
The original instrument was prepared by Xavier Alexander. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tyler McCloud.

SB 446 Reengrossed

DIGEST
2022 Regular Session

Fred Mills

Present law provides that if payment of an insurance check or draft in settlement of a property damage claim involving residential property in which another holds a mortgage on the property is paid jointly to the claimant and the holder of the mortgage, then such settlement proceeds are to be placed in an interest-bearing account and the interest accruing to the benefit of the claimant.

Proposed law replaces the term "claimant" with "borrower-payee".

Proposed law replaces the phrase "person holding the mortgage on the property" with "mortgagee or mortgage servicer".

Proposed law provides that a mortgagee or mortgage servicer shall promptly endorse a check, draft, or other negotiable instrument for insurance settlement proceeds payable jointly to the mortgagee or mortgage servicer and the borrower-payee.

Proposed law provides that a mortgagee or mortgage servicer is not required to endorse a check, draft, or other negotiable instrument for insurance settlement proceeds payable jointly to the mortgagee or mortgage servicer and borrower-payee if the borrower-payee refuses to endorse the instrument.

Proposed law provides that insurance settlement proceeds, related to damage of property or contents insurance coverage, received by a mortgagee or mortgage servicer, which the mortgagee or mortgage servicer has a security interest, shall be promptly deposited into a segregated account of a federally insured financial institution, unless the insurance settlement proceeds are returned to the borrower-payee or the instrument is missing the borrower-payee's endorsement.

Proposed law provides that insurance settlement proceeds, related to contents insurance coverage, received by a mortgagee or mortgage servicer, which the mortgagee or mortgage servicer has no security interest, shall be promptly distributed to the borrower-payee.

Proposed law provides that insurance settlement proceeds received by a mortgagee or mortgage servicer that is related to additional living expenses shall be promptly distributed to the borrower-payee.

Proposed law provides that a mortgagee or mortgage servicer is not required to remit the portion of the insurance settlement proceeds related to additional living expenses and contents insurance coverage unless it is determined which part of the settlement is related to additional living expenses and content insurance.

Proposed law provides that an insurance company can pay the borrower-payee directly for additional living expenses or contents insurance coverage if the mortgagee or mortgage servicer has no security interest in the contents.

Proposed law requires the mortgagee or mortgage servicer to give notice, within 20 days of receiving the insurance settlement proceeds, to the borrower-payee of the requirements for the release the proceeds.

Proposed law requires the mortgagee or mortgage servicer to release all or part of the insurance settlement proceeds within 20 days of receiving a request by the borrower-payee if sufficient evidence of complying with requirements has been received by the mortgagee or mortgage servicer.

Proposed law requires if the insurance settlements proceeds are not released as requested, the mortgagee or mortgage servicer must explain the reason for the refusal to release the funds and each requirement the borrower-payee must comply with to receive the funds.

Present law provides that once the property is replaced or repaired to the satisfaction of the claimant and the person holding the mortgage, then any funds remaining in escrow shall be paid to the claimant with any interest accrued while in escrow. Present law further provides that the holder of the mortgage on the property is required to cooperate fully with the claimant and his insurer in releasing funds in a timely manner for such replacement or repair of the damaged property.

Proposed law provides that once the property is replaced or repaired to the satisfaction of the borrower-payee and mortgagee or mortgage servicer, then any funds remaining in a segregated account shall be paid to the borrower-payee with any interest that accrued while the funds were in the segregated account. Proposed law removes the requirement that the holder of the mortgage on the property is required to cooperate fully with the claimant and his insurer in releasing funds in a timely manner for such replacement or repair of the damaged property.

Present law defines "settlement proceeds" to be funds of \$25,000 or more paid on insurance claims for damage to residential immovable property as a result of Hurricane Katrina or Hurricane Rita which are held in interest-bearing accounts for 60 days or more by the lender or loan servicer. Present law further provides that interest shall accrue on settlement proceeds after being held in escrow for more than 30 days.

Proposed law provides that interest shall accrue on insurance settlement proceeds that are \$25,000 or more, after being held by the mortgagee or mortgage servicer segregated account for more than 30 days. Proposed law deletes the definition of "settlement proceeds" under present law.

Present law provides that compliance with Fannie Mae or Freddie Mac servicing guidelines for payment of interest on property damage claim funds held in escrow by the lender or loan servicer constitutes compliance. Proposed law retains this provision.

Present law provides that if a mortgage holder is presented with a jointly payable insurance proceed check or draft, that is endorsed by mortgagor and related to residential damage to immovable

property resulting from Hurricane Katrina or Hurricane Rita, or both, and the mortgage holder receives a written request from the borrower to release excess funds then the mortgage holder shall have 30 days to return excess funds.

Proposed law retains present law but removes the provision that the damage must be a result of Hurricane Katrina or Hurricane Rita.

Present law defines "excess funds" and provides that the mortgage holder holding funds in escrow shall return all funds considered to be excess funds. Proposed law retains present law and replaces the term "mortgage holder" with "mortgagee or mortgage servicer".

Effective August 1, 2022.

(Amends R.S. 6:337 and 338(A), (B), and (C))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes technical change.

Senate Floor Amendments to engrossed bill

1. Requires the mortgagee or mortgage servicer to give notice, within 20 days of receiving the insurance settlement proceeds, to the borrower-payee of the requirements for the release the proceeds.
2. Requires the mortgagee or mortgage servicer to release all or part of the insurance settlement proceeds within 20 days of receiving a request by the borrower-payee if sufficient evidence of complying with requirements has been received by the mortgagee or mortgage servicer.
3. Requires if the insurance settlements proceeds are not released as requested, the mortgagee or mortgage servicer must explain the reason for the refusal to release the funds and each requirement the borrower-payee must comply with to receive the funds.