

CHAPTER 688

H.B. No. 118

AN ACT

relating to an insurance claim payment held by a lender during repair of residential real property subject to security interest.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.48B to read as follows:

Art. 21.48B. INSURANCE CLAIM PAYMENT HELD BY LENDER PENDING REPAIR OF RESIDENTIAL REAL PROPERTY

Sec. 1. DEFINITIONS. *In this article:*

(1) "Lender" means a person holding a mortgage, lien, deed of trust, or other security interest in property.

(2) "Residential real property" means a single-family house, a duplex, triplex, or quadraplex, or a unit in a multi-unit residential structure in which title to an individual unit is transferred to the owner of the unit under a condominium or cooperative system.

Sec. 2. NOTIFICATION REQUIREMENT; PAYMENT. (a) *If a claim under an insurance policy for damage to residential real property is paid to the insured and a lender holding a security interest in the property, and the lender holds all or part of the insurance claim payment pending completion of all or part of the repairs, the lender not later than the 10th day after the date the payment of the insurance proceeds is received shall notify the insured of the requirements that the insured must satisfy before the lender releases the insurance proceeds.*

(b) *Not later than the 10th day after the date the insured's request for payment of all or part of the insurance proceeds is received by the lender, the lender shall:*

(1) *pay to the insured, if the lender has received sufficient evidence of compliance with the requirements and conditions for release of the funds as specified in Subsection (a) of this section, all or part of the proceeds held by the lender, as requested; or*

(2) *explain, in specific detail, the reason for the lender's refusal to pay the proceeds to the insured and the requirements the insured must satisfy before the lender releases the insurance proceeds.*

Sec. 3. INTEREST. (a) *If the lender fails to give the notice required under Section 2(a) or (b)(2) of this article or fails to make a payment within the time required by Section 2(b)(1) of this article, the lender shall pay to the insured interest on the money held at the rate of 10 percent a year.*

(b) *If the lender fails to give the notice required under Section 2(a) or (b)(2) of this article, the interest begins to accrue on the date the lender receives the insurance proceeds. If the lender fails to make a payment within the time required by Section 2(b)(1) of this article, the interest begins to accrue on the date the lender receives satisfactory evidence of compliance with the requirements and conditions for release of the funds as specified in Section 2(a) or 2(b)(1) of this article.*

(c) *Interest terminates on the date the lender complies with Section 2 of this article.*

(d) *A lender is not required to pay interest on money applied, in accordance with the terms and conditions of a deed of trust or other security agreement, to reduce the note.*

SECTION 2. This Act takes effect September 1, 1993, and applies only to an insurance claim payment paid on or after January 1, 1994. A payment that is paid before January 1,

1994, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 23, 1993, by a non-record vote; passed by the Senate on May 24, 1993: Yeas 31, Nays 0.

Approved June 17, 1993.

Effective Sept. 1, 1993.