

Union Calendar No. 39

105TH CONGRESS
1ST Session

H. R. 607

[Report No. 105-55]

A BILL

To amend the Truth in Lending Act to require notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes.

APRIL 16, 1997

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Union Calendar No. 39

105TH CONGRESS
1ST SESSION

H. R. 607

[Report No. 105-55]

To amend the Truth in Lending Act to require notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1997

Mr. HANSEN (for himself, Mr. BAKER, Mr. KENNEDY of Massachusetts, Mr. CALVERT, Mr. WAXMAN, Ms. RIVERS, Mr. SAWYER, Mr. EVANS, Mr. BOUCHER, Ms. FURSE, and Mr. FROST) introduced the following bill; which was referred to the Committee on Banking and Financial Services

APRIL 16, 1997

Additional sponsors: Mr. PACKARD, Mr. LUTHER, Mr. McDERMOTT, Mr. ROHRBACHER, Mr. FRANK of Massachusetts, Mr. RUSH, Mr. DELLUMS, Mr. COOK, Mr. FALCOMA, Mr. STUMP, Mr. SISISKY, Mr. GILMAN, Mr. BARRETT of Wisconsin, Mr. LARGENT, Mr. FILNER, Mr. FARR of California, Mr. RIGGS, Mr. PARKER, Mr. BROWN of California, Mr. ROYCE, Mr. KUCINICH, Ms. NORTON, and Mr. SESSIONS

APRIL 16, 1997

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 5, 1997]

A BILL

To amend the Truth in Lending Act to require notice of

cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Homeowners Insurance*
 5 *Protection Act”.*

6 **SEC. 2. PROVISIONS RELATING TO PRIVATE MORTGAGE IN-**
 7 **SURANCE.**

8 *(a) IN GENERAL.—Section 6 of the Real Estate Settle-*
 9 *ment Procedures Act of 1974 (12 U.S.C. 2605) is amend-*
 10 *ed—*

11 *(1) by redesignating subsections (f), (g), (h), (i),*
 12 *and (j) as subsections (k), (l), (m), (n), and (o), re-*
 13 *spectively; and*

14 *(2) by inserting after subsection (e) the following*
 15 *new subsections:*

16 *“(f) DISCLOSURES RELATING TO PRIVATE MORTGAGE*
 17 *INSURANCE.—*

18 *“(1) DISCLOSURE AT SETTLEMENT RELATING TO*
 19 *EXISTENCE OF PMI.—With regard to any covered*
 20 *mortgage loan, the lender shall disclose, in writing at*
 21 *or before the settlement of such covered mortgage loan,*
 22 *whether any private mortgage insurance will be re-*

1 *quired to be obtained or maintained with respect to*
2 *such mortgage loan, including any lender-paid pri-*
3 *rate mortgage insurance, and the period during*
4 *which such insurance will be required to be in effect.*

5 *“(2) DISCLOSURE AT SETTLEMENT RELATING TO*
6 *TERMINABILITY OF PMI.—If the lender requires, as a*
7 *condition for entering into a covered mortgage loan,*
8 *the borrower to assume an obligation to make sepa-*
9 *rately designated payments toward the premiums for*
10 *private mortgage insurance with respect to such loan,*
11 *the lender shall disclose, in writing at or before the*
12 *settlement of such covered mortgage loan any of the*
13 *following notices which are applicable with respect to*
14 *such loan:*

15 *“(A) PMI OBLIGATIONS TERMINABLE UPON*
16 *REQUEST.—In the case of a loan described in*
17 *paragraph (3), that—*

18 *“(i) the borrower’s obligation to make*
19 *separately designated payments toward the*
20 *premiums for private mortgage insurance*
21 *may be able to be terminated while the*
22 *mortgage is outstanding (including a can-*
23 *cellation permitted before the date of auto-*
24 *matic termination under subsection (g));*
25 *and*

1 “(ii) the borrower will be notified by
2 the servicer not less frequently than annu-
3 ally of an address and a toll-free or collect-
4 call telephone number which the borrower
5 may use to contact the servicer to deter-
6 mine—

7 “(I) whether the borrower’s obliga-
8 tion to make separately designated
9 payments toward the premium for pri-
10 vate mortgage insurance may be termi-
11 nated while the mortgage loan is out-
12 standing (or before the date of auto-
13 matic termination); and

14 “(II) if such obligation may be
15 terminated while the loan is outstand-
16 ing (or before such date), the condi-
17 tions and procedures for such termi-
18 nation.

19 “(B) *PMI OBLIGATIONS TERMINABLE BY*
20 *OPERATION OF LAW.*—That the borrower’s obliga-
21 tion to make separately designated payments to-
22 ward the premiums for private mortgage insur-
23 ance will be terminated by operation of law
24 under subsection (g).

1 “(C) *NONTERMINABLE PMI OBLIGATIONS.*—
2 *In the case of a loan not described in paragraph*
3 *(3), that the borrower’s obligation to pay any*
4 *amount to be applied to any portion of the pre-*
5 *miums for private mortgage insurance will not*
6 *be terminated at the request of the borrower.*

7 “(3) *DISCLOSURE WITH ANNUAL STATEMENTS OR*
8 *OTHER COMMUNICATIONS.*—*If—*

9 “(A) *private mortgage insurance is required*
10 *as a condition for entering into a covered mort-*
11 *gage loan; and*

12 “(B) *the borrower’s obligation to make sepa-*
13 *rately designated payments toward the pre-*
14 *miums for such insurance may be terminated at*
15 *the borrower’s request,*

16 *the servicer shall, not less frequently than annually,*
17 *disclose to the borrower a clear and conspicuous state-*
18 *ment containing the disclosures set forth in subpara-*
19 *graphs (A) and (B) of paragraph (2), including the*
20 *address and telephone number referred to in such*
21 *paragraph, based on the servicer’s knowledge at the*
22 *time such periodic communication is given. Such dis-*
23 *closure shall be included with any annual statement*
24 *of account, escrow statement, or related annual com-*

1 *munications provided to the borrower, while such pri-*
2 *rate mortgage insurance is in effect.*

3 *“(4) DISCLOSURES FURNISHED WITHOUT COST*
4 *TO BORROWER.—No fee or other cost may be imposed*
5 *on any borrower for preparing and delivering any*
6 *disclosure to the borrower pursuant to this subsection.*

7 *“(g) MANDATORY TERMINATION OF PMI OBLIGATIONS*
8 *AT 75 PERCENT LOAN-TO-VALUE RATIO.—*

9 *“(1) IN GENERAL.—Notwithstanding any provi-*
10 *sion of a covered mortgage loan, any obligation of the*
11 *borrower to make separately designated payments to-*
12 *ward the premiums for any private mortgage insur-*
13 *ance in effect with respect to such loan shall termi-*
14 *nate, except as provided in paragraph (3), by oper-*
15 *ation of law as of the 1st day of the 1st month which*
16 *begins after the date on which the principal balance*
17 *outstanding on all residential mortgages on the prop-*
18 *erty securing the loan is equal to or less than 75 per-*
19 *cent of the lesser of—*

20 *“(A) if the loan was made for purchase of*
21 *the property, the sales price of the property*
22 *under such purchase; or*

23 *“(B) the appraised value of the property, as*
24 *determined by the appraisal conducted in con-*
25 *nection with the making of the loan.*

1 “(2) *DISCLOSURE UPON TERMINATION.*—Not
2 *later than 45 days after the date of termination pur-*
3 *suant to paragraph (1) of a private mortgage insur-*
4 *ance requirement for a covered mortgage loan, the*
5 *servicer shall notify the borrower under the loan, in*
6 *writing, that—*

7 “(A) *the private mortgage insurance has*
8 *terminated and the borrower no longer has pri-*
9 *vate mortgage insurance: and*

10 “(B) *no further premiums, payments, or*
11 *other fees shall be due or payable by the borrower*
12 *in connection with the private mortgage insur-*
13 *ance.*

14 “(3) *EXCEPTION FOR DELINQUENT BORROW-*
15 *ERS.*—

16 “(A) *IN GENERAL.*—*Paragraph (1) shall*
17 *not apply with respect to any covered mortgage*
18 *loan on which the payments are not current as*
19 *of the date that the obligation to make private*
20 *mortgage insurance premium payments in con-*
21 *nection with the loan would otherwise terminate*
22 *pursuant to paragraph (1).*

23 “(B) *EFFECTIVENESS ONCE PAYMENTS ARE*
24 *CURRENT.*—*In the case of any covered mortgage*
25 *loan to which subparagraph (A) applies, para-*

1 *graph (1) shall apply with respect to such loan*
2 *as of the 1st day of the 1st month which begins*
3 *after the date that such payments become cur-*
4 *rent.*

5 “(4) *RETURN OF PAYMENTS TOWARD PRE-*
6 *MIUMS.—*

7 “(A) *RETURN OF PAYMENTS TO BOR-*
8 *ROWER.—The servicer for a covered mortgage*
9 *loan shall promptly return to the borrower any*
10 *payments toward the premiums for any private*
11 *mortgage insurance for such loan covering any*
12 *period occurring after the date of automatic ter-*
13 *mination for such loan under this subsection.*

14 “(B) *RETURN OF PAYMENTS TO*
15 *SERVICER.—The private mortgage insurer for a*
16 *covered mortgage loan shall promptly return to*
17 *the servicer any payments received from the*
18 *servicer toward the premiums for any private*
19 *mortgage insurance for such loan covering any*
20 *period occurring after the date of automatic ter-*
21 *mination for such loan under this subsection.*

22 “(h) *LENDERS’ CONDITIONS FOR PMI.—*

23 “(1) *CONDITIONS FOR TERMINATION OF BORROW-*
24 *ER’S OBLIGATION TO PAY PMI.—The conditions for the*
25 *termination of the borrower’s obligation to make sepa-*

1 *rately designated payments toward the premium for*
2 *private mortgage insurance with respect to a covered*
3 *mortgage loan, including any changes in such condi-*
4 *tions, shall be reasonably related to the purposes for*
5 *which the requirement for private mortgage insurance*
6 *was imposed at the time the loan was made.*

7 *“(2) BORROWER’S RIGHT TO TERMINATE IN AC-*
8 *CORDANCE WITH CONDITIONS.—In the case of any*
9 *covered mortgage loan described in subsection (f)(3),*
10 *the borrower shall have the right under this para-*
11 *graph to terminate the borrower’s obligation to make*
12 *separately designated payments toward the premiums*
13 *for such insurance if the conditions and procedures*
14 *for such termination most recently communicated to*
15 *the borrower (pursuant to a request by the borrower*
16 *pursuant to notice under subsection (f)(3) or other-*
17 *wise) have been met.*

18 *“(i) EFFECT ON OTHER AGREEMENTS.—The provi-*
19 *sions of subsections (f), (g), and (h) shall supersede any con-*
20 *flicting provision contained in any agreement relating to*
21 *the servicing of a covered mortgage loan entered into by*
22 *the Federal National Mortgage Association, the Federal*
23 *Home Loan Mortgage Corporation, or any private investor*
24 *or noteholder (or any successors thereto). A servicer which*
25 *Cancels private mortgage insurance on a covered mortgage*

1 *loan in compliance with the provisions of subsection (g) or*
2 *(h) or in accordance with investor guidelines in existence*
3 *at the time concerning the cancellation of private mortgage*
4 *insurance (regardless of whether the cancellation by the*
5 *servicer was mandated by such subsections or initiated by*
6 *the borrower) shall not be required to repurchase such mort-*
7 *gage loan from the investor or holder of such mortgage loan*
8 *solely on the grounds that the private mortgage insurance*
9 *was canceled in accordance with the provisions of such sub-*
10 *sections or investor guidelines, as applicable.*

11 “(j) *LIMITATIONS ON LIABILITY.—If the servicer for a*
12 *covered mortgage loan has complied with the requirements*
13 *under subsections (f) and (g) to provide disclosures, the*
14 *servicer shall not be considered to have violated any provi-*
15 *sion of subsection (f), (g), or (h) and shall not be liable*
16 *for any such violation—*

17 “(1) *due to any failure on the part of the*
18 *servicer to provide disclosures required under such*
19 *subsections resulting from the failure of any mortgage*
20 *insurer, any mortgage holder, or any other party to*
21 *timely provide accurate information to the servicer*
22 *necessary to permit the disclosures; or*

23 “(2) *due to any failure on the part of any pri-*
24 *vate mortgage insurer, any mortgage holder, or any*

1 *other party to comply with the provisions of such sub-*
2 *sections.*

3 *Each private mortgage insurer and each mortgage holder*
4 *for a covered mortgage loan shall provide accurate and*
5 *timely information to the servicer for such loan necessary*
6 *to permit the disclosures required by subsections (f) and (g).*
7 *In the event of a dispute regarding liability for a violation*
8 *of subsection (f), (g), or (h), and upon request by the bor-*
9 *rower, a servicer shall provide the borrower with informa-*
10 *tion stating the identity of the insurer or mortgage holder.”.*

11 *(b) DEFINITIONS.—Subsection (n) of section 6 of the*
12 *Real Estate Settlement Procedures Act of 1974 (as redesign-*
13 *ated by subsection (a)(1)) is amended—*

14 *(1) by redesignating paragraphs (1), (2), and (3)*
15 *as paragraphs (2), (5), and (6), respectively;*

16 *(2) by inserting before paragraph (2) (as redesign-*
17 *ated by paragraph (1) of this subsection) the follow-*
18 *ing new paragraph:*

19 *“(1) COVERED MORTGAGE LOAN.—The term ‘cov-*
20 *ered mortgage loan’ means a federally related mort-*
21 *gage loan under which the property securing the loan*
22 *is used by the borrower as the borrower’s principal*
23 *residence.”; and*

24 *(3) by inserting after paragraph (2) (as so redesi-*
25 *gnated) the following new paragraphs:*

1 “(3) *MORTGAGE INSURANCE.*—The term ‘mort-
2 *gage insurance*’ means insurance, including any
3 *mortgage guaranty insurance*, against the nonpay-
4 *ment of, or default on, a mortgage or loan involved*
5 *in a residential mortgage transaction, the premiums*
6 *for which are paid by the borrower.*

7 “(4) *PRIVATE MORTGAGE INSURANCE.*—The term
8 ‘*private mortgage insurance*’ means mortgage insur-
9 *ance other than mortgage insurance made available*
10 *under the National Housing Act, title 38 of the Unit-*
11 *ed States Code, or title V of the National Housing Act*
12 *of 1949.”.*

13 **SEC. 3. SCOPE OF APPLICABILITY.**

14 (a) *NOTICE AT OR BEFORE SETTLEMENT.*—Para-
15 *graphs (1) and (2) of section 6(f) of the Real Estate Settle-*
16 *ment Procedures Act of 1974 (as added by section 2(a) of*
17 *this Act) shall apply only with respect to covered mortgage*
18 *loans made after the end of the 1-year period beginning on*
19 *the date of the enactment of this Act.*

20 (b) *NOTICE OF PMI OBLIGATION TERMINABILITY.*—
21 *Paragraphs (3) and (4) of section 6(f) of the Real Estate*
22 *Settlement Procedures Act of 1974 (as added by section 2(a)*
23 *of this Act) shall apply beginning upon the end of the 1-*
24 *year period that begins on the date of the enactment of this*

1 *Act and with respect to any covered mortgage loan without*
 2 *regard to the date on which such loan was made.*

3 (c) *TERMINATION OF PMI OBLIGATION BY OPERATION*
 4 *OF LAW.*—Subsections (g) and (h) of section 6 of the *Real*
 5 *Estate Settlement Procedures Act of 1974* (as added by sec-
 6 *tion 2(a) of this Act*) shall apply only with respect to cov-
 7 *ered mortgage loans made after the end of the 1-year period*
 8 *beginning on the date of the enactment of this Act.*

9 **SEC. 4. CONFORMING AMENDMENTS.**

10 (a) *SECTION 6.*—Section 6(m) of the *Real Estate Set-*
 11 *tlement Procedures Act of 1974* (12 U.S.C. 2605) (as reded-
 12 *ignated by section 2(a)(1) of this Act*) is amended—

13 (1) by inserting “(not including subsection (f))”
 14 before “regarding timing”; and

15 (2) by adding at the end the following new sen-
 16 *tence: “The preceding sentence shall not apply to any*
 17 *State law or regulation relating to notice or disclo-*
 18 *sure to a borrower regarding obtaining, maintaining,*
 19 *or terminating private mortgage insurance and such*
 20 *State laws and regulations shall be subject to the pro-*
 21 *visions of section 18.”.*

22 (b) *SECTION 10.*—Section 10(b) of the *Real Estate Set-*
 23 *tlement Procedures Act of 1974* (12 U.S.C. 2609(b)) is
 24 *amended by striking “section 6(i)” and inserting “section*
 25 *6(n)”.*

1 (c) *SECTION 12.*—*Section 12 of the Real Estate Settle-*
2 *ment Procedures Act of 1974 (12 U.S.C. 2610) is amended*
3 *by striking “section 6(i)” and inserting “section 6(n)”.*

Amend the title so as to read: “A bill to amend the Real Estate Settlement Procedures Act of 1974 to require notice of cancellation rights with respect to private mortgage insurance which is required as a condition of entering into certain federally related mortgage loans and to provide for cancellation of such insurance, and for other purposes.”.