

### **367.320 Processing of payments by servicer of high-cost home loan.**

- (1) As used in this section, "servicer" means any person or entity who currently collects or processes payments on a high-cost home loan, as that term is defined in KRS 360.100, regardless of whether that person or entity is the owner, the holder, the assignee, the nominee for the loan, the beneficiary of a trust, or any person acting on behalf of such person.
- (2) A servicer shall:
  - (a) Apply payments promptly upon receipt, so long as the residential mortgage loan is still being actively processed. If a payment is received on a Saturday, a Sunday, or any day when the servicer's principal place of business is not open or after 1 p.m. on a business day, it shall be considered promptly applied if applied on the next regular business day;
  - (b) Apply payments first to interest and principal currently due, then to late fees currently due, then to other fees and charges currently due, and then to additional principal, as applicable;
  - (c) Assess any fee which is otherwise legal under this section within thirty (30) days of the date on which the fee was accrued and disclose any assessed fee clearly and conspicuously in the next periodic statement provided to the borrower;
  - (d) Charge no late fee, if a payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, and the only delinquency or insufficiency of payment is attributable to any late fee or delinquency charge assessed on any earlier payment; and
  - (e) Make all payments from the escrow account held for the borrower for insurance, taxes, and other charges with respect to the property in a timely manner so as to ensure that no late penalties are assessed or other negative consequences result, regardless of whether the loan is delinquent unless there are not sufficient funds in the account to cover the payments, and disclose any payments from the escrow account clearly and conspicuously in the next periodic statement provided to the borrower.

**Effective:** April 24, 2008

**History:** Created 2008 Ky. Acts ch. 175, sec. 32, effective April 24, 2008.