



LEGISLATIVE POSITION

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**Protection against late homeowners insurance premium payments
by bank escrow account managers**

PIANY supports “timely payment” requirements for escrow accounts managed by mortgage-lending institutions, to prevent late payment of homeowners insurance premiums.

Memorandum in support of: S.3491—by Sen. Foley

This bill would provide an enforceable standard for timely payment of homeowners insurance premiums by mortgage lenders that require borrowers to maintain an escrow account for the purpose of paying such premiums. In this period of hardship for mortgage holders, the bill would provide much-needed relief for homeowners whose escrow account payments are mishandled by mortgage lenders.

Currently, Banking Law Section 6-k sets forth various provisions applicable to real property insurance escrow accounts maintained by mortgage-investing institutions. Such institutions are required by paragraph (a) of Subdivision (2) of Section 6-k to “make all payments for insurance for which they hold real property insurance escrow accounts in a timely manner.” However, the standard for timely payment is not defined.

Despite the existence of this section, late premium payments by these institutions continue to be a problem for homeowners, insurers and insurance agents. When the payment is not received by the due date, a cancellation notice is issued by the insurer on the policy, with a copy to the mortgagor and the mortgagor’s insurance agent or broker.

Some mortgage-investing institutions appear to time their payments not in order to pay by the premium due date but according to the terms of New York’s statutory “grace period,” which provides an additional 15 days after issuance of a nonpayment cancellation notice, before an actual cancellation can be effected. PIANY members, over time, find that this practice becomes more acute as interest rates rise or as banks come under financial pressures of other kinds. While it may benefit the lender’s cash flow, waiting until the policy has gone into cancellation mode causes untold problems for the other parties involved in the insurance transaction.

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A cancellation notice, in the insurance world, creates an emergency. Much anxiety and many costly activities ensue when such a notice is received. Homeowners and their insurance agents must take immediate action to determine the cause of the cancellation notice and prevent its taking effect. Yet these cancellation notices remain a common occurrence despite the requirements of Section 6-k.

Since escrow accounts are required primarily to protect the mortgage companies' interests, they should be run in a way that does not inconvenience the mortgagor and others with whom the mortgagor chooses to do business. It is unfair to insurance consumers, insurance producers and insurers for mortgage-investing institutions to remit escrow account payments so late that the insurer must issue a cancellation notice. This process entails significant extra costs in terms of time spent, mailings, phone calls and processing.

Moreover, this practice exposes the homeowner to an actual cancellation of the policy if the mortgage lender misjudges and the grace period elapses before the premium is received. In some cases, an insurer may just be waiting for an opportunity to withdraw from insuring a home due to poor claims history or to processing repeated, costly late payments. In such cases there is no obligation for the insurer to reinstate the policy if payment is received after the grace period.

It is poor public policy to tolerate business practices which routinely cause insurers to issue cancellation notices. This bill will further specify the standard for timely payment to clearly exclude payments that are received after the due date specified on the premium billing notice. Requiring payment to be remitted from escrow accounts at least 10 days prior to the due date will prevent the vast majority of cancellation notices from being necessary. Thus, whenever a cancellation notice is received, the homeowner and agent will know there is a genuine problem with the processing and receipt of this payment.

For these reasons, PIANY asks that lawmakers support the provisions of S.3491.

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