

JAN 27 2016

A BILL FOR AN ACT

RELATING TO FORCE-PLACED INSURANCE.

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

1 SECTION 1. The legislature finds that force-placed
2 insurance, also known as creditor-placed, lender-placed, or
3 collateral protection insurance, is an insurance policy placed
4 by a lender, bank, or loan servicer on a home when the property
5 owner's own insurance is canceled, has lapsed, or is deemed
6 insufficient and the borrower does not secure a replacement
7 policy. Force-placed insurance allows a lender to protect its
8 financial interest in the property.

9 However, the practice of force-placed insurance has
10 attracted increased media coverage primarily focused on the
11 rates charged for force-placed insurance policies. There are
12 concerns regarding whether insurers and lenders are making
13 excess profits on this line of business. Force-placed insurance
14 is usually more expensive than an insurance policy that a
15 property owner can usually obtain on their own. Furthermore,
16 the force-placed insurance policy may have limited coverage and



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1 require upfront lump sum costs that the property owner may not
2 be able to afford.

3 The purpose of this Act is to provide requirements
4 regarding force-placed insurance to ensure that borrowers are
5 given adequate notice regarding their insurance coverage of
6 their mortgaged property and prevent borrowers from paying for
7 costly and limited insurance coverage.

8 SECTION 2. Chapter 412, Hawaii Revised Statutes, is
9 amended by adding a new section to article 14 to be
10 appropriately designated and to read as follows:

11 "§412:14- Force-placed insurance; requirements. (a) If
12 a financial institution does not have evidence of insurance
13 coverage of a mortgaged property, the financial institution
14 shall send by first-class mail a written notice to the borrower
15 containing:

16 (1) A reminder of the borrower's obligation to maintain
17 insurance on the mortgaged property;

18 (2) A statement that the financial institution does not
19 have evidence of insurance coverage of the mortgaged
20 property;



- 1 (3) A statement that the borrower has six months from the
2 postmarked date of the written notice to obtain the
3 required insurance coverage;
- 4 (4) A clear and conspicuous statement of the procedures by
5 which the borrower may demonstrate that the borrower
6 already has insurance coverage; and
- 7 (5) A statement that the financial institution may obtain
8 force-placed insurance coverage at the borrower's
9 expense if the borrower does not provide demonstration
10 of the borrower's existing coverage within six months
11 from the postmarked date of the written notice.
- 12 (b) If a financial institution obtains force-placed
13 insurance coverage for the borrower, the force-placed insurance
14 coverage shall provide the following:
- 15 (1) Reasonable premium costs and coverage that would be
16 comparable to premium costs and coverage available to
17 the borrower if the borrower had obtained the
18 borrower's own insurance coverage, along with any
19 reasonable related fees; and
- 20 (2) Premium installment payment options; provided that
21 upfront, lump sum premium costs are prohibited;



1 provided further that a financial institution shall not obtain
2 force-placed insurance coverage for the borrower during any time
3 within the six-month period from the postmarked date of the
4 written notice.

5 (c) A financial institution shall accept any reasonable
6 form of written confirmation from a borrower of existing
7 insurance coverage, including the existing insurance policy
8 number and identity of and contact information for the insurance
9 company or agent. Within fifteen days of the receipt of the
10 confirmation of a borrower's existing insurance coverage, the
11 financial institution, if applicable, shall:

12 (1) Terminate the force-placed insurance; and
13 (2) Refund the borrower all force-placed insurance
14 premiums paid by the borrower during any period during
15 which the borrower's insurance coverage and the force-
16 placed insurance coverage were each in effect, and any
17 related fees charged to the borrower's account with
18 respect to the force-placed insurance during such
19 period.

20 (d) For purposes of this section, "force-placed insurance"
21 means insurance obtained by a financial institution when the



1 borrower fails to maintain or renew insurance of the mortgaged
2 property as required of the borrower under the terms of the
3 mortgage."

4 SECTION 3. Chapter 454M, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§454M- Force-placed insurance; requirements. (a) If a
8 mortgage servicer does not have evidence of insurance coverage
9 of a mortgaged property, the mortgage servicer shall send by
10 first-class mail a written notice to the borrower containing:

11 (1) A reminder of the borrower's obligation to maintain
12 hazard, homeowner's, or flood insurance on the
13 mortgaged property;

14 (2) A statement that the mortgage servicer does not have
15 evidence of insurance coverage of the mortgaged
16 property;

17 (3) A statement that the borrower has six months from the
18 postmarked date of the written notice to obtain the
19 required insurance coverage;



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1 (4) A clear and conspicuous statement of the procedures by
2 which the borrower may demonstrate that the borrower
3 already has insurance coverage; and

4 (5) A statement that the mortgage servicer may obtain
5 force-placed insurance coverage at the borrower's
6 expense if the borrower does not provide demonstration
7 of the borrower's existing coverage within six months
8 from the postmarked date of the written notice.

9 (b) If a mortgage servicer obtains force-placed insurance
10 coverage for the borrower, the force-placed insurance coverage
11 shall provide the following:

12 (1) Reasonable premium costs and coverage that are
13 comparable to premium costs and coverage available to
14 the borrower if the borrower had obtained its own
15 insurance coverage, along with any reasonable related
16 fees; and

17 (2) Premium installment payment options; provided that
18 upfront, lump sum premium costs are prohibited;
19 provided further that a mortgage servicer shall not obtain
20 force-placed insurance coverage for the borrower during any time



1 within the six-month period from the postmarked date of the
2 written notice.

3 (c) A mortgage servicer shall accept any reasonable form
4 of written confirmation from a borrower of existing insurance
5 coverage, including the existing insurance policy number and
6 identity of and contact information for the insurance company or
7 agent. Within fifteen days of the receipt of the confirmation
8 of a borrower's existing insurance coverage, the mortgage
9 servicer, if applicable, shall:

10 (1) Terminate the force-placed insurance; and

11 (2) Refund the borrower all force-placed insurance
12 premiums paid by the borrower during any period during
13 which the borrower's insurance coverage and the force-
14 placed insurance coverage were each in effect, and any
15 related fees charged to the borrower's account with
16 respect to the force-placed insurance during such
17 period.

18 (d) For purposes of this section, "force-placed insurance"
19 means hazard, homeowner's, or flood insurance obtained by a
20 mortgage servicer when the borrower fails to maintain or renew
21 hazard, homeowner's, or flood insurance of the mortgaged



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1 property as required of the borrower under the terms of the
2 mortgage."

3 SECTION 4. New statutory material is underscored.

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

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Report Title:

Force-placed Insurance; Notice; Financial Institutions; Mortgage Servicers

Description:

Requires financial institutions and mortgage servicers to provide written notice to borrowers regarding the status of their insurance coverage; obtain force-placed insurance subject to certain conditions; and terminate and refund any moneys to the borrower upon receipt of the confirmation of a borrower's existing insurance coverage.

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