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# A BILL FOR AN ACT

RELATING TO INSURANCE PROCEEDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 454M-1, Hawaii Revised Statutes, is  
2 amended by adding two new definitions to be appropriately  
3 inserted and to read as follows:

4           "Rebuild plan" means a written plan to rebuild residential  
5 real estate that is subject to a mortgage and has been  
6 destroyed.

7           "Repair plan" means a written plan to repair residential  
8 real estate that is subject to a mortgage and has been damaged."

9           SECTION 2. Chapter 454M, Hawaii Revised Statutes, is  
10 amended by adding a new section to be appropriately designated  
11 and to read as follows:

12           "§454M-       Disbursement of insurance proceeds; disclosure  
13 of mortgage interest rate; retention of communications. (a)

14 Upon the request of a borrower, a mortgage servicer shall  
15 promptly disclose to the borrower the specific conditions under  
16 which the mortgage servicer will disburse insurance proceeds to  
17 the borrower if the residential real estate that is the subject



1 of a mortgage is damaged or destroyed and an insurance company  
2 pays insurance proceeds to satisfy a claim associated with the  
3 damage or destruction. A mortgage servicer may provide the  
4 information electronically.

5 (b) If a residential real estate is damaged or destroyed,  
6 a borrower, after consulting with a contractor licensed pursuant  
7 to chapter 444, shall create a repair plan or rebuild plan for  
8 the residential real estate. The repair plan or rebuild plan  
9 shall include specific milestones that require the mortgage  
10 servicer to disburse insurance proceeds in certain amounts upon  
11 reaching the specified milestones, as described in subsections  
12 (d) (2) and (f) (2). If a mortgage servicer employs inspectors  
13 for the purpose of determining when the milestones are attained,  
14 the mortgage servicer shall notify the borrower of the specific  
15 criteria that the inspectors use to make those determinations.

16 (c) The borrower shall submit the repair plan or rebuild  
17 plan to the mortgage servicer for approval. The mortgage  
18 servicer shall indicate approval or denial of the plan within  
19 thirty days of receipt.

20 (d) If a borrower is not delinquent in making payments on  
21 the mortgage or the borrower is less than thirty-one days



1 delinquent in making payments on the mortgage, a mortgage  
2 servicer shall disburse the insurance proceeds to the borrower  
3 as follows:

4 (1) If the amount of the insurance proceeds is less than  
5 or equal to forty thousand dollars, the mortgage  
6 servicer shall disburse the entire amount to the  
7 borrower in one payment; or

8 (2) If the amount of the insurance proceeds is more than  
9 forty thousand dollars, the mortgage servicer shall  
10 initially disburse to the borrower an amount that is  
11 forty thousand dollars or thirty-three percent of the  
12 total proceeds, whichever amount is greater.

13 Thereafter, the mortgage servicer shall disburse the  
14 remaining proceeds based on periodic inspections and  
15 progress on the work in accordance with the milestones  
16 in the repair plan or rebuild plan described in  
17 subsection (b) and, where required by federal law or  
18 regulation, after approval by the federal home loan  
19 banks or applicable federal agency.

20 (e) For the purposes of this subsection and subsection  
21 (d), if a borrower has made advance payments to a contractor or



1 to purchase materials, as evidenced by paid receipts, the  
2 mortgage servicer may reimburse the borrower for those payments.

3 (f) If a borrower is more than thirty-one days delinquent  
4 in making payments on the mortgage, a mortgage servicer shall  
5 disburse the insurance proceeds to the borrower as follows:

6 (1) If the amount of the insurance proceeds is less than  
7 or equal to five thousand dollars, the mortgage  
8 servicer shall disburse the entire amount to the  
9 borrower in one payment; or

10 (2) If the amount of the insurance proceeds is more than  
11 five thousand dollars, the mortgage servicer shall  
12 initially disburse to the borrower an amount that is  
13 twenty-five percent of the total proceeds; except that  
14 the amount of this initial disbursement shall not  
15 exceed ten thousand dollars or the amount by which the  
16 total proceeds exceed the sum of the unpaid balance on  
17 the mortgage, any interest accrued on the mortgage,  
18 and any advances made on the mortgage. Thereafter,  
19 the mortgage servicer shall disburse the remaining  
20 proceeds in amounts not to exceed twenty-five percent  
21 of the remaining proceeds, in accordance with the



1 milestones established in the repair plan or the  
2 rebuild plan pursuant to subsection (b); provided that  
3 the mortgage servicer shall not disburse any remaining  
4 proceeds until the mortgage servicer or the mortgage  
5 servicer's agent has inspected the repairs, if any,  
6 that have been made pursuant to a repair plan  
7 established pursuant to subsection (b).

8 (g) For the purposes of disbursement of insurance proceeds  
9 as described in subsections (d), (e), and (f):

10 (1) A mortgage servicer shall make the first disbursement  
11 of insurance proceeds to the borrower:

12 (A) Within fourteen days after the mortgage servicer  
13 receives the insurance proceeds if the mortgage  
14 is insured by the federal government or  
15 securitized by the Federal National Mortgage  
16 Association or the Federal Home Loan Mortgage  
17 Corporation; or

18 (B) As soon as reasonably possible and no later than  
19 thirty days after the mortgage servicer receives  
20 the insurance proceeds if the mortgage is not  
21 insured by the federal government or securitized



1                   by the Federal National Mortgage Association or  
2                   the Federal Home Loan Mortgage Corporation; and  
3       (2) A mortgage servicer may disburse funds directly to a  
4                   designee of a borrower if:  
5                   (A) The designee is agreed to by both the borrower  
6                   and the mortgage servicer; and  
7                   (B) The designation is permitted by federal and state  
8                   law and any associated rules.  
9       (h) Notwithstanding any other provision of this section, a  
10 mortgage servicer shall promptly disburse to a borrower any  
11 amount of insurance proceeds that exceed the remaining amount  
12 that the borrower owes on the mortgage unless:  
13       (1) The property is an affordable residential rental  
14                   property that is subject to rent or income  
15                   restrictions as required by federal, state, or county  
16                   program requirements; and  
17       (2) The insurance proceeds that exceed the remaining  
18                   amount that the borrower owes on the mortgage are  
19                   necessary to return the property to the same condition  
20                   in which the property existed prior to the damage or  
21                   destruction.



1        (i) A mortgage servicer shall hold in an interest-bearing  
2 account any insurance proceeds that the mortgage servicer does  
3 not immediately disburse to a borrower as required by this  
4 section. The account shall generate interest at a rate that is  
5 not less than the national rate for money market accounts, as  
6 determined by title 12 Code of Federal Regulations  
7 section 337.7. A mortgage servicer shall ensure that any  
8 interest that is credited to the account is credited and  
9 disbursed to the borrower.

10       (j) Immediately upon commencing the servicing of a  
11 mortgage, and at any time thereafter at the request of the  
12 borrower, a mortgage servicer shall:

13       (1) Disclose to the borrower the interest rate associated  
14       with the mortgage; and

15       (2) Provide the borrower, in writing, with a primary point  
16       of contact for the purpose of communicating with the  
17       mortgage servicer.

18       (k) A mortgage servicer shall retain for at least four  
19 years all written and electronic communications between the  
20 mortgage servicer and a borrower.

21       (l) Nothing in this section shall be construed to:



# S.B. NO. 1142

1        (1) Prohibit a mortgage servicer from releasing insurance  
2        proceeds in amounts greater than required by this  
3        section;

4        (2) Prohibit or limit a mortgage servicer from  
5        distributing additional money that is made available  
6        during a declared state of emergency or natural  
7        disaster; or

8        (3) Prohibit a mortgage servicer from complying with  
9        federal rules, regulations, and requirements."

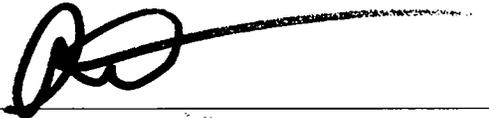
10       SECTION 3. This Act does not affect rights and duties that  
11       matured, penalties that were incurred, and proceedings that were  
12       begun before its effective date.

13       SECTION 4. New statutory material is underscored.

14       SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



# S.B. NO. 1142

**Report Title:**

Mortgage Services; Destroyed and Damaged Residential Real Estate; Disbursement of Insurance Proceeds

**Description:**

Requires mortgage services to comply with certain requirements regarding the disbursement of insurance proceeds for residential real estate that has been destroyed or damaged.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

