THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

S.B. NO. 1142

JAN 17 2025

A BILL FOR AN ACT

RELATING TO INSURANCE PROCEEDS.

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

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

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

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

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

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

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

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

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

(2) If the amount of the insurance proceeds is more than forty thousand dollars, the mortgage servicer shall initially disburse to the borrower an amount that is forty thousand dollars or thirty-three percent of the total proceeds, whichever amount is greater. Thereafter, the mortgage servicer shall disburse the remaining proceeds based on periodic inspections and progress on the work in accordance with the milestones in the repair plan or rebuild plan described in subsection (b) and, where required by federal law or regulation, after approval by the federal home loan banks or applicable federal agency.

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

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

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

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

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

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

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

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

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

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

by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. New statutory material is underscored.

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

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.

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