

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 607

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IN THE SENATE OF THE UNITED STATES

APRIL 17, 1997

Received

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## AN ACT

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.

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 Insur-  
5 ance Protection Act”.

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

8        (a) IN GENERAL.—Section 6 of the Real Estate Set-  
9 tlement Procedures Act of 1974 (12 U.S.C. 2605) is  
10 amended—

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

14            (2) by inserting after subsection (e) the follow-  
15            ing new subsections:

16            “(f) DISCLOSURES RELATING TO PRIVATE MORT-  
17 GAGE INSURANCE.—

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

1 private mortgage insurance, and the period during  
2 which such insurance will be required to be in effect.

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

13 “(A) PMI OBLIGATIONS TERMINABLE  
14 UPON REQUEST.—In the case of a loan de-  
15 scribed in paragraph (3), that—

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

24 “(ii) the borrower will be notified by  
25 the servicer not less frequently than annu-

1 ally of an address and a toll-free or collect-  
2 call telephone number which the borrower  
3 may use to contact the servicer to deter-  
4 mine—

5 “(I) whether the borrower’s obli-  
6 gation to make separately designated  
7 payments toward the premium for pri-  
8 vate mortgage insurance may be ter-  
9 minated while the mortgage loan is  
10 outstanding (or before the date of  
11 automatic termination); and

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

17 “(B) PMI OBLIGATIONS TERMINABLE BY  
18 OPERATION OF LAW.—That the borrower’s obli-  
19 gation to make separately designated payments  
20 toward the premiums for private mortgage in-  
21 surance will be terminated by operation of law  
22 under subsection (g).

23 “(C) NONTERMINABLE PMI OBLIGA-  
24 TIONS.—In the case of a loan not described in  
25 paragraph (3), that the borrower’s obligation to

1           pay any amount to be applied to any portion of  
2           the premiums for private mortgage insurance  
3           will not be terminated at the request of the bor-  
4           rower.

5           “(3) DISCLOSURE WITH ANNUAL STATEMENTS  
6           OR OTHER COMMUNICATIONS.—If—

7                   “(A) private mortgage insurance is re-  
8                   quired as a condition for entering into a covered  
9                   mortgage loan; and

10                   “(B) the borrower’s obligation to make  
11                   separately designated payments toward the pre-  
12                   miums for such insurance may be terminated at  
13                   the borrower’s request,

14           the servicer shall, not less frequently than annually,  
15           disclose to the borrower a clear and conspicuous  
16           statement containing the disclosures set forth in  
17           subparagraphs (A) and (B) of paragraph (2), includ-  
18           ing the address and telephone number referred to in  
19           such paragraph, based on the servicer’s knowledge  
20           at the time such periodic communication is given.  
21           Such disclosure shall be included with any annual  
22           statement of account, escrow statement, or related  
23           annual communications provided to the borrower,  
24           while such private mortgage insurance is in effect.

1           “(4) DISCLOSURES FURNISHED WITHOUT COST  
2           TO BORROWER.—No fee or other cost may be im-  
3           posed on any borrower for preparing and delivering  
4           any disclosure to the borrower pursuant to this sub-  
5           section.

6           “(g) MANDATORY TERMINATION OF PMI OBLIGA-  
7           TIONS AT 75 PERCENT LOAN-TO-VALUE RATIO.—

8           “(1) IN GENERAL.—Notwithstanding any provi-  
9           sion of a covered mortgage loan, any obligation of  
10          the borrower to make separately designated pay-  
11          ments toward the premiums for any private mort-  
12          gage insurance in effect with respect to such loan  
13          shall terminate, except as provided in paragraph (3),  
14          by operation of law as of the 1st day of the 1st  
15          month which begins after the date on which the  
16          principal balance outstanding on all residential mort-  
17          gages on the property securing the loan is equal to  
18          or less than 75 percent of the lesser of—

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

22                 “(B) the appraised value of the property,  
23                 as determined by the appraisal conducted in  
24                 connection 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 bor-  
12 rower in connection with the private mortgage  
13 insurance.

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  
24 ARE CURRENT.—In the case of any covered  
25 mortgage loan to which subparagraph (A) ap-

1           plies, paragraph (1) shall apply with respect to  
2           such loan as of the 1st day of the 1st month  
3           which begins after the date that such payments  
4           become current.

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  
13          termination 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  
21          termination for such loan under this subsection.

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

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

1 make separately designated payments toward the  
2 premium for private mortgage insurance with re-  
3 spect to a covered mortgage loan, including any  
4 changes in such conditions, shall be reasonably relat-  
5 ed to the purposes for which the requirement for pri-  
6 vate mortgage insurance was imposed at the time  
7 the loan was made.

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

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

1 which cancels private mortgage insurance on a covered  
2 mortgage loan in compliance with the provisions of sub-  
3 section (g) or (h) or in accordance with investor guidelines  
4 in existence at the time concerning the cancellation of pri-  
5 vate mortgage insurance (regardless of whether the can-  
6 cellation by the servicer was mandated by such subsections  
7 or initiated by the borrower) shall not be required to re-  
8 purchase such mortgage loan from the investor or holder  
9 of such mortgage loan solely on the grounds that the pri-  
10 vate mortgage insurance was canceled in accordance with  
11 the provisions of such subsections or investor guidelines,  
12 as applicable.

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

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

1           “(2) due to any failure on the part of any pri-  
2           vate mortgage insurer, any mortgage holder, or any  
3           other party to comply with the provisions of such  
4           subsections.

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

14          (b) DEFINITIONS.—Subsection (n) of section 6 of the  
15          Real Estate Settlement Procedures Act of 1974 (as reded-  
16          ignated by subsection (a)(1)) is amended—

17                 (1) by redesignating paragraphs (1), (2), and  
18                 (3) as paragraphs (2), (5), and (6), respectively;

19                 (2) by inserting before paragraph (2) (as reded-  
20                 ignated by paragraph (1) of this subsection) the fol-  
21                 lowing new paragraph:

22                         “(1) COVERED MORTGAGE LOAN.—The term  
23                         ‘covered mortgage loan’ means a federally related  
24                         mortgage loan under which the property securing

1 the loan is used by the borrower as the borrower's  
2 principal residence.”; and

3 (3) by inserting after paragraph (2) (as so re-  
4 designated) the following new paragraphs:

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

11 “(4) PRIVATE MORTGAGE INSURANCE.—The  
12 term ‘private mortgage insurance’ means mortgage  
13 insurance other than mortgage insurance made  
14 available under the National Housing Act, title 38 of  
15 the United States Code, or title V of the National  
16 Housing Act of 1949.”.

17 **SEC. 3. SCOPE OF APPLICABILITY.**

18 (a) NOTICE AT OR BEFORE SETTLEMENT.—Para-  
19 graphs (1) and (2) of section 6(f) of the Real Estate Set-  
20 tlement Procedures Act of 1974 (as added by section 2(a)  
21 of this Act) shall apply only with respect to covered mort-  
22 gage loans made after the end of the 1-year period begin-  
23 ning on the date of the enactment of this Act.

24 (b) NOTICE OF PMI OBLIGATION TERMINABILITY.—  
25 Paragraphs (3) and (4) of section 6(f) of the Real Estate

1 Settlement Procedures Act of 1974 (as added by section  
2 2(a) of this Act) shall apply beginning upon the end of  
3 the 1-year period that begins on the date of the enactment  
4 of this Act and with respect to any covered mortgage loan  
5 without regard to the date on which such loan was made.

6 (c) TERMINATION OF PMI OBLIGATION BY OPER-  
7 ATION OF LAW.—Subsections (g) and (h) of section 6 of  
8 the Real Estate Settlement Procedures Act of 1974 (as  
9 added by section 2(a) of this Act) shall apply only with  
10 respect to covered mortgage loans made after the end of  
11 the 1-year period beginning on the date of the enactment  
12 of this Act.

13 **SEC. 4. CONFORMING AMENDMENTS.**

14 (a) SECTION 6.—Section 6(m) of the Real Estate  
15 Settlement Procedures Act of 1974 (12 U.S.C. 2605) (as  
16 redesignated by section 2(a)(1) of this Act) is amended—

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

19 (2) by adding at the end the following new sen-  
20 tence: “The preceding sentence shall not apply to  
21 any State law or regulation relating to notice or dis-  
22 closure to a borrower regarding obtaining, maintain-  
23 ing, or terminating private mortgage insurance and  
24 such State laws and regulations shall be subject to  
25 the provisions of section 18.”.

1       (b) SECTION 10.—Section 10(b) of the Real Estate  
2 Settlement Procedures Act of 1974 (12 U.S.C. 2609(b))  
3 is amended by striking “section 6(i)” and inserting “sec-  
4 tion 6(n)”.

5       (c) SECTION 12.—Section 12 of the Real Estate Set-  
6 tlement Procedures Act of 1974 (12 U.S.C. 2610) is  
7 amended by striking “section 6(i)” and inserting “section  
8 6(n)”.

Passed the House of Representatives April 16, 1997.

Attest:

ROBIN H. CARLE,

*Clerk.*