§ 6-k. Real property insurance escrow accounts. 1. Definitions. When used in this section: (a) "Mortgage investing institution" means any bank, trust company, national bank, savings bank, savings and loan association, federal savings bank, federal savings and loan association, private banker, credit union, federal credit union, investment company, pension fund, licensed mortgage banker or any other entity which maintains a real property insurance escrow account for real property located in this state.

(b) "Mortgagor" means a person having title to and occupying a one to four family residence which is located in this state and is subject to a mortgage.

(c) "Real property insurance" means a policy of insurance issued, or issued for delivery in this state, on a risk located or resident in this state insuring the following contingency: loss or damage (including but not limited to loss or damage on account of fire) to real property used predominantly for residential purposes and consists of not more than four dwelling units, other than motels or hotels.

(d) "Real property insurance escrow account" means an account established by contract between a mortgagor of real property improved by a one to four family residence and the mortgage investing institution having a mortgage thereon, into which the mortgage investing institution shall deposit money collected from the mortgagor for the purpose of paying real property insurance premiums.

(e) "One to four family residence" means property used primarily for residential purposes for one to four families, including property held in condominium form of ownership, and which is occupied in whole or in part by the owner.

2. Duties and responsibilities of mortgage investing institutions. (a) Every mortgage investing institution shall make all payments for insurance for which they hold real property insurance escrow accounts in a timely manner.

(b) Every mortgage investing institution shall pay at least the minimum rate of interest on each real property insurance escrow account as prescribed therein.

(c) Every mortgage investing institution shall deposit funds from a real property insurance escrow account of a mortgagor in a banking

institution whose deposits are insured by a federal agency or a licensed branch of a foreign banking corporation whose deposits are insured by a federal agency. Notwithstanding the foregoing provisions of this subdivision, the superintendent shall have the power to exempt from the requirements of this subdivision any banking organization which does not receive deposits or share accounts from the general public.

(d) A mortgage investing institution may debit a mortgagor's real property insurance escrow account for payments of insurance premiums only if actual payment for such premiums is made within twenty-one days after such debit.

(e) Every mortgage investing institution shall, at least annually, provide to the mortgagor an analysis of the real property insurance escrow account of the mortgagor. Such analysis shall contain, for the twelve month period covered by the analysis, at least: (1) interest earned; (2) the amount of insurance premiums paid from the real property insurance escrow account; and (3) the account balance as of the beginning of the period covered by the analysis and the ending account balance as of a specified date within forty-five days preceding the date of the analysis. In addition, the mortgage investing institution shall, upon request by the mortgagor, provide to the mortgagor the date or dates of the payment of insurance premiums from such real property insurance escrow account. The information required by this paragraph may be provided in notices otherwise required by federal or state law, regulation or rule to be sent on at least an annual basis to the mortgagor, including but not limited to notices under title three-A of the real property tax law.

(f) The mortgage investing institution shall provide a written disclosure, in at least eight point bold face type, to the mortgagor with respect to the real property insurance escrow account. Such disclosure shall be provided at the time of the establishment of the real property insurance escrow account. In the case of accounts already in existence on the effective date of this act, such disclosure shall be provided to the mortgagor with the next annual analysis required by paragraph (e) of this subdivision. The disclosure shall contain substantially the following language:

(i) The mortgage investing institution is obligated to make all payments for real property insurance for which the real property

insurance escrow account is maintained. If any such payments are not timely, the mortgage investing institution is responsible for making such payments including any penalties and interest and shall be liable for all damages to the mortgagor resulting from its failure to make timely payment.

(ii) In the event that a real property insurance premium notice is sent directly to the mortgagor by the insurer, the mortgagor shall have the obligation to promptly transmit such premium notice to the mortgage investing institution, or such other institution or agent as may be designated in writing by the mortgage investing institution, for payment. Failure to do so may jeopardize the mortgagor's insurance coverage and may excuse the mortgage investing institution from liability for failure to timely make such real property insurance payments.

(iii) The mortgagor is obligated to pay one-twelfth of the real property insurance premiums each month to the mortgage investing institution for deposit into the real property insurance escrow account, unless there is a deficiency or surplus in the account, in which case a greater or lesser amount may be required.

(iv) If the mortgage investing institution is subject to the provisions of paragraph (c) of this subdivision, the mortgage investing institution must deposit the escrow payments made by the mortgagor in a banking institution or a licensed branch of a foreign banking corporation whose deposits are insured by a federal agency.

(g) Every mortgage investing institution shall provide written notice to a mortgagor no later than ten business days after the transfer to another mortgage investing institution of the right to receive all payments from the mortgagor, including payments made into the real property insurance escrow account, which notice shall include the name, address and telephone number of the mortgage investing institution to which such rights have been transferred. Upon request by the mortgagor, the mortgage investing institution shall advise the mortgagor of the amount of money in such account as of the date of such transfer. Every mortgage investing institution shall remain fully liable to pay any real property insurance premiums which are due and payable prior to the date of such transfer, and the mortgage investing institution to which such rights have been transferred shall be liable to pay any real property

insurance premiums which are due and payable after the date of such transfer, unless otherwise agreed among the parties to the transfer.

(h) Every mortgage investing institution shall, no later than thirty days after the final payment of the mortgage loan, where the mortgagor retains ownership of the property, send to the mortgagor a written statement that shall include, but not be limited to the following information: (i) that the real property insurance escrow account has been or will be terminated (whichever is applicable); and (ii) that unless the mortgagor establishes a new real property insurance escrow account with a mortgage investing institution, the mortgagor will be obliged to pay to the appropriate insurer real property insurance premiums becoming due thereafter. The written notice shall also set forth the effective date of the termination and shall provide the name and address of each insurer and shall advise the mortgagor to contact such insurer for billing information.

3. Mailing or delivery of bills to mortgage investing institutions. A mortgagor who has entered into a real property insurance escrow account may designate, in writing, a mortgage investing institution, and its successors, agents or assigns to receive premium notices for real property insurance. The mortgage investing institution shall advise the insurer in writing within fifteen days after the termination of such escrow account and shall inform the insurer that all future premium notices should be sent directly to the insured. The mortgage investing institution shall, upon the request of the insurer, provide any document that clearly evidences its authorization to receive insurance premium notices or obligation to pay real property insurance premiums.

4. Payments by mortgage investing institutions. A mortgage investing institution may pay the real property insurance premiums due on more than one parcel by a single instrument, provided that the mortgage investing institution also provides to the insurer a detailed list of the specific parcels to which the instrument is to be applied, each parcel identification number (if any) and the amount of the real property insurance premium to be paid with respect to each parcel.

5. Liabilities of mortgage investing institutions. (a) A mortgage

investing institution which receives moneys from a mortgagor for deposit into a real property insurance escrow account shall be liable to such mortgagor, upon failure to pay such real property insurance premiums, for the amount of the real property insurance premiums plus penalties and interest imposed thereon.

(b) In addition to any other remedies permitted by law, a mortgagor whose real property insurance premiums are to be paid by means of a real property insurance escrow account pursuant to this section may bring an action against the mortgage investing institution maintaining such account for the mortgagor under the provisions of this subdivision if payments for real property insurance premiums have not been made for thirty days after the date such insurance premiums have become due and payable. If a court shall find, after considering the circumstances of the failure of a mortgage investing institution to pay the real property insurance premium of a mortgagor pursuant to an escrow agreement, that such failure was due to the negligence or intentional acts of the mortgage investing institution, its agent, or both, the court may award the mortgagor injunctive relief and liquidated damages in an amount equal to three times the real property insurance premium not paid, but in no event greater than six thousand dollars.

(c) A mortgage investing institution shall be liable to the mortgagor for all damages and shall bear all responsibility for failure to make timely payment of insurance premiums.

(d) The mortgage investing institution shall have liability to the mortgagor under this subdivision only if:

(i) the mortgage investing institution, or such other institution or agent as designated in writing by the mortgage investing institution, has received the real property insurance premium notice; and

(ii) the mortgagor has made required payments for deposit into the real property insurance escrow account.

6. Separability. If any provision of this section or the application of such provision in certain circumstances shall be held invalid, the validity of the remainder of this section and its applicability to other circumstances shall not be affected.