
SENATE BILL No. 455

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.6-4.

Synopsis: Homeowner's private mortgage insurance protection. Requires private mortgage insurance to terminate once the principal balance on the residential mortgages on a property is less than 75% of the lesser of: (1) the sales price of the property if the loan was made for purchase of the property; or (2) the appraised value of the property, as determined by the appraisal conducted in connection with the making of the loan. Allows the borrower to cancel private mortgage insurance if the conditions and procedures established by the lender for termination are met. Requires a lender to disclose in writing at or before settlement: (1) that the private mortgage insurance may be canceled while the mortgage is outstanding; (2) an address and phone number to contact for information regarding canceling the private
(Continued next page)

Effective: July 1, 1998.

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January 14, 1998, read first time and referred to Committee on Financial Institutions.

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Digest Continued

mortgage insurance; and (3) that the private mortgage insurance will be terminated by operation of law. Requires the mortgage loan servicer to provide the borrower with annual disclosure statements similar to an initial disclosure statement. Prohibits the mortgage loan servicer from charging the borrower for the costs of the statements. Requires the servicer to notify the borrower within 45 days after the automatic termination of the private mortgage insurance. Excludes a borrower who is not current in the payment of a mortgage loan from the cancellation of the private mortgage insurance. Requires that a condition determined by the servicer for the cancellation of the loan must be reasonably related to the purposes for which the requirement for private mortgage insurance was imposed at the time the loan was made. Provides that a servicer is not liable for the failure of the mortgage holder to comply with the statute. Requires the mortgage holder to provide necessary information to the servicer. Provides that these requirements apply to mortgages entered after June 30, 1998.

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Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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SENATE BILL No. 455



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations and consumer sales and credit.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-4.6-4 IS ADDED AS A NEW CHAPTER TO
2 READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]:

3 **Chapter 4. Homeowner's Private Mortgage Insurance**
4 **Protection**

5 **Sec. 1. As used in this chapter, "covered mortgage" means a**
6 **mortgage loan for property used by the borrower as the**
7 **borrower's principal residence.**

8 **Sec. 2. As used in this chapter, "lender" means a person**
9 **authorized to:**

- 10 (1) make; or
- 11 (2) take assignments of;
- 12 a mortgage loan.

13 **Sec. 3. As used in this chapter, "private mortgage insurance"**
14 **means insurance, including any mortgage guaranty insurance,**
15 **against the nonpayment of or default on a mortgage or loan**



1 involved in a residential mortgage transaction, the premiums for
 2 which are paid by the borrower. The term does not include
 3 mortgage insurance made available under Title 38 of the United
 4 States Code or the National Housing Act (12 U.S.C. 1701 et seq.).

5 **Sec. 4.** As used in this chapter, "servicer" means the person
 6 responsible for servicing a loan, including the person who makes
 7 or holds a loan if that person also services the loan. The term does
 8 not include:

9 (1) the Federal Deposit Insurance Corporation or the
 10 Resolution Trust Corporation, in connection with assets
 11 acquired, assigned, sold, or transferred under 12 U.S.C.
 12 1823(c) or as receiver or conservator of an insured depository
 13 institution; and

14 (2) the Government National Mortgage Association, the
 15 Federal National Mortgage Association, the Federal Home
 16 Loan Mortgage Corporation, the Resolution Trust
 17 Corporation, or the Federal Deposit Insurance Corporation,
 18 in any case in which the assignment, sale, or transfer of the
 19 servicing of the mortgage loan is preceded by:

20 (A) termination of the contract for servicing the loan for
 21 cause;

22 (B) commencement of proceedings for bankruptcy of the
 23 servicer; or

24 (C) commencement of proceedings by the Federal Deposit
 25 Insurance Corporation or the Resolution Trust
 26 Corporation for conservatorship or receivership of the
 27 servicer, or an entity by which the servicer is owned or
 28 controlled.

29 **Sec. 5.** (a) Except as provided in section 11, notwithstanding a
 30 provision of a covered mortgage loan, an obligation of the
 31 borrower to make separately designated payments toward the
 32 premiums for private mortgage insurance in effect with respect to
 33 a covered mortgage loan is terminated on the first day of the first
 34 month beginning after the date on which the principal balance
 35 outstanding on all residential mortgages on the property securing
 36 the loan is less than seventy-five percent (75%) of the lesser of:

37 (1) the sales price of the property if the loan was made for
 38 purchase of the property; or

39 (2) the appraised value of the property, as determined by the
 40 appraisal conducted in connection with the making of the
 41 loan.

42 (b) Except as provided in section 11, notwithstanding a

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1 provision of a covered mortgage loan, an obligation of the
 2 borrower to make separately designated payments toward the
 3 premiums for private mortgage insurance for a covered mortgage
 4 loan terminates at the request of the borrower on the first day of
 5 the first month beginning after the date on which the borrower
 6 satisfies the conditions and the procedures established by the
 7 lender for termination.

8 **Sec. 6.** A lender shall disclose in writing, at or before the
 9 settlement of a covered mortgage loan, if private mortgage
 10 insurance is required for the mortgage loan, including lender paid
 11 private mortgage insurance, and the period for which the
 12 insurance is required.

13 **Sec. 7.** If the lender requires the borrower to assume an
 14 obligation to make separately designated payments toward the
 15 premiums for private mortgage insurance as a condition for
 16 entering into a covered mortgage loan, the lender shall disclose in
 17 writing, at or before the settlement of the covered mortgage loan,
 18 the following notices:

19 (1) A borrower's obligation to make separate payments
 20 toward the private mortgage insurance premium may be
 21 terminated while the mortgage is outstanding, if the borrower
 22 meets certain conditions and procedures.

23 (2) A servicer of a mortgage shall notify the borrower each
 24 year of an address and a toll free or collect call telephone
 25 number that the borrower may use to contact the servicer to
 26 determine:

27 (A) whether the borrower's obligation to make separately
 28 designated payments toward the premium for private
 29 mortgage insurance may be terminated while the mortgage
 30 loan is outstanding; and

31 (B) the conditions and procedures for the termination, if
 32 the obligation may be terminated while the loan is
 33 outstanding.

34 (3) A borrower's obligation to make separately designated
 35 payments toward the premiums for private mortgage
 36 insurance will be terminated by law under the provisions of
 37 this chapter.

38 **Sec. 8.** Except as provided in section 11, if private mortgage
 39 insurance is required as a condition for entering into a covered
 40 mortgage loan and the borrower's obligation to make separately
 41 designated payments toward the premiums for the insurance may
 42 be terminated at the borrower's request, each year the servicer

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1 shall provide a disclosure statement to the borrower stating the
2 following:

3 (1) A borrower's obligation to make separate payments
4 toward the private mortgage insurance premium may be
5 terminated by the borrower while the mortgage is
6 outstanding, if the borrower meets certain conditions and
7 procedures.

8 (2) The address and a toll free or collect call telephone
9 number that the borrower may use to contact the servicer to
10 determine:

11 (A) whether the borrower's obligation to make separately
12 designated payments toward the premium for private
13 mortgage insurance may be terminated while the mortgage
14 loan is outstanding; and

15 (B) the conditions and procedures for the termination, if
16 the obligation may be terminated while the loan is
17 outstanding.

18 The disclosure statement may be included with an annual
19 statement of account, an escrow statement, or related annual
20 communications provided to the borrower while the private
21 mortgage insurance is in effect.

22 Sec. 9. The cost of preparing and delivering a disclosure
23 statement under this chapter may not be imposed on the borrower.

24 Sec. 10. Within forty-five (45) days after the date of termination
25 of the separately designated payments toward the premiums for
26 private mortgage insurance, the servicer shall notify the borrower
27 in writing that:

28 (1) the private mortgage insurance has terminated and the
29 borrower no longer has private mortgage insurance; and

30 (2) no further premiums, payments, or other fees are due or
31 payable by the borrower in connection with the private
32 mortgage insurance.

33 Sec. 11. A borrower who is not current on payments on a
34 covered mortgage loan is not eligible for the cancellation of private
35 mortgage insurance under section 5 of this chapter until the first
36 day of the first month that begins after the date that the total of all
37 payments become current.

38 Sec. 12. (a) The servicer for a covered mortgage loan shall
39 promptly return to the borrower a payment toward the premiums
40 for private mortgage insurance for a period occurring after the
41 date of termination for the covered mortgage loan under section 5
42 of this chapter.



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1 (b) The private mortgage insurer for a covered mortgage loan
2 shall promptly return to the servicer a payment received from the
3 servicer toward the premiums for private mortgage insurance for
4 a covered mortgage loan for a period occurring after the date of
5 automatic termination for the covered mortgage loan under section
6 5 of this chapter.

7 Sec. 13. A condition or change in condition for the termination
8 of the borrower's obligation to make separately designated
9 payments toward the premium for private mortgage insurance for
10 a covered mortgage loan must be reasonably related to the
11 purposes for which the requirement for private mortgage
12 insurance was imposed at the time the loan was made.

13 Sec. 14. A servicer that cancels private mortgage insurance on
14 a covered mortgage loan under this chapter is not required to
15 repurchase a mortgage loan from the investor or holder of a
16 mortgage loan solely on the grounds that the private mortgage
17 insurance was canceled under this chapter.

18 Sec. 15. (a) If a servicer for a covered mortgage loan has
19 complied with the disclosure requirements under this chapter, the
20 servicer is not liable for:

- 21 (1) failing to provide the disclosures required under this
22 chapter because a mortgage insurer, a mortgage holder, or
23 any other party did not provide the servicer timely and
24 accurate information necessary for the disclosures; or
25 (2) a failure by a private mortgage insurer, a mortgage
26 holder, or any other party to comply with this chapter.

27 (b) Each private mortgage insurer and each mortgage holder
28 for a covered mortgage loan shall provide the servicer for a
29 covered mortgage loan with accurate and timely information that
30 is necessary to permit the disclosures required by this chapter. In
31 the event of a dispute regarding liability for a violation of this
32 chapter, and upon the request of the borrower, a servicer shall
33 provide the borrower with information stating the identity of the
34 insurer and the mortgage holder.

35 SECTION 2. [EFFECTIVE JULY 1, 1998] (a) As used in this
36 SECTION, "covered mortgage" has the meaning set forth in
37 IC 24-4.6-4-1, as added by this act.

38 (b) IC 24-4.6-4, as added by this act, applies to a covered
39 mortgage entered after June 30, 1998.

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