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AB-493 Mortgages: hazard insurance proceeds. (2025-2026)

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Assembly Bill No. 493

CHAPTER 103

An act to add Section 2954.85 to the Civil Code, and to amend Section 50202 of the Financial Code, relating to mortgages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 2025. Filed with Secretary of State August 29, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

AB 493, Harabedian. Mortgages: hazard insurance proceeds.

Existing law, the California Residential Mortgage Lending Act, regulates persons engaging in the business of making residential mortgage loans or servicing of residential mortgage loans, as administered by the Commissioner of Financial Protection and Innovation. A willful violation of any provision of the act constitutes a crime, as specified. The act requires a trust account to be placed in a non-interest-bearing account in a federally insured depository institution, a federal home loan bank, or other similar government-sponsored enterprise, except as specified.

This bill would authorize a financial institution, as defined, to deposit hazard insurance proceeds in an interest-bearing account in a federally insured depository institution, a federal home loan bank, a federal reserve bank, or another similar government-sponsored enterprise.

Existing law requires a financial institution that makes loans upon the security of real property containing only a one- to four-family residence in this state or purchases obligations secured by the property and that receives money in advance for payment of taxes and assessments on the property, for insurance, or for other purposes relating to the property to pay interest on those amounts to the borrower, as specified. Existing law prohibits those financial institutions from imposing any fee or charge in connection with the maintenance or disbursement of money received in advance for the payment of taxes and assessments on real property securing loans made by the financial institution, or for the payment of insurance, or for other purposes relating to that real property, which would result in an interest rate of less than 2% per annum being paid on the moneys received. Existing law defines the term financial institution for purposes of those provisions to include, among other things, savings associations.

This bill would require a financial institution that makes loans or purchases obligations as described above and that holds hazard insurance proceeds in a loss draft account pending property rebuilding or repair to pay interest on those funds at a rate of at least 2% simple interest per annum, except as specified. The bill would require that interest to start accruing on the effective date of the bill, as specified. The bill would prohibit those financial institutions from imposing any fee or charge in connection with the maintenance or disbursement of hazard insurance proceeds held in a loss draft account pending rebuilding or repair of the real property that would result in an interest rate of less than 2% per annum being paid on the amounts held. The bill would specify that the above provisions do not apply to hazard insurance proceeds held in a loss draft account that are required by a state or federal regulatory authority to be placed by a financial institution other than a bank in a non-interest-bearing demand trust fund account of a bank.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2954.85 is added to the Civil Code, to read:

2954.85. (a) A financial institution that makes loans upon the security of real property containing only a one- to four-family residence and located in this state or purchases obligations secured by the property and that holds hazard insurance proceeds in a loss draft account pending property rebuilding or repair shall pay interest on those funds at a rate of at least 2 percent simple interest per annum. That interest shall be credited to the loss draft account annually or upon termination of the account, whichever is earlier.

(b) A financial institution shall not impose a fee or charge in connection with the maintenance or disbursement of hazard insurance proceeds held in a loss draft account pending rebuilding or repair of the real property securing loans made by the financial institution that will result in an interest rate of less than 2 percent per annum being paid on the hazard insurance proceeds held.

(c) For the purposes of this section, "financial institution" means a bank, savings and loan association, or credit union chartered under the laws of this state or the United States, or any other person or organization making loans upon the security of real property containing only a one- to four-family residence.

(d) This section shall not apply to hazard insurance proceeds held in a loss draft account that are required by a state or federal regulatory authority to be placed by a financial institution other than a bank in a non-interest-bearing demand trust fund account of a bank.

(e) Notwithstanding any other law, a financial institution may deposit hazard insurance proceeds in an interest-bearing account in a federally insured depository institution, a federal home loan bank, a federal reserve bank, or another similar government-sponsored enterprise.

(f) For funds held in a loss draft account as of the effective date of this section, the interest described in subdivision (a) shall begin to accrue on the effective date of this section.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 2. Section 50202 of the Financial Code is amended to read:

50202. (a) Escrow funds for a purpose authorized by the residential mortgage loan contract (1) shall be subject to and satisfy all applicable state and federal requirements, including Section 2609 of the federal Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C. Sec. 2601 et seq.) and all applicable provisions of the Civil Code, (2) shall be maintained in a depository institution as described in subdivision (b), and (3) may not be commingled with a licensee's funds.

(b) Except as provided in subdivision (f), or as authorized by Section 2954.85 of the Civil Code, a trust account shall be placed in a non-interest-bearing account in a federally insured depository institution, a federal home loan bank, a federal reserve bank, or other similar government-sponsored enterprise, to be removed and used only for the following:

(1) Payments authorized by the borrower, allowed by the mortgage loan contract, or required by federal or state law.

(2) Refunds to the borrower.

(3) Transfer to another institution that is described in this subdivision.

(4) Forwarding to the appropriate servicer in case of a transfer of servicing.

(5) Any other purpose authorized by the residential mortgage loan contract.

(6) Compliance with a regulatory or court order.

(c) As used in this section, "trust funds" means funds collected by a licensee in connection with the making or servicing of a residential mortgage loan that the licensee holds on behalf of another.

(d) Notwithstanding any other provision of law, but subject to the limitations of Section 854, benefits accruing from the placement in a non-interest-bearing account of a commercial bank (including a national banking association) of funds received by a licensee

who services mortgage loans under this law, shall inure to the licensee, unless otherwise agreed in writing by the licensee and the investor on whose behalf the licensee services the loan. A borrower shall receive at least 2 percent simple interest per annum on impound account payments covered by Section 2954.8 of the Civil Code.

(e) Trust funds are not subject to the enforcement of a money judgment arising out of a claim against the licensee or person acting as the servicing agent, and in no instance shall the trust funds be considered or treated as an asset of the licensee or person performing the functions of a residential mortgage lender or loan servicer.

(f) A licensee may, at the request of the owner of the trust funds, transfer the funds initially deposited in a non-interest-bearing trust account into an interest-bearing account in a federally insured depository institution if all of the following requirements are met:

(1) The account is in the name of the residential mortgage lender licensee in trust for the specified beneficiary.

(2) All of the funds in the account are federally insured.

(3) The funds in the account are kept separate and distinct from the funds of the licensee or funds of any other person for whom the licensee holds funds in trust.

(4) The licensee discloses to the person from whom the funds are received and the beneficiary of the account how interest will be calculated and paid, whether service charges will be paid to the depository and by whom, and possible notice requirements or penalties for withdrawal of funds from the account.

(5) All interest earned on the account will be paid to the owner of the trust funds or the beneficiary.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide critical safeguards and protect wildfire victims and those particularly vulnerable from harmful practices, including the withholding of interest on insurance payouts in the aftermath of wildfires, and to ensure fair treatment and financial security for those rebuilding their lives, it is necessary that this act take effect immediately.