

Regular Session, 2014

SENATE BILL NO. 479

BY SENATOR GARY SMITH

FINANCIAL INSTITUTIONS. Provides for the process of insurance settlement payments on claims arising under homeowners' insurance policies. (8/1/14)

AN ACT

To enact R.S. 6:339, relative to insurance; to provide for handling and distribution of insurance settlement payments on homeowners' insurance claims; to provide for distribution of insurance settlement payment in excess of unpaid portion of secured indebtedness; to provide for enforcement; to provide for procedures, terms, and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:339 is hereby enacted to read as follows:

§339. Insurance settlement payments; distribution of excess funds by mortgage holder; all claims

A. If a mortgage holder is presented with a jointly payable insurance proceeds check or draft for residential immovable property damage resulting from any claim, which contains the mortgagor's endorsement, and the mortgage holder receives a written request from the mortgagor to release excess funds, then all mortgage holders shall have fifteen days after receiving the written request and the check or draft to provide its endorsements and return all excess funds to the mortgagor provided for in Subsection B of this Section.

1 B. The mortgage holder holding funds in escrow shall return to the
2 mortgagor all excess funds. For purposes of this Section, the term "excess
3 funds" shall mean insurance funds in excess of each of the following:

4 (1) All loan balances of any mortgage holder named as payee on the
5 insurance claim check or draft calculated as of the thirtieth day following
6 receipt of the written request and check or draft as provided in Subsection A of
7 this Section.

8 (2) Six months of future accrued interest as calculated pursuant to the
9 terms of the mortgage loans and calculated from the date of the payoff as set
10 forth in Paragraph (B)(1) of this Section.

11 C.(1) The commissioner may impose civil money penalties of up to one
12 hundred fifty dollars per day of each day a mortgage holder subject to his
13 jurisdiction fails to comply with the requirements of Subsection B of this
14 Section.

15 (2) Penalties shall be due and payable upon notice of the assessment to
16 the mortgage holder, unless set aside after administrative hearing pursuant to
17 the provisions of the Administrative Procedure Act. The assessment of civil
18 money penalties shall be final and definitive and subject to enforcement by the
19 commissioner through judicial proceedings.

20 D. The provisions of this Section shall be applicable to state-chartered
21 federally insured financial institutions and their affiliates to the same extent
22 that such provisions are applicable to federally chartered financial institutions.

23 E. The commissioner shall have the power to enact and promulgate rules
24 pursuant to the Administrative Procedure Act as may be necessary or
25 appropriate to implement the provisions of this Section.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ducharme.

DIGEST

Gary Smith (SB 479)

Proposed law provides that if a mortgage holder is presented with a jointly payable insurance proceeds check or draft for residential immovable property damage resulting from any claim, which contains the mortgagor's endorsement, and the mortgage holder receives a written request from the mortgagor to release excess funds, then all mortgage holders shall have 15 days after receiving the written request and the check or draft to provide its endorsements and return all excess funds to the mortgagor in a manner provided by law.

Proposed law provides that the mortgage holder holding funds in escrow shall return to the mortgagor all excess funds.

Proposed law defines "excess funds" as insurance funds in excess of each of the following:

- (1) All loan balances of any mortgage holder named as payee on the insurance claim check or draft calculated as of the 30th day following receipt of the written request and check or draft.
- (2) Six months of future accrued interest as calculated pursuant to the terms of the mortgage loans and calculated from the date of the payoff.

Proposed law provides that the commissioner may impose civil money penalties of up to \$150 per day of each day a mortgage holder subject to his jurisdiction fails to comply with the requirements of proposed law.

Proposed law provides that penalties shall be due and payable upon notice of the assessment to the mortgage holder, unless set aside after administrative hearing pursuant to the provisions of the Administrative Procedure Act (APA).

Proposed law provides that the assessment of civil money penalties shall be final and definitive and subject to enforcement by the commissioner through judicial proceedings.

Proposed law applies to state-chartered federally insured financial institutions and their affiliates to the same extent that such provisions are applicable to federally chartered financial institutions.

Proposed law provides that the commissioner shall have the power to enact and promulgate rules in accordance with the APA as may be necessary or appropriate to implement proposed law.

Effective August 1, 2014.

(Adds R.S. 6:339)