force-placed insurance rule?

In general, there is no small servicer exemption to the force-placed insurance provisions. There is a limited small servicer exemption to the prohibition on the purchase of force-placed insurance for consumers with escrow accounts in certain circumstances. (See “What is the small servicer exemption from the escrow provisions?” on page 52.)

IV. What is force-placed insurance?

“Force-placed insurance” is hazard insurance the servicer obtains on behalf of the owner or assignee. (§ 1024.37(a)(1))

The following insurance does not constitute “force-placed insurance” under this section:

- Flood insurance required because the consumer’s property is in a special hazard flood zone. In these cases, the Flood Disaster Protection Act of 1973 (FDPA) rules covering force-placed flood insurance govern.
- Hazard insurance the consumer obtains and that you renew using escrow funds (including funds you advance to escrow) per the escrow account provisions in § 1024.17(k)(5) or by advancing your own funds at your discretion if the consumer agrees. (§ 1024.37(a)(2))

V. What must I do before I charge a consumer for force-placed insurance?

i. First notice and reminder notice

You must have a reasonable basis to believe that a consumer has failed to maintain required hazard insurance to charge for force-placed insurance. As part of having a reasonable basis, you must send 2 notices. You must deliver these notices to the consumer or place them in the mail. In response to these notices, you must not have received evidence that the consumer had in place, continuously, required hazard insurance.

The first notice must be sent at least 45 days before you charge the consumer for force-placed insurance.

If you do not receive evidence that the consumer has had hazard insurance that complies with the loan contract's requirements continuously in place, you must deliver or place in the mail to the consumer a written reminder notice at least 30 days after you sent the first notice. If you do not receive evidence that the consumer has had in place required hazard insurance continuously after the second notice, you may assess a force-placed insurance fee 15 days or more after sending the second notice.

VI. May I charge a consumer for insurance placed before the notices have been sent?

You may charge a consumer for insurance coverage that was in place before the notices were sent if you do not receive evidence that the consumer had in place, continuously, required hazard insurance during these periods, but you may not impose that charge until after the notices have been sent and the notice periods specified in the rule have elapsed.

i. Renewal notice

Before each anniversary of your purchase of force-placed insurance, you must deliver or place in the mail to the consumer a written notice explaining the renewal and requesting the consumer to provide evidence of having purchased hazard insurance on the property. You only have to provide this written renewal notice once a year. (§ 1024.37(e)(5)). In response to this notice, you must not have received evidence that the consumer purchased required hazard insurance. The written renewal notice generally must be delivered or mailed at least 45 days before assessing on a consumer a charge or fee related to the renewal. (§ 1024.37(e)(1)(i))

If you renewed or replaced an existing force-placed insurance policy and you receive evidence that the consumer lacked insurance coverage after the existing force-placed insurance expired (including during the 45-day notice period), you may immediately after receiving such evidence assess a premium charge or fee related to renewing or replacing the existing force-placed insurance for that period without coverage – as long as not prohibited by state or other applicable laws. (§ 1024.37(e)(1)(iii))

ii. **What class of postage must I use if I mail the notices? (§ 1024.37(f))**

When you mail notices, you must use at least first-class mail.

VII. May I charge a consumer for insurance placed before the notices have been sent?

You may charge a consumer for insurance coverage that was in place before the notices were sent if you do not receive evidence that the consumer had in place, continuously, required hazard insurance during these periods, but you may not impose that charge until after the notices have been sent and the notice periods specified in the rule have elapsed.

VIII. What must be in the force-placed insurance notices?

The notices must have the content and format specified in the rule and demonstrated in the model and sample forms.

Proper use of the forms will comply with both the content and format requirements of this rule. (See Table 6 below for the content requirement and Table 7 on page 48 for the format requirement.) The model forms may be filled out and used, while the sample forms demonstrate the proper way to fill out the forms.

TABLE 6: CONTENT OF THE FORCE-PLACED INSURANCE DISCLOSURES

	FIRST NOTICE (§ 1024.37(c)(2))	REMINDER NOTICE (§ 1024.37(d)(2))	RENEWAL NOTICE (§ 1024.37(e)(2))
The date of the notice	§ 1024.37(c)(2)(i)	§ 1024.37(d)(2)(i)(A)	§ 1024.37(e)(2)(i)

		§ 1024.37(d)(2)(ii)(A)	
A statement that this is the second and final notice		§ 1024.37(d)(2)(i)(B) § 1024.37(d)(2)(ii)(B)	
The servicer's name and mailing address	§ 1024.37(c)(2)(ii)	§ 1024.37(d)(2)(i)(C) § 1024.37(d)(2)(ii)(B)	§ 1024.37(e)(2)(ii)
The consumer's name and mailing address	§ 1024.37(c)(2)(iii)	§ 1024.37(d)(2)(i)(C) § 1024.37(d)(2)(ii)(B)	§ 1024.37(e)(2)(iii)
A request for the consumer to provide hazard insurance information for the property (and states the property's address)	§ 1024.37(c)(2)(iv)	§ 1024.37(d)(2)(i)(C) § 1024.37(d)(2)(ii)(B)	§ 1024.37(e)(2)(iv)
A statement that the servicer previously purchased insurance, charged to the consumer, because the servicer did not have evidence that the consumer had required hazard insurance on the property			§ 1024.37(e)(2)(v)
A statement that, the insurance the servicer purchased previously has expired or is expiring, and because hazard insurance is required the servicer intends to maintain insurance by renewing or replacing the insurance it previously purchased.			§ 1024.37(e)(2)(vi)
A statement that the hazard insurance has expired (is expiring) and the servicer does not have evidence of further insurance	§ 1024.37(c)(2)(v)	§ 1024.37(d)(2)(i)(C)	
A statement that hazard insurance is required and the	§ 1024.37(c)(2)(vi)	§ 1024.37(d)(2)(i)(C)	

servicer has purchased (will purchase) such insurance at the consumer's expense			
A statement requesting the consumer to promptly provide the servicer with insurance information	§ 1024.37(c)(2)(vii)	§ 1024.37(d)(2)(i)(C)	§ 1024.37(e)(2)(viii)
A description of the requested insurance information, and how the consumer may provide such information	§ 1024.37(c)(2)(viii)	§ 1024.37(d)(2)(i)(C)	§ 1024.37(e)(2)(ix)
A statement that the insurance the servicer will (has) purchase(d): (i) may cost significantly more and (ii) may not provide as much coverage as hazard insurance purchased by the consumer	§ 1024.37(c)(2)(ix)	§ 1024.37(d)(2)(i)(C)	§ 1024.37(e)(2)(vii)(A) to (B)
The servicer's telephone number for consumer inquiries	§ 1024.37(c)(2)(x)	§ 1024.37(d)(2)(i)(C) § 1024.37(d)(2)(ii)(B)	§ 1024.37(e)(2)(ii)(x)
If applicable, a statement advising the consumer to review additional information provided in the same transmittal	§ 1024.37(c)(2)(xi)	§ 1024.37(d)(2)(i)(C) § 1024.37(d)(2)(ii)(B)	§ 1024.37(e)(2)(xi)
The cost of the force-placed insurance, stated as an annual premium (or if the servicer does not know the cost, a reasonable estimate)		§ 1024.37(d)(2)(i)(D) § 1024.37(d)(2)(ii)(B)	§ 1024.37(e)(2)(vii)(C)

If applicable, a statement that the information the consumer sent to the servicer is incomplete and the consumer must send the missing information to avoid charge for any period for which the servicer is unable to verify hazard insurance coverage		§ 1024.37(d)(2)(ii)(C) to (E)	
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TABLE 7: AT A GLANCE: FORCE-PLACED INSURANCE DISCLOSURES PRESENTATION

	FIRST NOTICE (§ 1024.37(c)(1))	REMINDER NOTICE (§ 1024.37(d)(1))	RENEWAL NOTICE (§ 1024.37(e)(1))
Timing	At least 45 days before you assess a force-placed insurance fee	At least 30 days after the first notice, at least 15 days before assessing a force-placed insurance fee	Before each anniversary of your purchase of force-placed insurance, and generally at least 45 days before assessing on a consumer fee related to the renewal, but not more than once annually
Content	§ 1024.37(c)(2)	§ 1024.37(d)(2)	§ 1024.37(e)(2)
Format	§ 1024.37(c)(3).	§ 1024.37(d)(3)	§ 1024.37(e)(3)
Forms	Appendix MS-3(A)	Appendix MS-3(C)	Appendix MS-3(D)
Additional information	You may not include any information other than the required information in the notice. If you want to include additional information, put it on a separate piece of paper in the same transmittal. (§ 1024.37(c)(4))	You may not include any information other than the required information in the notice. If you want to include additional information, put it on a separate piece of paper in the same transmittal. (§ 1024.37(d)(4))	You may not include any information other than the required information in the notice. If you want to include additional information, put it on a separate piece of paper in the same transmittal. (§ 1024.37(e)(4))

Note		<p>If you receive new information about the consumer's hazard insurance after you put the reminder notice into production, you are not required to update the notice based on the new information provided the notice was put into production a reasonable time prior to mailing it to the consumer. (§ 1024.37(d)(5))</p>	<p>You are not required to provide this notice more than once a year.</p>
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In assessing whether the consumer has had hazard insurance that complies with the loan's contract requirements continuously in place, check to make sure that applicable law, such as state law or the terms and conditions of the consumer's insurance policy, do not give the consumer a grace period or extension of time to pay the premium after the due date.

 Implementation Tip: The content of your reminder notice will vary based on the insurance information you receive from the consumer. See comment 37(d)(1)-1 for more information.

If there is a grace period and the consumer pays the premium during the extension and the insurance company accepts the payment with no lapse in insurance coverage, then that satisfies the requirement to have continuous hazard insurance coverage. (Comment 37(c)(1)(iii)-1)

**i. Can I combine the notices required by these rules with the notices for flood insurance?
(§ 1024.37(i))**

You may include your notices for force-placed insurance in the same transmittal as your notices concerning flood insurance, as long as you use separate pieces of paper. (See also Section 102(e) of the Flood Disaster Protection Act of 1973.)

IX. What evidence may I request from consumers showing they have had continuous hazard insurance coverage? (Comment 37(c)(1)(iii)-2)

You may ask the consumer to supply a copy of:

- The consumer's hazard insurance policy declaration page
- The consumer's insurance certificate
- The consumer's insurance policy or similar forms of written confirmation of insurance

You may reject evidence of hazard insurance coverage submitted by the consumer if:

- Neither the consumer's insurance provider nor insurance agent provides confirmation of the information the consumer submitted.
- The terms and conditions of the consumer's hazard insurance policy do not comply with the requirements of the consumer's loan contract.

X. What do I do when the consumer responds?

i. If the consumer sends evidence that he or she has hazard insurance coverage

If the consumer sends evidence of having hazard insurance coverage in place that complies with the loan contract's requirements, within 15 days you must:

- Cancel any force-placed insurance you purchased for the consumer (§ 1024.37(g)(1))
- Refund to the consumer all force-placed insurance premium charges and related fees for any period of overlapping insurance coverage (§ 1024.37(g)(2))
- Remove from the consumer's account all force-placed insurance charges and related fees for the overlapping period (§ 1024.37(g)(2))

If the consumer does not respond or does not provide evidence of having hazard insurance, and you do not otherwise have such evidence, you may charge the consumer for force-placed insurance 15 days after sending the second notice.

XI. What are the limitations on charges? (§ 1024.37(h)(1) and (2))

Except for charges subject to state regulation as the business of insurance and charges authorized by the Flood Disaster Protection Act of 1973, all charges related to force-placed insurance assessed by or through the servicer must be “bona fide and reasonable.”

A “bona fide and reasonable” charge is a charge for a service you actually perform that bears a reasonable relationship to your cost to provide the service, and is not otherwise prohibited by applicable law. (§ 1024.37(h)(2))

XII. What additional rules apply for consumers with escrow accounts for payment of hazard insurance?(§ 1024.17(k)(5))

If a consumer has an escrow account for payment of hazard insurance, you may not obtain force-placed insurance unless you are unable to maintain the consumer’s existing hazard insurance coverage.

You are not considered unable to maintain the consumer’s hazard insurance just because a consumer’s mortgage loan obligation is overdue or the escrow account has insufficient funds. Therefore, generally, you will have to advance funds through escrow to maintain coverage. You can add this cost to the escrow balance or otherwise seek reimbursement from the consumer for the funds you advance.

You are considered unable to maintain the consumer's hazard insurance, and may therefore obtain force-placed insurance in accordance with the general rules rather than advance funds through escrow, if you have a reasonable basis to believe that the hazard insurance provider has canceled the policy for reasons other than non-payment or that the property is vacant.

 Implementation Tip: When a delinquent consumer's escrow account has insufficient funds to cover payment of the consumer's hazard insurance premium, generally, you will have to advance the funds through escrow to continue coverage.

XIII. What is the small servicer exemption from the escrow provisions? (§ 1024.17(k)(5)(iii))

A small servicer may purchase force-placed insurance for a consumer with an escrow account whose mortgage loan obligation is more than 30 days overdue, if the cost of the force-placed insurance to the consumer is less than the amount the small servicer would need to disburse from the consumer's escrow account to pay the consumer's hazard insurance premium.