CONCURRENCE IN SENATE AMENDMENTS
AB 1278 (Harabedian)
As Amended June 22, 2026
Majority vote

SUMMARY

This bill specifies the allowable payment methods by which a financial institution can satisfy its obligation to pay interest on funds held in a loss draft account, as specified.

Senate Amendments
Expands payment options available from "check" to "check, electronic funds transfer, including automated clearing house transfers, or another payment method agreed to by the borrower."

COMMENTS

Existing law requires a financial institution that makes loans upon the security of real property containing only a one- to four-family residence and located in this state or purchases obligations secured by the property and that holds hazard insurance proceeds in a loss draft account pending property rebuilding or repair shall pay interest on those funds at a rate of at least 2% simple interest per annum. Requires the interest to be credited to the loss draft account annually or upon termination of the account, whichever is earlier. (Civil Code Section 2954.85).

This bill:

1) Allows the interest on hazard insurance proceeds to be paid with a check, as specified, drawn by a financial institution payable at or through a bank directly to the borrower.

2) Provides that a check that is uncashed 90 calendar days after delivery be cancelled at no cost to the borrower and the amount credited to the loss draft account.

Background

California has faced an alarming increase in destructive wildfires. Most of the largest and devastating fires have taken place within the last decade, culminating in a particularly severe outbreak in recent years. This period has witnessed some of the worst wildfires in the state's recorded history.

More recently, January 2025 wildfires, often referred to as firestorms due to the intense hurricane-force winds that helped the fires quickly spread, destroyed more than 16,000 structures and has led to widespread hardship for victims and the surrounding communities. According to the most recently available data from the Department of Insurance, a total of 39,171 residential insurance claims were filed with over $20.8 billion paid as of November 2025.[1]

Insurance Payouts

An escrow account for insurance claims is a temporary financial account used to hold insurance payout funds, ensuring they are properly used for property repairs. This is commonly required in

[1] https://www.insurance.ca.gov/01-consumers/180-climate-change/Wildfire-Claims-Tracker.cfm

homeowners' insurance claims, especially when the property has a mortgage. Instead of paying the homeowner directly, the insurer deposits the funds into an escrow account managed by the mortgage lender or a third-party administrator.

While the terms of each policy is different, the following is a general description of the steps involved in the escrow process. After the claim is approved, funds are placed in escrow rather than given directly to the homeowner. The lender then releases payments in stages as repairs progress, ensuring the work is completed properly and contractors are paid. Once the final repairs are inspected and verified, the remaining balance is released to the homeowner or contractor. This prevents misuse of funds and ensures the property is restored.

Escrow accounts protect lenders by ensuring their collateral (the home) is properly repaired. However, if a property does not have a mortgage or if the claim is small, insurers typically pay the homeowner directly without requiring escrow.

No Likely Preemption Issue

In its 2024 holding, the United States Supreme Court unanimously held "in applying the significant-interference test under *Barnett Bank*, 116 S.Ct. 1103… to the issue of whether the National Bank Act preempts a state law must make a practical assessment of the nature and degree of the interference caused by the state law; if the state law prevents or significantly interferes with the national bank's exercise of its powers, the law is preempted, but if the state law does not prevent or significantly interfere with the national bank's exercise of its powers, the law is not preempted"[2]

The Court's decision provides a clear framework for determining the question of federal preemption of state laws regulating banks in relation to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which ruled out field preemption.

> "Instead, Dodd-Frank provides that the National Bank Act preempts a state law "only if" the state law (i) discriminates against national banks as compared to state banks; or (ii) "prevents or significantly interferes with the exercise by the national bank of its powers," as determined "in accordance with the legal standard for preemption"[3]

Because section 2954.84 does not apply to a financial institution based on its charter, potential questions of preemption can only be raised on the "prevents or significantly interferes" preemption standard. Furthermore, there is no clear demarcation of where a state law significantly interferes with a national bank's ability to exercise its powers, and thus prior decisions must be taken into account. For example, in the *Barnett* case, a dispute arose because a national bank wanted to sell insurance in a small Florida town, but the state prohibited most banks from selling insurance. The Court held the Florida law was preempted because it significantly interfered with the national bank's ability to sell insurance—a federally authorized power. The Court reasoned that "normally Congress would not want states to forbid, or to impair significantly, the exercise of a power that Congress explicitly granted."[4] However, in *National*

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[2] *Cantero v. Bank of America, N. A.* (2024) 144 S.Ct. 1290
[3] *Id.* citing *Barnett Bank of Marion Cty., N. A. v. Nelson,* 517 U.S. 25, 116 S.Ct. 1103
[4] *Barnett Bank of Marion Cty., N. A. v. Nelson,* 517 U.S. 25, 116 S.Ct. 1103

Bank v. Commonwealth, the Court determined that a Kentucky tax law was not preempted. The Kentucky law at issue taxed the shareholders of all banks on their shares of bank stock.

"The Court explained that national banks are "exempted from State legislation, so far as that legislation may interfere with, or impair their efficiency in performing the functions" that federal law authorizes them to perform. *But national banks are not "wholly withdrawn from the operation of State legislation"; rather, they remain subject to state law governing "their daily course of business" such as generally applicable state contract, property, and debt-collection laws."*[5] *(Emphasis added)*

As applied to section 2954.84(a) in its previous form, any issues of preemption would hinder on whether or not a mandate to credit a loss draft account that the financial institution is already managing prevents or significantly interferes with the financial institution's ability to exercise its powers. This seems unlikely considering that to make payment any other way would be creating an extra step for the financial institution.

Similarly, the Banking and Finance Committee amendments would likely yield the same preemption outcome. Specifically, the issue of preemption would hinder on whether or not to the mandate to cancel a check that remained uncashed for 90 days and crediting a borrowers loss draft account for accrued simple interest prevents or significantly interferes with a financial institution's ability to exercise its powers. Considering the fact that check cancellation and crediting accounts are basic functions of financial institutions, such a mandate is unlikely to be preempted under the *Barnette* analysis.

According to the Author
Existing law requires financial institutions to pay borrowers 2% simple interest on post-loss insurance proceeds held in escrow following property damage or loss for certain properties impacted by the January 2025 Los Angeles-area wildfires. AB 1278 expands the methods by which borrowers may receive that accrued interest by authorizing financial institutions to pay interest directly to homeowners by check, electronic funds transfer, or another payment method agreed to by the borrower, ensuring disaster survivors can fully access the funds owed to them during the rebuilding process.

Arguments in Support
"On behalf of California's Credit Unions (CCU), representing credit unions serving more than 14 million Californians, we write to express our support for AB 1278, with the recent amendments. AB 1278 will give lenders and borrowers flexibility on how they wish to receive post-loss insurance payouts from an escrow account.

Credit unions share the author's goal of ensuring that homeowners receive hazard insurance proceeds in a timely manner following a wildfire, natural disaster, or other catastrophic loss. Prompt access to these funds is critical to helping families rebuild their homes and recover from devastating events.

The amendments that expressly authorize the distribution of funds through electronic funds transfers (EFTs), Automated Clearing House (ACH) transactions, in addition to the bill's existing authorization for payment by check. Will give both borrowers and lenders flexibility in how

[5] *National Bank v. Commonwealth,* 9 Wall. 353, 76 U.S. 353, 361-362 (1870)

post-loss insurance proceeds shall be paid. CCU appreciates the author's willingness to amend the bill and his leadership on the issue."- *California Credit Unions*

Arguments in Opposition
None received. Last verified 8/11/2026

FISCAL COMMENTS

The following is from the analysis of the Assembly Committee on Appropriations, hearing date 1/22/2026.

Minor and absorbable costs to the Department of Financial Protection and Innovation to update related manuals, exam procedures, and trainings.

VOTES:

ASM BANKING AND FINANCE: 8-0-1
YES: Valencia, Dixon, Fong, Krell, Michelle Rodriguez, Blanca Rubio, Schiavo, Soria
ABS, ABST OR NV: Chen

ASM APPROPRIATIONS: 15-0-0
YES: Wicks, Hoover, Stefani, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Bauer-Kahan, Pacheco, Pellerin, Solache, Ta, Tangipa

ASSEMBLY FLOOR: 70-0-10
YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Fong, Gabriel, Gallagher, Garcia, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
ABS, ABST OR NV: Arambula, Bauer-Kahan, Chen, Ellis, Flora, Gipson, Lee, Ransom, Celeste Rodriguez, Valencia

SENATE FLOOR: 39-0-1
YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
ABS, ABST OR NV: Alvarado-Gil

UPDATED

VERSION: June 22, 2026

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