
SUBSTITUTE HOUSE BILL 2611

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Keiser, Wolfe, Benson, Gardner and Dickerson)

Read first time 02/02/98. Referred to Committee on .

1 AN ACT Relating to mortgage insurance; adding a new chapter to
2 Title 61 RCW; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

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

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

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

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

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

16 (2) For residential mortgage transactions with mortgage insurance,
17 the lender, or the person servicing the residential mortgage
18 transaction if it is not the lender, annually shall provide the
19 borrower with:

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

22 (b) A statement indicating that the borrower may be able to cancel
23 the mortgage insurance and that the borrower may contact the lender or
24 loan servicer at a designated address and phone number to find out
25 whether the insurance can be canceled and the conditions and procedures
26 to effect cancellation.

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

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

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

38 (5) This section does not apply to any mortgage funded with bond
39 proceeds issued under an indenture requiring mortgage insurance for the

1 life of the loan or to loans insured by the federal housing
2 administration or the veterans administration.

3 (6) Subsection (1) of this section applies to residential mortgage
4 transactions entered into on or after July 1, 1998. Subsection (2) of
5 this section applies to any residential mortgage transaction existing
6 on the effective date of this section or entered into on or after the
7 effective date of this section.

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

12 NEW SECTION. Sec. 3. (1) Except when a statute, regulation, rule,
13 or written guideline promulgated by an institutional third party
14 applicable to a residential mortgage transaction purchased in whole or
15 in part by an institutional third party specifically prohibits
16 cancellation during the term of indebtedness, the lender or servicer of
17 a residential mortgage transaction may not charge or collect future
18 payments from a borrower for mortgage insurance, and the borrower is
19 not obligated to make such payments, if all of the following conditions
20 are satisfied:

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

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

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

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

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

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

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

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

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

12 (3) This section does not apply to:

13 (a) Any residential mortgage transaction that is funded in whole or
14 in part pursuant to authority granted by statute, regulation, or rule
15 that, as a condition of that funding, prohibits or limits termination
16 of payments for mortgage insurance during the term of the indebtedness;
17 or

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

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

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

29 NEW SECTION. **Sec. 4.** On or after July 1, 1998, no borrower
30 entering into a residential mortgage transaction in which the principal
31 amount of the loan is less than eighty percent of the fair market value
32 of the property shall be required to obtain mortgage insurance. Fair
33 market value for a purchase money loan is the lesser of the sales price
34 or the appraised value. This section shall not apply to residential
35 mortgage transactions in an amount in excess of the maximum limits
36 established by institutional third parties where the borrower and the
37 lender have agreed in writing to mortgage insurance.

1 NEW SECTION. **Sec. 5.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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

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

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