(New Draft of H.P. 1558, L.D. 2060)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document No. 2241

H.P. 1711 House of Representatives, March 16, 1984

Reported by Representative Perkins from the Committee on Business Legislation and ordered printed under Joint Rule 2.

Original bill presented by Representative Racine of Biddeford. Cosponsored by Representative Brannigan of Portland, Representative Stevens of Bangor and Representative Kane of So. Portland.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-FOUR

AN ACT to Require Mortgagees to Pay Interest on Escrow Accounts.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 9-A MRSA §3-312 is enacted to read

§3-312. Interest to be paid on funds held in escrow

A supervised lender, including any of its assignees, that makes loans secured by a mortgage on real estate and which holds funds of a mortgagor in an escrow account for the payment of taxes or insurance premiums, either on its own behalf or on behalf of another mortgagee, shall pay interest on those funds in accordance with Title 9-B, section 429.

Sec. 2. 9-B MRSA §429, as enacted by PL 1979, c. 426, is repealed and the following enacted in its place:

§429. Residential mortgage escrow accounts

1. Definition. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Escrow account" means any account established by agreement between a mortgagor and mortgagee under which the mortgagor pays to the mortgagee sums to be used to pay taxes or insurance premiums.

B. "Mortgagee" means any financial institution authorized to do business in this State, as defined in section 131, subsection 17-A, any credit union authorized to do business in this State, as defined in section 131, subsection 12-A, any supervised lender, as that term is defined in Title 9-A, section 1-301, subsection 39, and their assignees.

2. Payment of interest or dividends. Each mortgagee holding funds of a mortgagor in an escrow account on behalf of itself or another mortgagee for the payment of taxes or insurance premiums with respect to mortgaged property located in this State shall pay the mortgagor, at least quarterly, dividends or interest on the account at a rate of not less than 3% per year. The dividends or interest paid under this subsection may not be reduced by any charge for service or maintenance of the account.

3. Computing and crediting interest. Under subsection 2, interest shall be computed on the daily balances in the account from the date of receipt to the date of disbursement and shall be credited to the account as of the last business day of each quarter of a calendar or fiscal year. If the account is closed or discontinued before the last business day of a quarter of a calendar or fiscal year, interest shall be computed and credited as of the day the account is closed or discontinued. For purposes of this section, the mortgagee may take into account debit balances resulting from advances and may elect to compute interest on the basis of the actual number of days in each quarter and year, or on the basis of a 30-day month and a 360-day year. At least once a

year, the mortgagee shall give the mortgagor a statement showing the interest credited on the account during the period which the statement covers.

4. Scope. The requirements of this section apply only to mortgages on owner-occupied residential property consisting of not more than 4 dwelling units, located in this State.

5. Exemptions. This section does not apply to mortgage transactions under which the payment of interest on escrow accounts is prohibited by federal law.

6. Application. The requirements of this section shall not apply to any escrow account established by a mortgage or other loan document executed on or before September 30, 1984.

STATEMENT OF FACT

This new draft makes several changes to the original bill. First, it reduces the rate required to be paid on escrow accounts from the federal discount rate in the bill to 3% simple annual interest.

Second, the new draft removes the limitation contained in the original bill that would require interest to be paid on "involuntary" escrow accounts, i.e., those actually required as a condition of making the loan.

Third, the new draft seeks to clarify that payment of interest is the responsibility of the institution holding the escrow account. Where the mortgage is sold to another party, but an institution retains servicing, including the escrow account, this assures that the servicing agent is responsible for payment of the interest.

Finally, the requirement is explicitly limited to mortgage loans entered into after September 30th of this year. This date both allows for some time for mortgagees to prepare for the anticipated change and coincides with the end of a calendar year quarter.

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