

Calendar No. 243

105TH CONGRESS
1ST Session

S. 318

[Report No. 105-129]

A BILL

To amend the Truth in Lending Act to require automatic cancellation and 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.

OCTOBER 31, 1997

Reported with an amendment and an amendment to the title

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 1997

Mr. D'AMATO (for himself, Mr. BRYAN, Mr. DODD, Mr. DOMENICI, Mr. KEMPTHORNE, Mr. BINGAMAN, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

OCTOBER 31, 1997

Reported by Mr. D'AMATO, with an amendment and an amendment to the title

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

A BILL

To amend the Truth in Lending Act to require automatic cancellation and 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 Protec-
 5 tion Act of 1997”.

6 **SEC. 2. NOTIFICATION OF CANCELLATION RIGHTS FOR PRI-**
 7 **VATE MORTGAGE INSURANCE.**

8 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
 9 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
 10 after section 125 the following:

11 **“SEC. 126. CANCELLATION RIGHTS FOR PRIVATE MORT-**
 12 **GAGE INSURANCE.**

13 “(a) INSURANCE RATIO STANDARD.—

14 “(1) IN GENERAL.—No consumer, in connection
 15 with a residential mortgage transaction, shall be re-
 16 quired by the creditor to obtain or maintain private
 17 mortgage insurance if that consumer has, or will
 18 have at the time that the transaction is con-
 19 summated, equity in the property that is the subject
 20 of the transaction in excess of the private mortgage
 21 insurance ratio.

22 “(2) REGULATORY REQUIREMENT.—The
 23 Board—

24 “(A) shall issue rules to implement para-
 25 graph (1); and

1 “(B) may issue rules exempting certain
2 classes of transactions from the provisions of
3 paragraph (1) if the Board finds that such ex-
4 emption is necessary—

5 “(i) to ensure sound underwriting
6 standards; or

7 “(ii) to further the availability of
8 credit to persons who might otherwise be
9 denied credit if paragraph (1) was applied
10 to residential mortgage transactions involv-
11 ing such persons.

12 “(b) NOTICE OF RIGHT OR LACK OF RIGHT TO CAN-
13 CEL.—If a consumer is required to obtain and maintain
14 private mortgage insurance as a condition for entering
15 into a residential mortgage transaction, the creditor shall
16 disclose to the consumer the current private mortgage in-
17 surance ratio for the subject property, in writing, at the
18 time that the transaction is entered into.

19 “(c) INFORMATION REQUIRED TO BE DISCLOSED.—
20 With respect to each residential mortgage transaction, the
21 creditor shall disclose to the consumer, in writing, the fol-
22 lowing information at the time the transaction is entered
23 into:

24 “(1) IDENTIFYING INFORMATION.—Such infor-
25 mation as may be necessary to permit the consumer

1 to communicate with the creditor or any subsequent
 2 servicer of the mortgage, concerning the private
 3 mortgage insurance of that consumer.

4 ~~“(2) CANCELLATION PROCEDURES.—~~The proce-
 5 dures required to be followed by the consumer in
 6 canceling the private mortgage insurance.

7 ~~“(d) INFORMATION REQUIRED TO BE DISCLOSED~~
 8 ~~WITH EACH PERIODIC STATEMENT.—~~If a consumer is re-
 9 quired to obtain and maintain private mortgage insurance
 10 as a condition for entering into a residential mortgage
 11 transaction, the person servicing the mortgage shall in-
 12 clude in or with each written statement of account pro-
 13 vided to the consumer, beginning with the first such state-
 14 ment following the date of enactment of the Homeowners
 15 Protection Act of 1997, while such insurance is in effect,
 16 but not less than annually—

17 ~~“(1) the information required to be disclosed~~
 18 ~~under subsections (b) and (c); or~~

19 ~~“(2) a clear and conspicuous written statement~~
 20 ~~containing—~~

21 ~~“(A) a statement that the consumer may~~
 22 ~~cancel the private mortgage insurance and a de-~~
 23 ~~scription of the circumstances under which such~~
 24 ~~a cancellation may be made; and~~

1 “(B) an address and telephone number
2 that the consumer may use to contact the credi-
3 tor or the person servicing the mortgage.

4 “(e) NOTICES FURNISHED WITHOUT COST TO THE
5 CONSUMER.—

6 “(1) IN GENERAL.—No fee or other cost may
7 be imposed on any consumer with respect to the pro-
8 vision of any notice or information to the consumer
9 pursuant to this section.

10 “(2) REIMBURSEMENT.—A creditor or subse-
11 quent servicer of the mortgage may seek reimburse-
12 ment from the issuer of the private mortgage insur-
13 ance, with respect to any cost incurred by that credi-
14 tor or subsequent servicer in providing any notice or
15 information to the consumer pursuant to this sec-
16 tion.

17 “(f) EXISTING MORTGAGES.—If a consumer was re-
18 quired to obtain and maintain private mortgage insurance
19 as a condition for entering into a residential mortgage
20 transaction occurring before the date of enactment of the
21 Homeowners Protection Act of 1997—

22 “(1) not later than 180 days after that date of
23 enactment, the creditor shall disclose, in writing, to
24 each such consumer—

1 “(A) the information described in para-
2 graphs (1) and (2) of subsection (e); and

3 “(B) that the private mortgage insurance
4 may, under certain circumstances, be canceled
5 by the consumer at any time while the mort-
6 gage is outstanding; and

7 “(2) the person servicing the mortgage shall in-
8 clude in or with each written statement of account
9 provided to the consumer, beginning with the first
10 such statement following the date of enactment of
11 that Act, while such insurance is in effect, but not
12 less than annually—

13 “(A) the information required to be dis-
14 closed under subsection (e); or

15 “(B) a clear and conspicuous written state-
16 ment containing—

17 “(i) a statement that the consumer
18 may be able to cancel the private mortgage
19 insurance (if such is the case); and

20 “(ii) an address and telephone num-
21 ber that the consumer may use to contact
22 the creditor or the person servicing the
23 mortgage to determine whether the
24 consumer has the right to cancel the pri-
25 vate mortgage insurance and, if so, the

1 conditions and procedures for canceling
2 such insurance.

3 “(g) DEFINITIONS.—In this section, the following
4 definitions shall apply:

5 “(1) 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.

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

16 “(3) PRIVATE MORTGAGE INSURANCE RATIO.—
17 The term ‘private mortgage insurance ratio’ means
18 a principal balance outstanding on a residential
19 mortgage equal to less than 80 percent of the origi-
20 nal value (at the time at which the consumer entered
21 into the original residential mortgage transaction) of
22 the property securing the loan.

23 “(h) APPLICABILITY.—This section, other than as
24 provided in subsection (d), shall apply with respect to resi-
25 dential mortgage transactions entered into beginning 90

1 days after the date of enactment of the Homeowners Pro-
 2 tection Act of 1997.”.

3 (b) ~~CLERICAL AMENDMENT.~~—The table of sections
 4 for chapter 2 of the Truth in Lending Act (15 U.S.C.
 5 1631 et seq.) is amended by striking the item relating to
 6 section 126 and inserting the following:

“126. Cancellation rights for private mortgage insurance.”.

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Homeowners Protection*
 9 *Act of 1997”.*

10 **SEC. 2. DEFINITIONS.**

11 *In this Act, the following definitions shall apply:*

12 (1) *CANCELLATION DATE.*—*The term “cancella-*
 13 *tion date” means (at the option of the mortgagor) the*
 14 *date on which the principal balance of a residential*
 15 *mortgage—*

16 (A) *based solely on the initial amortization*
 17 *schedule for that mortgage, and irrespective of*
 18 *the outstanding balance for that mortgage on*
 19 *that date, is first scheduled to reach 80 percent*
 20 *of the original value of the property securing the*
 21 *loan; or*

22 (B) *based on actual payments, reaches 80*
 23 *percent of the original value of the property se-*
 24 *curing the loan.*

1 (2) *GOOD PAYMENT HISTORY.*—The term “good
2 *payment history*” means, with respect to a mortgagor,
3 *that the mortgagor has not—*

4 (A) *made a mortgage payment that was 60*
5 *days or longer past due during the 12-month pe-*
6 *riod beginning 24 months before the date on*
7 *which the mortgage reaches the cancellation date;*
8 *or*

9 (B) *made a mortgage payment that was 30*
10 *days or longer past due during the 12-month pe-*
11 *riod preceding the date on which the mortgage*
12 *reaches the cancellation date.*

13 (3) *INITIAL AMORTIZATION SCHEDULE.*—With
14 *respect to—*

15 (A) *a residential mortgage for which the in-*
16 *terest rate is not subject to change, the term “ini-*
17 *tial amortization schedule” means a schedule es-*
18 *tablished at the time at which a residential*
19 *mortgage transaction is consummated, show-*
20 *ing—*

21 (i) *the amount of principal and inter-*
22 *est that is due at regular intervals to retire*
23 *the principal balance and accrued interest*
24 *over the amortization period of the loan;*
25 *and*

1 (ii) the unpaid principal balance of
2 the loan after each scheduled payment is
3 made; and

4 (B) a residential mortgage for which the in-
5 terest rate is subject to change, the “initial amor-
6 tization schedule” shall be based upon the inter-
7 est rate or rates applicable to the residential
8 mortgage on the date on which the transaction is
9 consummated.

10 (4) *MORTGAGE INSURANCE.*—The term “mort-
11 gage insurance” means insurance, including any
12 mortgage guaranty insurance, against the nonpay-
13 ment of, or default on, an individual mortgage or
14 loan involved in a residential mortgage transaction.

15 (5) *MORTGAGE INSURER.*—The term “mortgage
16 insurer” means a provider of private mortgage insur-
17 ance, as described in this Act, that is authorized to
18 transact such business in the State in which the pro-
19 vider is transacting such business.

20 (6) *MORTGAGEE.*—The term “mortgagee” means
21 the holder of a residential mortgage at the time at
22 which that mortgage transaction is consummated.

23 (7) *MORTGAGOR.*—The term “mortgagor” means
24 the original borrower under a residential mortgage or
25 his or her successors or assignees.

1 (8) *ORIGINAL VALUE.*—*The term “original*
2 *value”, with respect to a residential mortgage, means*
3 *the lesser of the sales price of the property securing*
4 *the mortgage, as reflected in the contract, or the ap-*
5 *praised value at the time at which the subject residen-*
6 *tial mortgage transaction was consummated.*

7 (9) *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 Housing Act of 1949.*

12 (10) *RESIDENTIAL MORTGAGE.*—*The term “resi-*
13 *dential mortgage” means a mortgage, loan, or other*
14 *evidence of a security interest created with respect to*
15 *a single-family dwelling that is the primary residence*
16 *of the mortgagor.*

17 (11) *RESIDENTIAL MORTGAGE TRANSACTION.*—
18 *The term “residential mortgage transaction” means a*
19 *transaction consummated on or after the date that is*
20 *1 year after the date of enactment of this Act, in*
21 *which a mortgage, deed of trust, purchase money secu-*
22 *rity interest arising under an installment sales con-*
23 *tract, or equivalent consensual security interest is cre-*
24 *ated or retained against a single-family dwelling that*
25 *is the primary residence of the mortgagor to finance*

1 *the acquisition, initial construction, or refinancing of*
2 *that dwelling.*

3 (12) *SERVICER.*—*The term “servicer” has the*
4 *same meaning as in section 6(i)(2) of the Real Estate*
5 *Settlement Procedures Act of 1974, with respect to a*
6 *residential mortgage.*

7 (13) *SINGLE-FAMILY DWELLING.*—*The term “sin-*
8 *gle-family dwelling” means a residence consisting of*
9 *1 family dwelling unit.*

10 (14) *TERMINATION DATE.*—*The term “termi-*
11 *nation date” means the date on which the principal*
12 *balance of a residential mortgage, based solely on the*
13 *initial amortization schedule for that mortgage, and*
14 *irrespective of the outstanding balance for that mort-*
15 *gage on that date, is first scheduled to reach 78 per-*
16 *cent of the original value of the property securing the*
17 *loan.*

18 **SEC. 3. TERMINATION OF PRIVATE MORTGAGE INSURANCE.**

19 (a) *BORROWER CANCELLATION.*—*A requirement for*
20 *private mortgage insurance in connection with a residential*
21 *mortgage transaction shall be canceled on the cancellation*
22 *date, if the mortgagor—*

23 (1) *submits a request in writing to the servicer*
24 *that cancellation be initiated;*

1 (2) *has a good payment history with respect to*
2 *the residential mortgage; and*

3 (3) *has satisfied any requirement of the holder of*
4 *the mortgage (as of the date of a request under para-*
5 *graph (1)) for—*

6 (A) *evidence (of a type established in ad-*
7 *vance by the holder and made known to the*
8 *mortgagor promptly upon receipt of a request*
9 *under paragraph (1)) that the value of the prop-*
10 *erty securing the mortgage has not declined*
11 *below the original value of the property; and*

12 (B) *certification that the equity of the mort-*
13 *gagor in the residence securing the mortgage is*
14 *unencumbered by a subordinate lien.*

15 (b) *AUTOMATIC TERMINATION.—A requirement for*
16 *private mortgage insurance in connection with a residential*
17 *mortgage transaction shall terminate with respect to pay-*
18 *ments for that mortgage insurance made by the mortga-*
19 *gor—*

20 (1) *on the termination date if, on that date, the*
21 *mortgagor is current on the payments required by the*
22 *terms of the residential mortgage transaction; or*

23 (2) *on the date after the termination date on*
24 *which the mortgagor becomes current on the payments*

1 *required by the terms of the residential mortgage*
2 *transaction.*

3 (c) *FINAL TERMINATION.*—*If a requirement for private*
4 *mortgage insurance is not otherwise canceled or terminated*
5 *in accordance with subsection (a) or (b), in no case may*
6 *such a requirement be imposed beyond the first day of the*
7 *month immediately following the date that is the midpoint*
8 *of the amortization period of the loan if the mortgagor is*
9 *current on the payments required by the terms of the mort-*
10 *gage.*

11 (d) *NO FURTHER PAYMENTS.*—*No payments or pre-*
12 *miums may be required from the mortgagor in connection*
13 *with a private mortgage insurance requirement terminated*
14 *or canceled under this section—*

15 (1) *in the case of cancellation under subsection*
16 (1) *, more than 30 days after the later of—*

17 (A) *the date on which a request under sub-*
18 *section (a)(1) is received; or*

19 (B) *the date on which the mortgagor satis-*
20 *fies any evidence and certification requirements*
21 *under subsection (a)(3);*

22 (2) *in the case of termination under subsection*
23 (2) *, more than 30 days after the termination date or*
24 (2) *the date referred to in subsection (b)(2), as applicable;*
25 *and*

1 (3) *in the case of termination under subsection*
 2 *(c), more than 30 days after the final termination*
 3 *date established under that subsection.*

4 *(e) RETURN OF UNEARNED PREMIUMS.—*

5 (1) *IN GENERAL.—Not later than 45 days after*
 6 *the termination or cancellation of a private mortgage*
 7 *insurance requirement under this section, all un-*
 8 *earned premiums for private mortgage insurance*
 9 *shall be returned to the mortgagor by the servicer.*

10 (2) *TRANSFER OF FUNDS TO SERVICER.—Not*
 11 *later than 30 days after notification by the servicer*
 12 *of termination or cancellation of private mortgage in-*
 13 *surance under this Act with respect to a mortgagor,*
 14 *a mortgage insurer that is in possession of any un-*
 15 *earned premiums of that mortgagor shall transfer to*
 16 *the servicer of the subject mortgage an amount equal*
 17 *to the amount of the unearned premiums for repay-*
 18 *ment in accordance with paragraph (1).*

19 *(f) EXCEPTIONS FOR HOUSING OPPORTUNITY PRO-*
 20 *GRAMS AND HIGH RISK LOANS.—*

21 (1) *IN GENERAL.—The termination and can-*
 22 *cellation provisions in subsections (a) and (b) do not*
 23 *apply to any residential mortgage or mortgage trans-*
 24 *action that, at the time at which the residential mort-*

1 *gage transaction is consummated, has high risks asso-*
2 *ciated with the extension of the loan—*

3 *(A) as determined by guidelines published*
4 *by the Federal National Mortgage Association*
5 *and Federal Home Loan Mortgage Corporation,*
6 *so as to require the imposition or continuation*
7 *of a private mortgage insurance requirement be-*
8 *yond the terms specified in subsection (a) or (b)*
9 *of section 3; or*

10 *(B) as determined by the mortgagee in ac-*
11 *cordance with guidelines that are identical to the*
12 *guidelines published under subparagraph (A).*

13 *(2) TERMINATION AT MIDPOINT.—A private*
14 *mortgage insurance requirement in connection with a*
15 *residential mortgage or mortgage transaction de-*
16 *scribed in paragraph (1) shall terminate in accord-*
17 *ance with subsection (c).*

18 *(3) RULE OF CONSTRUCTION.—Nothing in this*
19 *subsection may be construed to require a mortgage or*
20 *mortgage transaction described in paragraph (1)(A)*
21 *to be purchased by the Federal National Mortgage As-*
22 *sociation or the Federal Home Loan Mortgage Cor-*
23 *poration.*

1 **SEC. 4. DISCLOSURE REQUIREMENTS.**

2 (a) *DISCLOSURES FOR NEW MORTGAGES AT TIME OF*
3 *TRANSACTION.*—

4 (1) *DISCLOSURES FOR NON-EXEMPTED TRANS-*
5 *ACTIONS.*—*In any case in which private mortgage in-*
6 *surance is required in connection with a residential*
7 *mortgage or mortgage transaction (other than a mort-*
8 *gage or mortgage transaction described in section*
9 *3(f)(1)), at the time at which the transaction is con-*
10 *summated, the mortgagee shall provide to the mortga-*
11 *gor—*

12 (A) *a written initial amortization schedule;*

13 *and*

14 (B) *written notice—*

15 (i) *that the mortgagor may cancel the*
16 *requirement in accordance with section 3(a)*
17 *of this Act indicating the date on which the*
18 *mortgagor may request cancellation, based*
19 *solely on the initial amortization schedule;*

20 (ii) *that the mortgagor may request*
21 *cancellation in accordance with section 3(a)*
22 *of this Act earlier than provided for in the*
23 *initial amortization schedule, based on ac-*
24 *tual payments;*

25 (iii) *that the requirement for private*
26 *mortgage insurance will automatically ter-*

1 *minate on the termination date in accord-*
2 *ance with section 3(b) of this Act, and what*
3 *that termination date is with respect to that*
4 *mortgage; and*

5 *(iv) that there are exemptions to the*
6 *right to cancellation and automatic termi-*
7 *nation of a requirement for private mort-*
8 *gage insurance in accordance with section*
9 *3(f) of this Act, and whether such an ex-*
10 *emption applies at that time to that trans-*
11 *action.*

12 *(2) DISCLOSURES FOR EXCEPTED TRANS-*
13 *ACTIONS.—In the case of a mortgage or mortgage*
14 *transaction described in section 3(f)(1), at the time at*
15 *which the transaction is consummated, the mortgagee*
16 *shall provide written notice to the mortgagor that in*
17 *no case may private mortgage insurance be required*
18 *beyond the date that is the midpoint of the amortiza-*
19 *tion period of the loan, if the mortgagor is current on*
20 *payments required by the terms of the residential*
21 *mortgage.*

22 *(3) ANNUAL DISCLOSURES.—If private mortgage*
23 *insurance is required in connection with a residential*
24 *mortgage transaction, the servicer shall disclose to the*

1 mortgagor in each such transaction in an annual
2 written statement—

3 (A) the rights of the mortgagor under this
4 Act to cancellation or termination of the private
5 mortgage insurance requirement; and

6 (B) an address and telephone number that
7 the mortgagor may use to contact the servicer to
8 determine whether the mortgagor may cancel the
9 private mortgage insurance.

10 (4) *APPLICABILITY.*—Paragraphs (1) through (3)
11 shall apply with respect to each residential mortgage
12 transaction consummated on or after the date that is
13 1 year after the date of enactment of this Act.

14 (b) *DISCLOSURES FOR EXISTING MORTGAGES.*—If
15 private mortgage insurance was required in connection
16 with a residential mortgage entered into at any time before
17 the effective date of this Act, the servicer shall disclose to
18 the mortgagor in each such transaction in an annual writ-
19 ten statement—

20 (1) that the private mortgage insurance may,
21 under certain circumstances, be canceled by the mort-
22 gagor (with the consent of the mortgagee or in accord-
23 ance with applicable State law); and

24 (2) an address and telephone number that the
25 mortgagor may use to contact the servicer to deter-

1 *mine whether the mortgagor may cancel the private*
 2 *mortgage insurance.*

3 *(c) INCLUSION IN OTHER ANNUAL NOTICES.—The in-*
 4 *formation and disclosures required under subsection (b) and*
 5 *paragraphs (1)(B) and (3) of subsection (a) may be pro-*
 6 *vided on the annual disclosure relating to the escrow ac-*
 7 *count made as required under the Real Estate Settlement*
 8 *Procedures Act of 1974, or as part of the annual disclosure*
 9 *of interest payments made pursuant to Internal Revenue*
 10 *Service regulations, and on a form promulgated by the In-*
 11 *ternal Revenue Service for that purpose.*

12 *(d) STANDARDIZED FORMS.—The mortgagee or*
 13 *servicer may use standardized forms for the provision of*
 14 *disclosures required under this section.*

15 **SEC. 5. NOTIFICATION UPON CANCELLATION OR TERMI-**
 16 **NATION.**

17 *(a) IN GENERAL.—Not later than 30 days after the*
 18 *date of cancellation or termination of a private mortgage*
 19 *insurance requirement in accordance with this Act, the*
 20 *servicer shall notify the mortgagor in writing—*

21 *(1) that the private mortgage insurance has ter-*
 22 *minated and that the mortgagor no longer has private*
 23 *mortgage insurance; and*

1 (2) *that no further premiums, payments, or other*
2 *fees shall be due or payable by the mortgagor in con-*
3 *nection with the private mortgage insurance.*

4 *(b) NOTICE OF GROUNDS.—*

5 (1) *IN GENERAL.—If a holder of a residential*
6 *mortgage (or a servicer acting on behalf of that hold-*
7 *er) determines that a mortgage did not meet the re-*
8 *quirements for termination or cancellation of private*
9 *mortgage insurance under subsection (a) or (b) of sec-*
10 *tion 3, the servicer shall provide written notice to the*
11 *mortgagor of the grounds relied on to make the deter-*
12 *mination (including the results of any appraisal used*
13 *to make the determination).*

14 (2) *TIMING.—Notice required by paragraph (1)*
15 *shall be provided—*

16 (A) *with respect to cancellation of private*
17 *mortgage insurance under section 3(a), not later*
18 *than 30 days after the later of—*

19 (i) *the date on which a request is re-*
20 *ceived under section 3(a)(1); or*

21 (ii) *the date on which the mortgagor*
22 *satisfies any evidence and certification re-*
23 *quirements under section 3(a)(3); and*

24 (B) *with respect to termination of private*
25 *mortgage insurance under section 3(b), not later*

1 *than 30 days after the scheduled termination*
 2 *date.*

3 **SEC. 6. DISCLOSURE REQUIREMENTS FOR LENDER PAID**
 4 **MORTGAGE INSURANCE.**

5 *(a) DEFINITIONS.—For purposes of this section—*

6 *(1) the term “borrower paid mortgage insur-*
 7 *ance” means private mortgage insurance that is re-*
 8 *quired in connection with a residential mortgage*
 9 *transaction, payments for which are made by the bor-*
 10 *rower; and*

11 *(2) the term “lender paid mortgage insurance”*
 12 *means private mortgage insurance that is required in*
 13 *connection with a residential mortgage transaction,*
 14 *payments for which are made by a person other than*
 15 *the borrower.*

16 *(b) EXCLUSION.—Sections 3 through 5 do not apply*
 17 *in the case of lender paid mortgage insurance.*

18 *(c) NOTICES TO MORTGAGOR.—In the case of lender*
 19 *paid mortgage insurance that is required in connection*
 20 *with a residential mortgage or a residential mortgage trans-*
 21 *action—*

22 *(1) not later than the date on which a loan com-*
 23 *mitment is made for the residential mortgage trans-*
 24 *action, the prospective mortgagee shall provide to the*
 25 *prospective mortgagor a written notice—*

1 (A) that lender paid mortgage insurance
2 differs from borrower paid mortgage insurance,
3 in that lender paid mortgage insurance may not
4 be canceled by the mortgagor, while borrower
5 paid mortgage insurance could be cancelable by
6 the mortgagor in accordance with section 3(a) of
7 this Act, and could automatically terminate on
8 the termination date in accordance with section
9 3(b) of this Act;

10 (B) that lender paid mortgage insurance—

11 (i) usually results in a residential
12 mortgage having a higher interest rate than
13 it would in the case of borrower paid mort-
14 gage insurance; and

15 (ii) terminates only when the residen-
16 tial mortgage is refinanced, paid off, or oth-
17 erwise terminated; and

18 (C) that lender paid mortgage insurance
19 and borrower paid mortgage insurance both have
20 benefits and disadvantages, including a generic
21 analysis of the differing costs and benefits of a
22 residential mortgage in the case lender paid
23 mortgage insurance versus borrower paid mort-
24 gage insurance over a 10-year period, assuming
25 prevailing interest and inflation rates;

1 (D) that lender paid mortgage insurance
 2 may be tax-deductible for purposes of Federal in-
 3 come taxes, if the mortgagor itemizes expenses for
 4 that purpose; and

5 (2) not later than 30 days after the termination
 6 date that would apply in the case of borrower paid
 7 mortgage insurance, the servicer shall provide to the
 8 mortgagor a written notice indicating that the mort-
 9 gagor may wish to review financing options that
 10 could eliminate the requirement for private mortgage
 11 insurance in connection with the residential mort-
 12 gage.

13 (d) *STANDARD FORMS.*—The servicer of a residential
 14 mortgage may develop and use a standardized form or
 15 forms for the provision of notices to the mortgagor, as re-
 16 quired under subsection (c).

17 **SEC. 7. FEES FOR DISCLOSURES.**

18 No fee or other cost may be imposed on any mortgagor
 19 with respect to the provision of any notice or information
 20 to the mortgagor pursuant to this Act.

21 **SEC. 8. CIVIL LIABILITY.**

22 (a) *IN GENERAL.*—Any servicer, mortgagee, mortgage
 23 insurer, or holder of a residential mortgage that violates
 24 a provision of this Act shall be liable to each mortgagor
 25 to whom the violation relates for—

1 (1) *actual damages;*

2 (2) *in the case of an action by an individual,*
3 *such additional damage as the court may allow, not*
4 *to exceed \$1,000;*

5 (3) *costs of the action; and*

6 (4) *reasonable attorney fees, as determined by the*
7 *court.*

8 (b) *TIMING OF ACTIONS.*—*No action may be brought*
9 *by a mortgagor under subsection (a) later than 2 years after*
10 *the date of the discovery of the violation that is the subject*
11 *of the action.*

12 (c) *LIMITATIONS ON LIABILITY.*—

13 (1) *IN GENERAL.*—*With respect to a residential*
14 *mortgage transaction, the failure of a servicer to com-*
15 *ply with the requirements of this Act due to the fail-*
16 *ure of a mortgage insurer, a mortgagee, or a holder*
17 *of a residential mortgage to comply with the require-*
18 *ments of this Act, shall not be construed to be a viola-*
19 *tion of this Act by the servicer.*

20 (2) *RULE OF CONSTRUCTION.*—*Nothing in para-*
21 *graph (1) shall be construed to impose any additional*
22 *requirement or liability on a mortgagee or mortgage*
23 *insurer or holder of a residential mortgage.*

24 **SEC. 9. EFFECT ON OTHER LAWS AND AGREEMENTS.**

25 (a) *EFFECT ON STATE LAW.*—

1 (1) *IN GENERAL.*—*With respect to any residen-*
2 *tial mortgage or residential mortgage transaction con-*
3 *summated after the effective date of this Act, and ex-*
4 *cept as provided in paragraph (2), the provisions of*
5 *this Act shall supersede any provisions of the law of*
6 *any State relating to requirements for obtaining or*
7 *maintaining private mortgage insurance in connec-*
8 *tion with residential mortgage transactions, cancella-*
9 *tion or automatic termination of such private mort-*
10 *gage insurance, any disclosure of information ad-*
11 *ressed by this Act, and any other matter specifically*
12 *addressed by this Act.*

13 (2) *CONTINUED APPLICATION OF CERTAIN PROVI-*
14 *SIONS.*—*This Act does not supersede any provision of*
15 *the law of a State in effect on or before September 1,*
16 *1989, pertaining to the termination of private mort-*
17 *gage insurance or other mortgage guaranty insurance,*
18 *to the extent that such law requires termination of*
19 *such insurance at an earlier date or when a lower*
20 *mortgage loan principal balance is achieved than as*
21 *provided in this Act.*

22 (b) *EFFECT ON OTHER AGREEMENTS.*—*The provisions*
23 *of this Act shall supersede any conflicting provision con-*
24 *tained in any agreement relating to the servicing of a resi-*
25 *dential mortgage loan entered into by the Federal National*

1 *Mortgage Association, the Federal Home Loan Mortgage*
2 *Corporation, or any private investor or note holder (or any*
3 *successors thereto).*

4 **SEC. 10. CONSTRUCTION.**

5 *Nothing in this Act shall be construed to impose any*
6 *requirement for private mortgage insurance in connection*
7 *with a residential mortgage transaction.*

8 **SEC. 11. EFFECTIVE DATE.**

9 *This Act, other than section 12, shall become effective*
10 *1 year after the date of enactment of this Act.*

11 **SEC. 12. ABOLISHMENT OF THE THRIFT DEPOSITOR PRO-**
12 **TECTION OVERSIGHT BOARD.**

13 *(a) IN GENERAL.—Effective at the end of the 3-month*
14 *period beginning on the date of enactment of this Act, the*
15 *Thrift Depositor Protection Oversight Board established*
16 *under section 21A of the Federal Home Loan Bank Act*
17 *(hereafter in this section referred to as the “Oversight*
18 *Board”)* is hereby abolished.

19 *(b) DISPOSITION OF AFFAIRS.—*

20 *(1) POWER OF CHAIRPERSON.—Effective on the*
21 *date of enactment of this Act, the Chairperson of the*
22 *Oversight Board (or the designee of the Chairperson)*
23 *may exercise on behalf of the Oversight Board any*
24 *power of the Oversight Board necessary to settle and*
25 *conclude the affairs of the Oversight Board.*

1 (2) *AVAILABILITY OF FUNDS.*—*Funds available*
2 *to the Oversight Board shall be available to the Chair-*
3 *person of the Oversight Board to pay expenses in-*
4 *curring in carrying out paragraph (1).*

5 (c) *SAVINGS PROVISION.*—

6 (1) *EXISTING RIGHTS, DUTIES, AND OBLIGA-*
7 *TIONS NOT AFFECTED.*—*No provision of this section*
8 *shall be construed as affecting the validity of any*
9 *right, duty, or obligation of the United States, the*
10 *Oversight Board, the Resolution Trust Corporation,*
11 *or any other person that—*

12 (A) *arises under or pursuant to the Federal*
13 *Home Loan Bank Act, or any other provision of*
14 *law applicable with respect to the Oversight*
15 *Board; and*

16 (B) *existed on the day before the abolish-*
17 *ment of the Oversight Board in accordance with*
18 *subsection (a).*

19 (2) *CONTINUATION OF SUITS.*—*No action or*
20 *other proceeding commenced by or against the Over-*
21 *sight Board with respect to any function of the Over-*
22 *sight Board shall abate by reason of the enactment of*
23 *this section.*

24 (3) *LIABILITIES.*—

1 (A) *IN GENERAL.*—*All liabilities arising out*
2 *of the operation of the Oversight Board during*
3 *the period beginning on August 9, 1989, and the*
4 *date that is 3 months after the date of enactment*
5 *of this Act shall remain the direct liabilities of*
6 *the United States.*

7 (B) *NO SUBSTITUTION.*—*The Secretary of*
8 *the Treasury shall not be substituted for the*
9 *Oversight Board as a party to any action or*
10 *proceeding referred to in subparagraph (A).*

11 (4) *CONTINUATIONS OF ORDERS, RESOLUTIONS,*
12 *DETERMINATIONS, AND REGULATIONS PERTAINING TO*
13 *THE RESOLUTION FUNDING CORPORATION.*—

14 (A) *IN GENERAL.*—*All orders, resolutions,*
15 *determinations, and regulations regarding the*
16 *Resolution Funding Corporation shall continue*
17 *in effect according to the terms of such orders,*
18 *resolutions, determinations, and regulations*
19 *until modified, terminated, set aside, or super-*
20 *seded in accordance with applicable law if such*
21 *orders, resolutions, determinations, or regula-*
22 *tions—*

23 (i) *have been issued, made, and pre-*
24 *scribed, or allowed to become effective by the*
25 *Oversight Board, or by a court of competent*

1 *jurisdiction, in the performance of functions*
2 *transferred by this section; and*

3 *(ii) are in effect at the end of the 3-*
4 *month period beginning on the date of en-*
5 *actment of this section.*

6 *(B) ENFORCEABILITY OF ORDERS, RESOLU-*
7 *TIONS, DETERMINATIONS, AND REGULATIONS BE-*
8 *FORE TRANSFER.—Before the effective date of the*
9 *transfer of the authority and duties of the Reso-*
10 *lution Funding Corporation to the Secretary of*
11 *the Treasury under subsection (d), all orders,*
12 *resolutions, determinations, and regulations per-*
13 *taining to the Resolution Funding Corporation*
14 *shall be enforceable by and against the United*
15 *States.*

16 *(C) ENFORCEABILITY OF ORDERS, RESOLU-*
17 *TIONS, DETERMINATIONS, AND REGULATIONS*
18 *AFTER TRANSFER.—On and after the effective*
19 *date of the transfer of the authority and duties*
20 *of the Resolution Funding Corporation to the*
21 *Secretary of the Treasury under subsection (d),*
22 *all orders, resolutions, determinations, and regu-*
23 *lations pertaining to the Resolution Funding*
24 *Corporation shall be enforceable by and against*
25 *the Secretary of the Treasury.*

1 (d) *TRANSFER OF THRIFT DEPOSITOR PROTECTION*
 2 *OVERSIGHT BOARD AUTHORITY AND DUTIES OF RESOLU-*
 3 *TION FUNDING CORPORATION TO SECRETARY OF THE*
 4 *TREASURY.*—*Effective at the end of the 3-month period be-*
 5 *ginning on the date of enactment of this Act, the authority*
 6 *and duties of the Oversight Board under sections*
 7 *21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act*
 8 *are transferred to the Secretary of the Treasury (or the des-*
 9 *ignee of the Secretary).*

10 (e) *MEMBERSHIP OF THE AFFORDABLE HOUSING AD-*
 11 *VISORY BOARD.*—*Effective on the date of enactment of this*
 12 *Act, section 14(b)(2) of the Resolution Trust Corporation*
 13 *Completion Act (12 U.S.C. 1831q note) is amended—*

14 (1) *by striking subparagraph (C); and*
 15 (2) *by redesignating subparagraphs (D) and (E)*
 16 *as subparagraphs (C) and (D), respectively.*

17 (f) *TIME OF MEETINGS OF THE AFFORDABLE HOUS-*
 18 *ING ADVISORY BOARD.*—

19 (1) *IN GENERAL.*—*Section 14(b)(6)(A) of the*
 20 *Resolution Trust Corporation Completion Act (12*
 21 *U.S.C. 1831q note) is amended—*

22 (A) *by striking “4 times a year, or more*
 23 *frequently if requested by the Thrift Depositor*
 24 *Protection Oversight Board or” and inserting “2*
 25 *times a year or at the request of”;* and

1 *(B) by striking the second sentence.*
2 (2) *CLERICAL AMENDMENT.—Section 14(b)(6)(A)*
3 *of the Resolution Trust Corporation Completion Act*
4 *(12 U.S.C. 1831q note) is amended, in the subpara-*
5 *graph heading, by striking “AND LOCATION”.*

Amend the title so as to read: “A Bill to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes.”.