

2 SHB 2611 - S COMM AMD

3 By Committee on Financial Institutions, Insurance & Housing

4 ADOPTED 3/3/98

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** As used in this chapter:

8 (1) "Institutional third party" means the federal national mortgage
9 association, the federal home loan mortgage corporation, the government
10 national mortgage association, and other substantially similar
11 institutions, whether public or private, provided the institutions
12 establish and adhere to rules applicable to the right of cancellation
13 of mortgage insurance, which are the same or substantially the same as
14 those utilized by the institutions named in this subsection.

15 (2) "Mortgage insurance" means insurance, including mortgage
16 guarantee insurance, against financial loss by reason of nonpayment of
17 principal, interest, and other sums agreed to be paid in a residential
18 mortgage transaction.

19 (3) "Residential mortgage transaction" means entering into a loan
20 for personal, family, household, or purchase money purposes that is
21 secured by a deed of trust or mortgage on owner-occupied, one-to-four
22 unit, residential real property located in the state of Washington.

23 NEW SECTION. **Sec. 2.** (1) If a borrower is required to obtain and
24 maintain mortgage insurance as a condition of entering into a
25 residential mortgage transaction, the lender shall disclose to the
26 borrower whether and under what conditions the borrower has the right
27 to cancel the mortgage insurance in the future. This disclosure shall
28 include:

29 (a) Any identifying loan or insurance information, or other
30 information, necessary to permit the borrower to communicate with the
31 servicer or lender concerning the private mortgage insurance;

32 (b) The conditions that are required to be satisfied before the
33 mortgage insurance may be canceled; and

34 (c) The procedures required to be followed by the borrower to
35 cancel the mortgage insurance.

1 The disclosure required in this subsection shall be made in writing
2 at the time the transaction is entered into.

3 (2) For residential mortgage transactions with mortgage insurance,
4 the lender, or the person servicing the residential mortgage
5 transaction if it is not the lender, annually shall provide the
6 borrower with:

7 (a) A notice containing the same information as required to be
8 disclosed under subsection (1) of this section; or

9 (b) A statement indicating that the borrower may be able to cancel
10 the mortgage insurance and that the borrower may contact the lender or
11 loan servicer at a designated address and phone number to find out
12 whether the insurance can be canceled and the conditions and procedures
13 to effect cancellation.

14 The notice or statement required by this subsection shall be
15 provided in writing in a clear and conspicuous manner in or with each
16 annual statement of account.

17 (3) The notices and statements required in this section shall be
18 provided without cost to the borrower.

19 (4) Any borrower in a residential mortgage transaction who is
20 harmed by a violation of this section may obtain injunctive relief, may
21 recover from the party who caused such harm by failure to comply with
22 this section up to three times the amount of mortgage insurance
23 premiums wrongly collected, and may recover reasonable attorneys' fees
24 and costs of such action.

25 (5) This section does not apply to any mortgage funded with bond
26 proceeds issued under an indenture requiring mortgage insurance for the
27 life of the loan or to loans insured by the federal housing
28 administration or the veterans administration.

29 (6) Subsection (1) of this section applies to residential mortgage
30 transactions entered into on or after July 1, 1998. Subsection (2) of
31 this section applies to any residential mortgage transaction existing
32 on the effective date of this section or entered into on or after the
33 effective date of this section.

34 (7) A lender or person servicing a residential mortgage transaction
35 who complies with federal requirements, as now or hereafter enacted,
36 prescribing mortgage insurance disclosures and notifications shall be
37 deemed in compliance with this section.

1 NEW SECTION. **Sec. 3.** (1) Except when a statute, regulation, rule,
2 or written guideline promulgated by an institutional third party
3 applicable to a residential mortgage transaction purchased in whole or
4 in part by an institutional third party specifically prohibits
5 cancellation during the term of indebtedness, the lender or servicer of
6 a residential mortgage transaction may not charge or collect future
7 payments from a borrower for mortgage insurance, and the borrower is
8 not obligated to make such payments, if all of the following conditions
9 are satisfied:

10 (a) The borrower makes a written request to terminate the
11 obligation to make future payments for mortgage insurance;

12 (b) The residential mortgage transaction is at least two years old;

13 (c) The outstanding principal balance of the residential loan is
14 not greater than eighty percent of the current fair market value of the
15 property and is:

16 (i) For loans made for the purchase of the property, less than
17 eighty percent of the lesser of the sales price or the appraised value
18 at the time the transaction is entered into; or

19 (ii) For all other residential mortgage transactions, less than
20 eighty percent of the appraised value at the time the residential loan
21 transaction was entered into.

22 The lender or servicer may request that a current appraisal be done
23 to verify the outstanding principal balance is less than eighty percent
24 of the current fair market value of the property; unless otherwise
25 agreed to in writing, the lender or servicer selects the appraiser and
26 splits the cost with the borrower;

27 (d) The borrower's scheduled payment of monthly installments or
28 principal, interest, and any escrow obligations is current at the time
29 the borrower requests termination of his or her obligation to continue
30 to pay for mortgage insurance, those installments have not been more
31 than thirty days late in the last twelve months, and the borrower has
32 not been assessed more than one late penalty over the past twelve
33 months;

34 (e) A notice of default has not been recorded against the property
35 as the result of a nonmonetary default in the previous twelve months.

36 (2) This section applies to residential mortgage transactions
37 entered into on or after July 1, 1998.

38 (3) This section does not apply to:

1 (a) Any residential mortgage transaction that is funded in whole or
2 in part pursuant to authority granted by statute, regulation, or rule
3 that, as a condition of that funding, prohibits or limits termination
4 of payments for mortgage insurance during the term of the indebtedness;
5 or

6 (b) Any mortgage funded with bond proceeds issued under an
7 indenture requiring mortgage insurance for the life of the loan.

8 (4) If the residential mortgage transaction will be or has been
9 sold in whole or in part to an institutional third party, adherence to
10 the institutional third party's standards for termination of future
11 payments for mortgage insurance shall be deemed in compliance with this
12 section.

13 (5) A lender or person servicing a residential mortgage transaction
14 who complies with federal requirements, as now or hereafter enacted,
15 governing the cancellation of mortgage insurance shall be deemed in
16 compliance with this section.

17 NEW SECTION. **Sec. 4.** On or after July 1, 1998, no borrower
18 entering into a residential mortgage transaction in which the principal
19 amount of the loan is less than eighty percent of the fair market value
20 of the property shall be required to obtain mortgage insurance. Fair
21 market value for a purchase money loan is the lesser of the sales price
22 or the appraised value. This section shall not apply to residential
23 mortgage transactions in an amount in excess of the maximum limits
24 established by institutional third parties where the borrower and the
25 lender have agreed in writing to mortgage insurance.

26 A lender or person servicing a residential mortgage transaction who
27 complies with federal requirements, as now or hereafter enacted,
28 governing the requirement of obtaining mortgage insurance shall be
29 deemed in compliance with this section.

30 NEW SECTION. **Sec. 5.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 6.** This act takes effect July 1, 1998.

1 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute
2 a new chapter in Title 61 RCW."

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6 On page 1, line 1 of the title, after "insurance;" strike the
7 remainder of the title and insert "adding a new chapter to Title 61
8 RCW; and providing an effective date."

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