

CHAPTER 1166

IOWA FINANCE AUTHORITY

H.F. 2373

AN ACT relating to the Iowa finance authority by providing for the issuance of closing protection letters, amending provisions regarding mortgage release certificates, and providing for the allocation of the state ceiling of federally tax-exempt private activity bonds.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 16.91, subsection 2, Code 1999, is amended to read as follows:

2. A title guaranty, ~~closing protection letter, or gap coverage~~ issued under this program is an obligation of the division only and claims are payable solely and only out of the moneys, assets, and revenues of the title guaranty fund and are not an indebtedness or liability of the state. The state is not liable on ~~the guaranties any guaranty, closing protection letter, or gap coverage.~~

Sec. 2. Section 16.92, subsection 1, paragraph f, subparagraph (4), Code Supplement 1999, is amended to read as follows:

(4) If after payment of the unpaid balance of the loan secured by the mortgage, the mortgage continues to secure any unpaid obligation due the mortgagee or any unfunded commitment by the mortgagor to the mortgagee, ~~the legal description of the property that will continue to be subject to the mortgage, and the legal description of the property that will be released from the mortgage.~~

Sec. 3. Section 16.92, subsection 2, paragraph a, subparagraph (1), subparagraph subdivision (b), Code Supplement 1999, is amended to read as follows:

(b) The statement contains the legal description of the property to be released from the mortgage ~~and the legal description of the property that will continue to be subject to the mortgage.~~

Sec. 4. Section 16.92, subsection 3, paragraph d, subparagraph (2), Code Supplement 1999, is amended to read as follows:

(2) A statement that the certificate is a partial release of the mortgage, ~~and the legal description of the property that will be released from the mortgage, and the legal description of the property that will continue to be subject to the mortgage.~~

Sec. 5. Section 16.92, subsection 7, Code Supplement 1999, is amended to read as follows:
7. PRIOR MORTGAGES.

a. If the real estate lender or closer has notified the division that a mortgage has been paid in full by someone other than the real estate lender or closer, or was paid by the real estate lender or closer under a previous transaction, and an effective release has not been filed of record, the division may execute and record a certificate of release without certification by the real estate lender or closer that payment was made pursuant to a payoff statement and the date payment was received by the mortgagee. A certificate of release filed pursuant to this subsection is subject to the requirements of subsection 2, paragraph "c".

b. For purposes of this subsection, an effective release has not been filed of record if there appears that a mortgagee in the record chain of title to the mortgage has not, either on the mortgagee's own behalf or by the mortgagee's duly appointed servicer or attorney in fact as established of record by a filed servicing agreement or power of attorney, filed of record either an assignment of the mortgage to another mortgagee in the record chain of title to the

mortgage or a release of the mortgagee's interest in the mortgage. For the purposes of this subsection and subsection 2, paragraph "c", "mortgage servicer" includes a mortgagee for which an effective release has not been filed of record as provided in this paragraph.

Sec. 6. NEW SECTION. 16.93 CLOSING PROTECTION LETTERS.

1. The authority through the title guaranty division may issue a closing protection letter to a person to whom a proposed title guaranty is to be issued, upon the request of the person, if the division issues a commitment for title guaranty or title guaranty certificate. The closing protection letter shall conform to the terms of coverage and form of the instrument as approved by the division board and may indemnify a person to whom a proposed title guaranty is to be issued against loss of settlement funds due to only the following acts of the division's named participating attorney or participating abstractor:

a. Theft of settlement funds.

b. Failure by the participating attorney or participating abstractor to comply with written closing instructions of the person to whom a proposed title guaranty is to be issued relating to title certificate coverage when agreed to by the participating attorney or participating abstractor.

2. A closing protection letter shall only be issued to a person to whom a proposed title guaranty is to be issued for real property transactions in which the division has committed to issue an owner or lender certificate and for which the division receives a premium and other payments or fees for a title guaranty certificate or other coverage.

3. The division board shall establish the amount of coverage to be provided and may distinguish between classes of property including, but not limited to, residential, agricultural, or commercial, provided that the total amount of coverage provided by the closing protection letter shall not exceed the amount of the commitment or title guaranty to be issued. Liability under the closing protection letter shall be coextensive with liability under the certificate to be issued in connection with a transaction such that payments under the terms of the closing protection letter shall reduce by the same amount the liability under the title guaranty certificate and payment under the title guaranty certificate shall reduce the liability under the terms of the closing protection letter.

4. The division may adopt a required fee for providing closing protection letter coverage.

5. The division shall not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to escrow, settlement, or closing services.

6. The authority shall adopt rules pursuant to chapter 17A as necessary to administer this section.

Sec. 7. STUDY. The treasurer of state or the designee of the treasurer of state, the auditor of state or the designee of the auditor of state, the director of the department of economic development or the designee of the director, and the executive director of the Iowa finance authority or the designee of the executive director shall submit a joint report to the general assembly regarding proposals for a new allocation method for the state ceiling allocation under section 7C.4A, subsection 5. The report shall include, but shall not be limited to, a competitive rating system for applications and a method for allocating the state ceiling to political subdivisions of different sizes. The report shall be submitted to the general assembly by December 1, 2000.

Sec. 8. STATE CEILING ALLOCATION. For the calendar year beginning January 1, 2001, applications for the state ceiling allocation under section 7C.4A, subsection 5, shall not be approved prior to March 1.

Approved May 4, 2000