

2021 Regular Session

HOUSE BILL NO. 499

BY REPRESENTATIVE TARVER

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

FINANCIAL INSTITUTIONS: Provides relative to the deposit of insurance proceeds resulting from natural disasters

1 AN ACT

2 To amend and reenact R.S. 6:337 and 338(A), relative to insurance proceeds paid for
3 damages to residential property; to require payment directly to claimants in certain
4 circumstances; to require placement of settlement proceeds in an interest-bearing
5 account for the benefit of the claimant; to require release of funds upon inspection;
6 to provide for release of funds upon written request; to provide for definitions; to
7 provide for applicability; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 6:337 and 338(A) are hereby amended and reenacted to read as
10 follows:

11 §337. Duty of secured party upon payment of insurance claim for damage to
12 mortgaged residential property resulting from a declared disaster;
13 disbursement of settlement proceeds

14 A. If payment in settlement of a damage claim on residential property in
15 which another person holds a mortgage is by check or draft, of an insurer, made
16 payable jointly to the claimant and the person holding the mortgage, then such
17 "settlement proceeds," as defined in Subsection ~~€ D~~ D of this Section, shall be placed
18 in escrow in accordance with the provisions of Subsection C of this Section and shall
19 earn interest payable to the claimant in accordance with the provisions of Subsection
20 ~~€ D~~ D of this Section.

1 B. ~~When the damaged property is replaced or otherwise repaired to the~~
2 ~~satisfaction of the claimant and the person holding the mortgage on the property,~~
3 ~~then any remaining balance in the escrow account shall be paid to the claimant~~
4 ~~together with all interest that accrued while the funds were in escrow. The person~~
5 ~~holding the security interest in the property shall cooperate fully with the claimant~~
6 ~~and the claimant's insurer in releasing funds in a timely manner to replace or repair~~
7 ~~the damaged property.~~

8 C.(1) An insurer shall pay proceeds of less than twenty-five percent of the
9 initial claim, up to a maximum of twenty-five thousand dollars immediately and
10 directly to the claimant without including the person holding the mortgage on the
11 property as a payee.

12 (2) If payment of settlement proceeds greater than twenty-five thousand
13 dollars from a claim on residential property in which another person holds a
14 mortgage is by check or draft, of an insurer, and is used to replace or repair the
15 damaged property, the person holding the mortgage shall deposit the funds into
16 escrow upon receipt and shall cooperate fully with the claimant and the claimant's
17 insurer in disbursing the funds.

18 (3) The person holding the mortgage shall release the funds on deposit to the
19 claimant upon inspection by the person holding the mortgage through either of the
20 following:

21 (i) A site visit.

22 (ii) Submission of photo or video evidence showing repair progress.

23 C: D. As used in this Section, "settlement proceeds" means funds paid on an
24 insurance claim for damage to residential immovable property as a result of
25 ~~Hurricane Katrina or Hurricane Rita~~ a declared disaster, and where the funds equal
26 twenty-five thousand dollars or more. These funds shall be held in escrow by the
27 lender or loan servicer in accordance with the provisions of Subsection C of this
28 Section. Interest shall accrue on settlement proceeds after being held in escrow for
29 more than thirty days. For purposes of this Subsection, compliance with Fannie Mae

1 or Freddie Mac servicing guidelines for payment of interest on property damage
2 claim funds held in escrow by the lender or loan servicer constitutes compliance with
3 this Section.

4 ~~D.~~ E. The provisions of this Section shall be applicable to state chartered
5 federally insured financial institutions and their affiliates to the same extent that such
6 provisions are applicable to federally chartered financial institutions.

7 F. Nothing in this Section shall be interpreted to limit or prohibit a person
8 holding a mortgage from offering a claimant more favorable terms or solutions than
9 those required by this Section.

10 §338. Insurance settlement proceeds resulting from a declared disaster; return of
11 excess funds; enforcement

12 A. If a mortgage holder is presented with a jointly payable insurance
13 proceeds check or draft for residential immovable property damage resulting from
14 ~~either Hurricane Katrina or Hurricane Rita, or both~~ a declared disaster, which
15 contains the mortgagor's endorsement, and the mortgage holder receives a written
16 request from the borrower to release excess funds, then all mortgage holders shall
17 have thirty days after receiving such request and such check or draft to provide their
18 endorsements and return all excess funds provided for in Subsection B of this
19 Section.

20 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Abstract: Requires an insurer to pay insurance proceeds resulting from a declared disaster directly to the claimant.

Present law requires insurance settlement proceeds by check or draft made payable jointly to a claimant and a mortgage holder to be deposited into an escrow account with interest earned to be payable to the claimant in accordance with present law.

Proposed law retains present law but provides that an insurer shall pay proceeds of less than 25% of the initial claim up to a maximum of \$25,000 shall be paid directly to the insured party without including the mortgage holder as a payee.

Present law requires that when damaged property is repaired or replaced to the mortgage holder's satisfaction, the balance in escrow is to be paid to the claimant along with any accrued interest.

Proposed law repeals present law.

Proposed law requires that for settlement proceeds over \$25,000, a mortgage holder shall cooperate fully with the claimant in disbursing the funds.

Proposed law requires the mortgage holder to release the deposited funds to the claimant upon inspection by the mortgage holder through a site visit or by submission of photo or video evidence demonstrating the repair progress.

Present law defines settlement proceeds as funds paid on an insurance claim resulting from Hurricanes Katrina or Rita where the funds equal \$25,000 or more.

Proposed law retains present law but changes the applicability from claims resulting from Hurricanes Katrina and Rita to claims resulting from a declared disaster.

Proposed law does not limit the ability of a mortgage holder to offer a claimant more favorable terms.

Present law requires mortgage holders to release jointly payable insurance proceeds for a residential immovable property for claims resulting from Hurricanes Katrina or Rita to release the funds within 30 days of a written request by the borrower.

Proposed law retains present law but changes the applicability from claims resulting from Hurricanes Katrina or Rita to claims resulting from a declared disaster.

(Amends R.S. 6:337 and 338(A))