

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 1038
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “and lending institutions” and substitute “, credit grantors, and servicers of loans”; and in line 7, after “Act;” insert “authorizing a lender, a credit grantor, or a servicer of a loan to charge interest to a borrower on certain funds under certain circumstances; defining a certain term;”.

AMENDMENT NO. 2

On page 3, in line 21, strike “**IF**” and substitute “**SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF**”; in lines 23 and 30, in each instance, after “**LENDER**” insert “**OR A SERVICER OF A LOAN**”; in line 25, after “**LENDER**” insert “**OR SERVICER**”; and after line 31, insert:

“(3) (I) IN THIS PARAGRAPH, “OTHER EXPENSES” DOES NOT INCLUDE MONEY REQUIRED BY A LENDER OR A SERVICER OF A LOAN FOR AN ESCROW ACCOUNT CUSHION AS PERMITTED BY THE FEDERAL REAL ESTATE SETTLEMENT PROCEDURES ACT.

(II) A LENDER OR A SERVICER OF A LOAN MAY CHARGE INTEREST TO A BORROWER ON THE AMOUNT OF FUNDS THE LENDER OR SERVICER ADVANCES TO PAY TAXES, INSURANCE PREMIUMS, OR OTHER EXPENSES OWED BY THE BORROWER IN ORDER TO PROTECT THE SECURITY OF THE LOAN.

(III) INTEREST MAY BE CHARGED BY A LENDER OR A SERVICER OF A LOAN UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH ONLY IF:

(Over)

1. THE LENDER OR SERVICER ADVANCES ITS OWN FUNDS BECAUSE FUNDS OF THE BORROWER WERE NOT AVAILABLE TO PAY THE TAXES, INSURANCE PREMIUMS, OR OTHER EXPENSES OWED BY THE BORROWER;

2. THE NEED FOR THE ADVANCE WAS NOT CAUSED BY AN ERROR OF THE LENDER OR SERVICER IN SERVICING THE LOAN;

3. THE LENDER OR SERVICER PROVIDES NOTICE TO THE BORROWER THAT THE ADVANCE WAS MADE AND THAT INTEREST WILL BE CHARGED ON THE ADVANCE;

4. INTEREST DOES NOT BEGIN TO ACCRUE UNTIL 60 DAYS AFTER NOTICE HAS BEEN PROVIDED TO THE BORROWER IN ACCORDANCE WITH ITEM 3 OF THIS SUBPARAGRAPH;

5. INTEREST IS CHARGED ONLY ON THE AMOUNT OF FUNDS ACTUALLY ADVANCED BY THE LENDER OR SERVICER AFTER THE LENDER OR SERVICER HAS USED ALL AVAILABLE FUNDS OF THE BORROWER TO PAY TAXES, INSURANCE PREMIUMS, OR OTHER EXPENSES OWED BY THE BORROWER; AND

6. THE BORROWER IS PERMITTED TO REPAY THE ADVANCE AS PERMITTED BY THE FEDERAL REAL ESTATE SETTLEMENT PROCEDURES ACT.”.

On page 5, in line 27, strike “**IF**” and substitute “**SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, IF**”; in line 29, strike “**LENDING INSTITUTION**” and substitute “**CREDIT GRANTOR OR A SERVICER OF A LOAN**”; and in line 31, strike “**LENDING INSTITUTION**” and substitute “**LENDER OR SERVICER**”.

On page 6, in line 4, strike “LENDING INSTITUTION” and substitute “CREDIT GRANTOR OR A SERVICER OF A LOAN”; and after line 5, insert:

“(III) 1. IN THIS SUBPARAGRAPH, “OTHER EXPENSES” DOES NOT INCLUDE MONEY REQUIRED BY A CREDIT GRANTOR OR A SERVICER OF A LOAN FOR AN ESCROW ACCOUNT CUSHION AS PERMITTED BY THE FEDERAL REAL ESTATE SETTLEMENT PROCEDURES ACT.

2. A CREDIT GRANTOR OR A SERVICER OF A LOAN MAY CHARGE INTEREST TO A CONSUMER BORROWER ON THE AMOUNT OF FUNDS THE CREDIT GRANTOR OR SERVICER ADVANCES TO PAY TAXES, INSURANCE PREMIUMS, OR OTHER EXPENSES OWED BY THE CONSUMER BORROWER IN ORDER TO PROTECT THE SECURITY OF THE LOAN.

3. INTEREST MAY BE CHARGED BY A CREDIT GRANTOR OR A SERVICER OF A LOAN UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH ONLY IF:

A. THE CREDIT GRANTOR OR SERVICER ADVANCES ITS OWN FUNDS BECAUSE FUNDS OF THE CONSUMER BORROWER WERE NOT AVAILABLE TO PAY THE TAXES, INSURANCE PREMIUMS, OR OTHER EXPENSES OWED BY THE CONSUMER BORROWER;

B. THE NEED FOR THE ADVANCE WAS NOT CAUSED BY AN ERROR OF THE CREDIT GRANTOR OR SERVICER IN SERVICING THE LOAN;

C. THE CREDIT GRANTOR OR SERVICER PROVIDES NOTICE TO THE CONSUMER BORROWER THAT THE ADVANCE WAS MADE AND THAT INTEREST WILL BE CHARGED ON THE ADVANCE;

(Over)

D. INTEREST DOES NOT BEGIN TO ACCRUE UNTIL 60 DAYS AFTER NOTICE HAS BEEN PROVIDED TO THE CONSUMER BORROWER IN ACCORDANCE WITH ITEM C OF THIS SUBSUBPARAGRAPH;

E. INTEREST IS CHARGED ONLY ON THE AMOUNT OF FUNDS ACTUALLY ADVANCED BY THE CREDIT GRANTOR OR SERVICER AFTER THE CREDIT GRANTOR OR SERVICER HAS USED ALL AVAILABLE FUNDS OF THE CONSUMER BORROWER TO PAY TAXES, INSURANCE PREMIUMS, OR OTHER EXPENSES OWED BY THE CONSUMER BORROWER; AND

F. THE CONSUMER BORROWER IS PERMITTED TO REPAY THE ADVANCE AS PERMITTED BY THE FEDERAL REAL ESTATE SETTLEMENT PROCEDURES ACT.”.