

2017 Regular Session

SENATE BILL NO. 159

BY SENATOR LAMBERT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

COMMERCIAL REGULATIONS. Provides for payment of insurance proceeds jointly to the mortgagee and the mortgagor of damaged residential property. (8/1/17)

AN ACT

To amend and reenact R.S. 6:337, relative to payment of insurance proceeds for damage to residential property; to provide for the obligations and responsibilities of the mortgagee and the mortgagor when proceeds are paid jointly to the mortgagee and the mortgagor; to provide for payment of proceeds to an escrow account and for their disbursement upon receipt of sufficient proof of repair or replacement; to provide for damages and attorney fees; to provide for the duties of the mortgagee and the mortgagor; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:337 is hereby amended and reenacted to read as follows:

§337. Duty of secured party upon payment of insurance claim for damage to mortgaged residential property

A.~~(1)~~ If payment in settlement of a damage claim on residential property in which ~~another person~~ a mortgagee holds a mortgage is by check or draft, of an insurer, made payable jointly to the claimant mortgagor and the ~~person holding the mortgage~~ mortgagee, then such "settlement proceeds," as defined in Subsection C of this Section, the funds received shall be placed in escrow and shall earn interest

1 payable to the claimant **mortgagor** in accordance with the provisions of Subsection
2 ~~of~~ of this Section.

3 **(2)(a) While the funds are in escrow, the mortgagee shall not place the**
4 **mortgagor in default or initiate foreclosure proceedings against the mortgagor.**
5 **The mortgagee shall suspend the accrual of interest on the mortgage and**
6 **suspend all payments due under the mortgage while the funds remain in escrow.**

7 **(b) The mortgagee shall extend the term of the outstanding mortgage for**
8 **the same period of time as the suspension of the mortgage payments and**
9 **interest accrual.**

10 B.**(1)** When the damaged **residential** property is replaced or otherwise
11 repaired to the satisfaction of the claimant **mortgagor** and the person holding the
12 mortgage on the property **mortgagee**, then any remaining ~~the~~ balance in the escrow
13 account shall be paid to the claimant **mortgagor** together with all interest that
14 accrued while the funds were in escrow. The person holding the security interest in
15 the property **mortgagee** shall cooperate fully **and in good faith** with the claimant
16 and the claimant's **mortgagor and his** insurer in releasing funds in a timely manner
17 to replace or repair the damaged property.

18 **(2)(a) Funds in the escrow account shall be paid to the mortgagor or his**
19 **contractor for the replacement or repair of the residential property after the**
20 **mortgagor notifies the mortgagee, with sufficient proof, that the property has**
21 **been replaced or the repair completed.**

22 **(b) The mortgagee shall release the funds in the escrow account to the**
23 **mortgagor or his contractor within thirty days after receipt of sufficient proof**
24 **that the property has been replaced or repaired.**

25 **(c) Failure of the mortgagee to release the funds to the mortgagor within**
26 **this thirty day period shall cause the mortgagee to be liable to the mortgagor for**
27 **two thousand five hundred dollars in damages plus reasonable attorney fees and**
28 **costs.**

29 C. As used in this Section, "~~settlement proceeds~~" **a payment in settlement**

1 **of a damage claim on residential property** means funds paid on an insurance claim
 2 for damage to residential immovable property ~~as a result of Hurricane Katrina or~~
 3 ~~Hurricane Rita, and where the funds equal twenty-five thousand dollars or more.~~
 4 These funds shall be held in escrow by the ~~lender or loan servicer.~~ ~~Interest~~
 5 **mortgagee and** shall accrue ~~on settlement proceeds~~ **interest** after being held in
 6 escrow for more than thirty days. For purposes of this Subsection, compliance with
 7 Fannie Mae or Freddie Mac servicing guidelines for payment of interest on property
 8 damage claim funds held in escrow by the ~~lender~~ **mortgagee** or loan servicer
 9 constitutes compliance with this Section.

10 D. The provisions of this Section shall be applicable to state chartered
 11 federally insured financial institutions and their affiliates to the same extent that such
 12 provisions are applicable to federally chartered financial institutions.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

SB 159 Original

2017 Regular Session

Lambert

Present law requires that settlement proceeds paid in settlement of a damage claim on residential property on which another person holds a mortgage be placed in escrow and earn interest. Defines "settlement proceeds" to be funds equal to \$25,000 or more paid on an insurance claim for damage to residential immovable property as a result of Hurricane Katrina or Hurricane Rita. Requires paid on escrow funds held for more than 30 days.

Proposed law retains these provisions but removes the \$25,000 limitation and removes references that the funds be paid as a result of hurricanes Katrina and Rita.

Proposed law requires that while funds are in escrow, the mortgagee is prohibited from placing the mortgagor in default or initiating foreclosure proceedings. Requires suspension of interest accrual and mortgage payments due while the funds are in escrow. Requires the mortgagee to extend the term of the outstanding mortgage for the same period of time as the suspension.

Present law requires that when damaged property is replaced or repaired to the satisfaction of the mortgagee and the mortgagor, then the escrow balance is to be paid to the mortgagor with all accrued interest. Requires that the mortgagee cooperate fully with the mortgagor and his insurer in releasing the funds timely.

Proposed law retains these provisions but changes "claimant" to "mortgagor" and changes "person holding the mortgage" to "mortgagee". Provides that the mortgagee cooperate in good faith with the mortgagor in releasing the funds.

Proposed law requires payment of escrow funds after notification to the mortgagee, with sufficient proof, that the property has been replaced or the repair completed. Requires release of funds by the mortgagee within 30 days after receipt of sufficient proof that the property

has been replaced or repaired. Provides that failure of the mortgagee to release the funds to the mortgagor within this 30 day period shall cause the mortgagee to be liable to the mortgagor for \$2,500 in damages plus reasonable attorney fees and costs.

Effective August 1, 2017.

(Amends R.S. 6:337)