
A BILL FOR AN ACT

RELATING TO INSURANCE PROCEEDS.

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

SECTION 1. Chapter 454M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

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

Upon the request of a borrower, a mortgage servicer shall promptly disclose to the borrower the specific conditions under which the mortgage servicer will disburse insurance proceeds to the borrower if the residential real estate that is the subject of a mortgage is damaged or destroyed and an insurance company pays insurance proceeds to satisfy a claim associated with the damage or destruction. A mortgage servicer may provide the information electronically.

(b) If residential real estate is damaged or destroyed, a borrower, after consulting with a contractor licensed pursuant to chapter 444, shall create a repair plan or rebuild plan for the residential real estate. The repair plan or rebuild plan



1 shall include specific milestones that require the mortgage
2 servicer to disburse insurance proceeds in certain amounts upon
3 reaching the specified milestones, as described in subsections
4 (d) (2) and (e) (2). If a mortgage servicer employs inspectors
5 for the purpose of determining when the milestones are attained,
6 the mortgage servicer shall notify the borrower of the specific
7 criteria that the inspectors use to make those determinations.

8 (c) The borrower shall submit the repair plan or rebuild
9 plan to the mortgage servicer for approval. The mortgage
10 servicer shall indicate approval or denial of the plan within
11 thirty days of receipt.

12 (d) If a borrower is not delinquent in making payments on
13 the mortgage or a borrower is less than thirty-one days
14 delinquent in making payments on the mortgage, a mortgage
15 servicer shall disburse the insurance proceeds to the borrower
16 as follows:

17 (1) If the amount of the insurance proceeds is less than
18 or equal to \$40,000, the mortgage servicer shall
19 disburse the entire amount to the borrower in one
20 payment; or



1 (2) If the amount of the insurance proceeds is more than
2 \$40,000, the mortgage servicer shall initially
3 disburse to the borrower an amount that is equal to
4 \$40,000 or thirty-three per cent of the total
5 proceeds, whichever amount is greater. Thereafter,
6 the mortgage servicer shall disburse the remaining
7 proceeds based on periodic inspections and progress on
8 the work in accordance with the milestones in the
9 repair plan or rebuild plan described in subsection
10 (b) and, where required by federal law or regulation,
11 after approval by the federal home loan financial
12 institution or applicable federal agency.

13 (e) If a borrower is thirty-one or more days delinquent in
14 making payments on the mortgage, a mortgage servicer shall
15 disburse the insurance proceeds to the borrower as follows:

16 (1) If the amount of the insurance proceeds is less than
17 or equal to \$5,000, the mortgage servicer shall
18 disburse the entire amount to the borrower in one
19 payment; or

20 (2) If the amount of the insurance proceeds is more than
21 \$5,000, the mortgage servicer shall initially disburse



1 to the borrower an amount that is equal to twenty-five
2 per cent of the total proceeds; provided that the
3 amount of this initial disbursement shall not exceed
4 \$10,000 or the amount by which the total proceeds
5 exceed the sum of the unpaid balance on the mortgage,
6 any interest accrued on the mortgage, and any advances
7 made on the mortgage. Thereafter, the mortgage
8 servicer shall disburse the remaining proceeds in
9 amounts not to exceed twenty-five per cent of the
10 remaining proceeds, in accordance with the milestones
11 established in the repair plan or rebuild plan
12 pursuant to subsection (b); provided that the mortgage
13 servicer shall not disburse any remaining proceeds
14 until the mortgage servicer or the mortgage servicer's
15 agent has inspected the repairs, if any, that have
16 been made pursuant to a repair plan established
17 pursuant to subsection (b).

18 (f) If a borrower has made advance payments to a
19 contractor or to purchase materials, as evidenced by paid
20 receipts, the mortgage servicer may reimburse the borrower for
21 those payments.



1 (g) For the purposes of disbursement of insurance proceeds
2 as described in subsections (d) and (e):

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

5 (A) Within fourteen days after the mortgage servicer
6 receives the insurance proceeds if the mortgage
7 is insured by the federal government or
8 securitized by the Federal National Mortgage
9 Association or the Federal Home Loan Mortgage
10 Corporation; or

11 (B) As soon as reasonably possible and no later than
12 thirty days after the mortgage servicer receives
13 the insurance proceeds if the mortgage is not
14 insured by the federal government or securitized
15 by the Federal National Mortgage Association or
16 the Federal Home Loan Mortgage Corporation; and

17 (2) A mortgage servicer may disburse funds directly to a
18 designee of a borrower if:

19 (A) The designee is agreed to by the borrower and
20 mortgage servicer; and



1 (B) The designation is permitted by federal and state
2 law and any associated rules.

3 (h) Notwithstanding any other provision of this section, a
4 mortgage servicer shall promptly disburse to a borrower any
5 amount of insurance proceeds that exceed the remaining amount
6 that the borrower owes on the mortgage unless:

7 (1) The property is an affordable residential rental
8 property that is subject to rent or income
9 restrictions as required by federal, state, or county
10 program requirements; and

11 (2) The insurance proceeds that exceed the remaining
12 amount that the borrower owes on the mortgage are
13 necessary to return the property to the same condition
14 in which the property existed prior to the damage or
15 destruction.

16 (i) A mortgage servicer shall hold in an interest-bearing
17 account any insurance proceeds that the mortgage servicer does
18 not immediately disburse to a borrower as required by this
19 section. A mortgage servicer shall ensure that any interest
20 that is credited to the account is credited and disbursed to the
21 borrower. The account shall generate interest at either:



- 1 (1) The rate of two per cent simple interest per annum; or
- 2 (2) As follows:
- 3 (A) For a depository mortgage servicer, the rate for
- 4 the depository mortgage servicer's money market
- 5 accounts; or
- 6 (B) For a non-depository mortgage servicer, the rate
- 7 for the money market account at the deposit
- 8 institution with which the non-depository
- 9 mortgage servicer conducts its banking business,
- 10 whichever is greater.
- 11 (j) Nothing in this section shall be construed to:
- 12 (1) Prohibit a mortgage servicer from releasing insurance
- 13 proceeds in amounts greater than required by this
- 14 section;
- 15 (2) Prohibit or limit a mortgage servicer from
- 16 distributing additional money that is made available
- 17 during a declared state of emergency or natural
- 18 disaster; or
- 19 (3) Prohibit a mortgage servicer from complying with
- 20 federal rules, regulations, and requirements.
- 21 (k) For the purposes of this section:



1 "Rebuild plan" means a written plan to rebuild residential
2 real estate that is subject to a mortgage and has been
3 destroyed.

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

6 SECTION 2. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

Requires mortgage servicers to comply with certain requirements regarding the disbursement of insurance proceeds for residential real estate that has been destroyed or damaged. Effective 7/1/3000. (HD1)

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

