CENTER for ECONOMIC JUSTICE

FAIR ACCESS
FAIR TREATMENT

Forced (Lender)-Placed Insurance

Presentation to
IRES Career Development Seminar

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August 9, 2016

The Center for Economic Justice

CEJ is a non-profit consumer advocacy organization dedicated to representing the interests of low-income and minority consumers as a class on economic justice issues. Most of our work is before administrative agencies on insurance, financial services and utility issues.

On the Web: www.cej-online.org

Why CEJ Works on Insurance Issues

Essential Financial Security Tool for Individual and Community Economic Development: CEJ Works to Ensure Access and Fair Prices for These Essential Products and Services, particularly for Low- and Moderate-Income Consumers.

Primary Institution to Promote Loss Prevention and Mitigation: CEJ Works to Ensure Insurance Institutions Maximize Their Role in Efforts to Reduce Loss of Life and Property from Catastrophic Events.

New York Department of Financial Services Regulation 202:

Regulation of Forced Placed Insurance

Purpose:

227(b) An investigation by the department found that the rates for force-placed hazard insurance bore little relation to insurers' actual loss experience, resulting in high profits, a portion of which insurers commonly passed on to mortgage servicers and their affiliates through commissions, other payments, and reinsurance arrangements, to the detriment of homeowners and investors.

(c) The department’s investigation found that insurers offered financial incentives to mortgage servicers and their affiliates, including commissions to servicer-affiliated insurance producers who performed little or no work, and entered into arrangements that transferred a significant percentage of force-placed insurance profits to affiliates of servicers. In addition, one insurer provided force-placed insurance on mortgages serviced by an affiliate of the insurer. These practices not only artificially inflated premiums charged to homeowners, but created a conflict of interest in that servicers had an incentive to purchase more costly force-placed insurance where they earned a portion of the premiums or profits from the placement of force-placed insurance. Section 227.6 of this Part prohibits these practices.

(d) Further, actual loss ratios for force-placed hazard insurance have been significantly lower than both the expected loss ratios insurers filed with the department and the actual loss ratios for voluntary homeowners' insurance. Insurers have failed to regularly update and adjust their rates despite these significant discrepancies. Section 227.7 of this Part requires insurers to regularly inform the department of loss ratios actually experienced and re-file rates when actual loss ratios are below 40 percent, and sets a minimum permissible loss ratio for rate filings to ensure that premiums are set at a rate reasonably related to paid claims.

Nationwide LPI Home Premium and Loss Ratios

	Net Written Premium ($ Millions)		***Incurred Loss Ratio***	
Year	Nationwide	Assurant	Nationwide	Assurant
2004	$796	$543	33.1%	33.9%
2005	$919	$641	53.5%	55.2%
2006	$1,074	$851	29.0%	24.4%
2007	$1,647	$1,219	20.5%	19.9%
2008	$2,209	$1,640	23.3%	23.0%
2009	$3,049	$1,745	20.7%	18.2%
2010	$3,223	$1,810	17.3%	23.0%
2011	$3,450	$2,022	24.7%	26.5%
2012	$2,870	$2,186	30.8%	29.7%
2013	$2,172	$2,012	28.3%	26.5%
2014	$1,787	$1,612	29.1%	31.5%
2004-14	$23,1968	$16,281	26.0%	26.7%

Nationwide Loss Ratios: Homeowners and LPI Home, 2004-2012

Year	Homeowners	LPI Home
2004	66.0%	33.1%
2005	75.2%	53.5%
2006	48.2%	29.0%
2007	50.4%	20.5%
2008	70.7%	23.3%
2009	59.3%	20.7%
2010	60.5%	17.3%
2011	75.4%	24.7%
2012	58.8%	30.8%
2004-2012	62.7%	25.3%

Nationwide LPI Auto Experience from the CIEE

Year	Loss Ratio	Lender Compensation
2004	37.9%	22.5%
2005	36.4%	27.0%
2006	31.5%	27.4%
2007	33.1%	26.0%
2008	40.5%	25.5%
2009	47.8%	27.5%
2010	31.8%	34.4%
2011	35.0%	37.0%
2012	27.1%	39.3%
2013	31.3%	47.8%
2004-2013	35.8%	30.4%

LPI Insurer-Lender/Servicer Kickback Mechanisms

1. "Commissions" to Lender/Servicer-Affiliated Agents
2. Sell the Affiliated Agency for Three-Years of "Commissions"
3. Up Front "Expense Reimbursements"
4. On-Going "Expense Reimbursements"
5. Captive Reinsurance with Risk Limiting Features
6. Free or Below Cost Services Unrelated to Provision of LPI
    a. Insurance Tracking
    b. Customer Service
    c. Escrow Administration
    d. New Loan Boarding
    e. Loss Drafts

Insurance Tracking – What's Included?

- Collecting Voluntary Insurance Information
- Entering Insurance Information to Lender/Servicer System
- Automated Identification of:
  - o Premium Due for Voluntary Insurance for Escrowed Loans
  - o Missing Evidence of Required Insurance
- Automated Cycle of Letters to Borrowers Regarding Required Insurance
- Automated Instruction to Insurer to Issue Binder and Policy at Specified Time Frames

Assurant Filing to Florida OIR: Tracking is Lender Responsibility

Any type of real estate loan involving a commercial or residential structure requires the borrower to keep sufficient insurance coverage in force to satisfy the lender's interest should the structure (collateral) be destroyed or damaged. In order to make sure this requirement is met, most lenders have a department which keeps track of all the insurance policies covering properties for outstanding loans. If borrower provided coverage is cancelled or expired, the lender begins sending a series of follow-up letters to the borrower reminding the borrower of his obligation to keep insurance in force. If the borrower fails to comply, the lender will request issuance of the policy.

New York Regulation on Insurance Tracking

(f)(1) *Insurance tracking* means all activities related to determining whether a borrower has in place hazard insurance that complies with the mortgage loan contract's requirements to maintain hazard insurance, including:

(i) developing and maintaining a database used by a servicer to track required hazard insurance on borrowers' loans;

(ii) maintaining hazard insurance information on behalf of a servicer, including in a servicer's mortgage servicing system;

(iii) inputting insurance information on new loans into an insurance tracking database or a servicer's mortgage servicing system;

(iv) all communications by a servicer or on behalf of a servicer with a borrower's voluntary hazard insurer or voluntary hazard insurance producer;

(v) all communications by a servicer or on behalf of a servicer with a borrower concerning required hazard insurance, including the written notices required by section 227.2 of this Part and communications concerning charging the borrower's account for insurance; and

(vi) all call center and other customer service operations related to the communications described in subparagraphs (1)(iv) and (1)(v) of this paragraph.

(2) The term *insurance tracking* shall not include:

(i) issuing force-placed insurance or monitoring the continuing need for force-placed insurance after

(*a*) voluntary hazard insurance covering residential real property has lapsed or been cancelled, or (*b*) an insurer, insurance producer or affiliate has not received evidence of existing insurance coverage that complies with section 227.4 of this Part; or

(ii) performing administrative services associated with cancelling force-placed insurance on properties on which force-placed insurance is not required.

227.6(g) No insurer, insurance producer, or affiliate shall provide insurance tracking to a servicer or a person or entity affiliated with a servicer for a reduced fee or no separately identifiable charge.

227.7(f) An insurer shall not include as an expense in a force-placed insurance rate filing any expense incurred in connection with insurance tracking.