



FORCE-PLACED INSURANCE

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If a homeowner does not insure his or her home, the mortgage servicer or lender may “force-place” insurance on the home. In such instances, the homeowner is responsible for the premiums.

ISSUE

This report explains force-placed insurance, describes its requirements under federal and state law, and summarizes recent cases and settlements.

SUMMARY

Force-placed insurance, also known as “lender-placed” insurance, is an insurance policy placed by a bank or mortgage servicer (i.e., lender) on a property when the borrower has failed to maintain sufficient hazard insurance or has otherwise allowed insurance coverage to lapse. Under federal law, the bank or mortgage servicer may obtain insurance for the property and require the homeowner to pay the insurance premiums. The insurance is thus “forced” on the property and property owner. Federal and state law require certain notifications to borrowers regarding force-placed insurance.

According to the National Association of Insurance Commissioners (NAIC, see [here](#)), force-placed insurance concerns regarding excess costs and claims of anti-competitive behavior have garnered increasing media and regulatory attention. The NAIC is investigating whether a change to the [Creditor-Placed Insurance Model Act](#) is necessary. (NAIC model acts are often used as a starting point for state legislation.)

In addition, a May 8, 2015 *Hartford Courant* [article](#) questions pricing models and business practices prevalent in the force-placed insurance industry.

FEDERAL LAW

In general, a bank or mortgage servicer may not obtain force-placed insurance unless there is reasonable belief that the borrower has failed to comply with the loan contract’s requirements to maintain property insurance (12 U.S.C.A. § 2605).

Before force-placing insurance, a lender must send, by first class mail, a written notice to the borrower that contains a:

1. reminder that the borrower must maintain insurance on the property,
2. statement that the lender does not have evidence of such insurance,
3. clear and conspicuous statement of how the borrower can prove he or she has the required insurance, and
4. statement that the lender may force-place insurance at the borrowers expense if it does not receive proof of insurance in a timely manner.

The lender must send a second written notice at least 30 days later containing the same information. The lender may not force-place insurance until 15 days after the second notice is sent.

The borrower may provide proof of insurance to the lender at any time. Proof includes any reasonable form of written confirmation, including a policy number and identity of the insurance company or agent.

The lender must, within 15 days after receiving proof of insurance, end the force-placed insurance and refund the premiums and any related fees the borrower paid for any time in which the force-placed and the homeowner's insurance overlapped.

CONNECTICUT LAW

Connecticut law requires a mortgage servicer to provide written notice to the borrower upon force-placing insurance ([CGS § 36a-719h\(12\)](#)). The written notice must include (1) clear and conspicuous directions on how the borrower may prove he or she has the required insurance coverage and (2) the process by which the servicer will terminate force-placed coverage and refund any applicable premiums and related fees.

Connecticut also (1) prohibits a mortgage servicer from force-placing insurance in excess of the replacement cost and (2) requires a mortgage servicer to refund unearned premiums for the force-placed insurance for any time the borrower retains appropriate coverage. ([CGS § 36a-719h\(13\)&\(14\)](#)).

Under Connecticut Insurance Department (CID) [guidelines](#), an insurer may not impose a charge, fee, or minimum premium related to force-placed insurance if the borrower provides proof of insurance within 45 days after the expiration of any previous insurance. A binder or letter on company letterhead from a licensed Connecticut producer or insurer serves as evidence of coverage.

RECENT LEGAL ACTION

There have been several cases against lenders for issues dealing with force-placed insurance, including cases involving accusations of inappropriately high premiums and kickbacks from insurance providers. For example, in Connecticut a class-action suit was filed in May 2015 on behalf of homeowner's that charges Wells Fargo Bank, among others, with deriving improper financial benefits from force-placed insurance (Navin and O'Reilly v. Wells Fargo Bank, N.A. et al., 3:15-cv-00671-MPS (D. Conn. filed May 5, 2015)).

According to the *Hartford Courant* article cited above, a \$140 million dollar settlement was reached in April with Assurant, Inc. and Ocwen Financial Corp., among others, over force-placed insurance business practices. The details of the settlement, discussed in the [article](#), reveal accusations of cost inflation and cash "kick-backs." Another article detailing the class action settlement can be found [here](#).

Additionally, in 2012, Connecticut was party to a \$25 billion federal-multistate settlement over mortgage and foreclosure complaints. As part of the settlement, Bank of America, Citibank, JP Morgan Chase, GMAC, and Wells Fargo must follow certain guidelines regarding force-placed insurance. Among other things, they must:

1. continue to forward payments from a homeowner's escrow account to the insurer, regardless of whether or not the homeowner pays the mortgage servicers;
2. terminate force-placed insurance within 15 days of receiving proof of insurance from the homeowner; and
3. purchase force-placed insurance for a commercially reasonable price.

The Connecticut Attorney General's press release is available [here](#) and a summary of the settlement is available [here](#).

HYPERLINKS

Connecticut Insurance Department, *Guidelines Concerning Force-Place Property Insurance* <http://www.ct.gov/cid/cwp/view.asp?a=1271&Q=429544>, last visited June 10, 2015

Connecticut Office of the Attorney General, *Attorney General Announces \$25 Billion Joint Federal-MultiState Settlement on Mortgage Foreclosure Servicing Wrongs* <http://www.ct.gov/ag/cwp/view.asp?A=2341&Q=498968>, last visited June 10, 2015

Connecticut Office of the Attorney General, Joint Federal-State Mortgage Servicing Settlement

http://www.ct.gov/ag/lib/ag/currentissues/mfs_servicing_standards_outline.pdf,

last visited June 10, 2015

Hartford Courant, *Forcing Homeowners into Expensive Insurance*

<http://www.courant.com/real-estate/hc-ls-harney-0510-20150508-story.html>, last

visited June 10, 2015

National Association of Insurance Commissioners, *Creditor-Placed Insurance Model*

Act <http://www.naic.org/store/free/MDL-375.pdf>, last visited June 10, 2015

National Association of Insurance Commissioners, *Lender Placed Insurance*

http://www.naic.org/cipr_topics/topic_lender_placed_insurance.htm, last visited

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Top Class Actions, *Ocwen, Assurant Force-Placed Insurance Class Action Settlement*

<http://www.ct.gov/cid/cwp/view.asp?a=1271&Q=429544>, last visited June 10,

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