

SENATE, No. 239

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Provides mortgagors certain rights with respect to private mortgage insurance.

CURRENT VERSION OF TEXT

As Introduced.



1 AN ACT concerning private mortgage insurance and amending and
2 supplementing P.L.1990, c.69.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) No person, as a condition for obtaining a
8 mortgage loan, shall be required by the mortgagee to obtain or
9 maintain private mortgage insurance if the principal balance
10 outstanding on the mortgage loan at the time that the mortgage loan
11 agreement is consummated is equal to or less than 80 percent of the
12 value of the property which secures the mortgage loan.

13
14 2. (New section) If the principal balance outstanding on a
15 mortgage loan at the time that the mortgage loan agreement is
16 consummated is greater than 80 percent of the value of the property
17 which secures the mortgage loan, and if the mortgagee requires the
18 mortgagor to obtain and maintain private mortgage insurance as a
19 condition for consummating the mortgage loan agreement, the
20 mortgagee shall disclose to the mortgagor, in writing, at the time that
21 the mortgage loan agreement is consummated, the following:

- 22 a. the private mortgage insurance ratio;
23 b. the circumstances under which the private mortgage insurance
24 may be canceled, including the fact that at the time the private
25 mortgage insurance ratio equals or is less than 80 percent, the
26 mortgagor may cancel the private mortgage insurance;
27 c. the information the mortgagor needs in order to communicate
28 with the mortgagee or the mortgagee's servicing organization,
29 concerning the mortgagor's private mortgage insurance; and
30 d. the procedures the mortgagor is required to follow in order to
31 cancel the private mortgage insurance.

32
33 3. (New section) a. For a mortgage loan entered into on or after
34 the effective date of this act, if a mortgagee requires a mortgagor to
35 obtain and maintain private mortgage insurance as a condition for
36 entering into a mortgage loan agreement, the mortgagee or its
37 servicing organization shall submit to the mortgagor the information
38 required to be disclosed under subsections a. through d. of section 2
39 of this act in or with the annual statement required to be submitted to
40 a mortgagor pursuant to paragraph (2) of subsection (c) of 12 U.S.C.
41 §2609, beginning with the first annual statement required to be
42 submitted to a mortgagor following the effective date of this act and
43 continuing for as long as the mortgagor's private mortgage insurance

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 is in effect.

2 b. Upon written request of the mortgagor, the mortgagee or its
3 servicing organization shall provide to the mortgagor, in writing within
4 10 days of receipt of the request, the current private mortgage
5 insurance ratio.

6

7 4. (New section) a. With respect to any mortgage loan secured by
8 real property located in this State which was entered into prior to the
9 effective date of this act and for which the mortgagor was required to
10 purchase and maintain private mortgage insurance as a condition of the
11 mortgage loan agreement, if the private mortgage insurance is still in
12 effect on and after the effective date of this act, the mortgagee or its
13 servicing organization shall disclose to each mortgagor whose
14 mortgage loan it services, the information contained in subsections a.
15 through d. of section 2 of this act within 180 days of the effective date
16 of this act.

17 b. Subsequent to the disclosure made pursuant to subsection a. of
18 this section and for as long as the mortgagor's private mortgage
19 insurance is in effect, the mortgagee or its servicing organization shall
20 include in or with each written statement of account required to be
21 submitted to the mortgagor pursuant to paragraph (2) of subsection
22 (c) of 12 U.S.C. §2609 the information required to be disclosed under
23 subsections a. through d. of section 2 of this act.

24 c. Upon written request of the mortgagor, the mortgagee or its
25 servicing organization shall provide to the mortgagor, in writing within
26 10 days of receipt of the request, the current private mortgage
27 insurance ratio.

28

29 5. (New section) a. A mortgagor with private mortgage insurance
30 in effect on and after the effective date of this act, who is paying the
31 premiums directly to an insurer for the private mortgage insurance
32 and who finds, upon receipt of the information sent to the mortgagor
33 pursuant to section 3 or 4 of this act, that the private mortgage
34 insurance ratio is 80 percent or less, may cancel the private mortgage
35 insurance coverage and shall notify the mortgagee or its servicing
36 organization within 10 days of canceling the private mortgage
37 insurance that the private mortgage insurance coverage has been
38 canceled.

39 b. A mortgagor with private mortgage insurance in effect on and
40 after the effective date of this act, whose premiums for that insurance
41 are included in a monthly escrow payment and who finds, upon receipt
42 of the information sent to the mortgagor pursuant to section 3 or 4 of
43 this act, that the private mortgage insurance ratio is 80 percent or less,
44 may request, in writing, that the mortgagee or its servicing
45 organization cancel the mortgagor's private mortgage insurance.

46 c. A mortgagee who receives a request from a mortgagor pursuant

1 to subsection b. of this section, shall cancel the mortgagor's private
2 mortgage insurance immediately and notify the mortgagor to that
3 effect within 10 days. Any balance in the mortgagor's escrow account
4 which can be attributed to the portion of the mortgage escrow
5 payment collected for the purpose of making payment for private
6 mortgage insurance shall be refunded to the mortgagor with the notice
7 required pursuant to this section that the private mortgage insurance
8 has been canceled.

9 d. If a refund from the insurer is due as a result of canceling the
10 private mortgage insurance, the mortgagee or servicing organization
11 shall request the refund and send it to the mortgagor within 5 days of
12 receipt of the refund from the insurer.

13
14 6. (New section) No mortgagee or its servicing organization shall
15 impose any fee or other cost on any mortgagor for providing the
16 mortgagor with any notice or information required pursuant to this
17 act.

18
19 7. Section 1 of P.L.1990, c.69 (C.17:16F-15) is amended to read
20 as follows:

21 1. As used in this act:

22 "Commissioner" means the Commissioner of Community Affairs.

23 "Duplicate copy" means a duplicate of the original property tax bill
24 which duplicate is generated by the collector of a taxing district.

25 "Mortgagee" means the holder of a mortgage loan.

26 "Mortgage escrow account" or "escrow account" means an account
27 which is part of a mortgage loan agreement, whether incorporated into
28 the agreement or as part of a separately executed document, whereby:
29 the mortgagor is obligated to make periodic payment to the mortgagee
30 or his agent for taxes, insurance premiums, or other charges with
31 respect to the real property which secures the mortgage loan; and the
32 mortgagee or his agent is obligated to make payments for taxes,
33 insurance premiums or other charges with respect to the real property
34 which secures the mortgage loan.

35 "Mortgage insurance" means insurance, including any mortgage
36 guaranty insurance, against the nonpayment of, or default on, a
37 mortgage loan, the premiums for which are paid by the mortgagor.

38 "Mortgage loan" means a loan made to a natural person or persons
39 to whom credit is offered or extended primarily for personal, family or
40 household purposes which is secured by a mortgage constituting a lien
41 upon real property located in this State on which there is erected or to
42 be erected a structure containing one, two, three, four, five or six
43 dwelling units, a portion of which structure may be used for
44 nonresidential purposes, in the making of which the mortgagee relies
45 primarily upon the value of the mortgaged property.

46 "Mortgagor" includes any person liable for the payment of a

1 mortgage loan, and the owner of real property which secures the
2 payment of a mortgage loan.

3 "Original tax bill" means the property tax bill as originally prepared
4 and mailed by the collector of a taxing district pursuant to subsection
5 a. of R.S.54:4-64.

6 "Private mortgage insurance" means mortgage insurance, other than
7 mortgage insurance made available under 38 U.S.C. §3701 et seq. or
8 42 U.S.C. §1441 et seq., which guarantees the portion of the unpaid
9 principal balance of the mortgage loan, which balance is in excess of
10 80 percent of the value of the property which secures the mortgage
11 loan.

12 "Private mortgage insurance ratio" means the ratio of the principal
13 balance outstanding on a mortgage loan to the value of the property
14 which secures the mortgage loan.

15 "Property tax processing organization" means an organization
16 which, under contract with a mortgagee or a servicing organization,
17 collects and processes property tax information with respect to
18 properties securing mortgage loans.

19 "Purchasing servicing organization" means a person or entity to
20 whom or which a mortgagee or a selling servicing organization sells,
21 assigns or transfers the servicing of a mortgage loan.

22 "Replacement bill" means a property tax bill made or generated by
23 a mortgagee, servicing organization or tax processing organization
24 subject to the restrictions provided pursuant to subsection a. of section
25 5 of this act and regulations promulgated by the Commissioner of
26 Community Affairs pursuant to subsection a. of section 5 of this act.

27 "Selling servicing organization" means a person or entity who sells,
28 assigns or transfers the servicing of a mortgage loan.

29 "Servicing organization" means a mortgagee or an agent of the
30 mortgagee, pursuant to a written agreement between the agent and the
31 mortgagee, which is responsible for one or more mortgage escrow
32 accounts.

33 "Tax authorization form" means a form approved by the
34 Commissioner of Community Affairs whereby the mortgagor
35 authorizes the municipal tax collector to send the original municipal
36 tax bill to the mortgagee or the mortgagee's servicing organization
37 pursuant to R.S.54:4-64.

38 (P.L.1990, c.69, s.1)

39

40 8. (New section) The Commissioner of Banking and Insurance
41 shall promulgate regulations pursuant to the "Administrative
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
43 effectuate the provisions of this act.

44

45 9. This act shall take effect on the 90th day following enactment.

STATEMENT

This bill provides mortgagors who have been required to purchase and maintain private mortgage insurance as a condition for obtaining a mortgage loan, the option of canceling that private mortgage insurance once the ratio of the outstanding principal balance of the mortgage loan to the value of the property securing the loan at the time the original mortgage loan agreement was consummated equals or is less than 80 percent.

The bill requires mortgagees which require mortgagors to obtain and maintain private mortgage insurance as a condition of the mortgage loan agreement to provide the mortgagor with certain information at the time the mortgage loan is consummated and then annually as long as the private mortgage insurance is in effect. In addition, the same information is required to be provided to mortgagors who entered into mortgage loan agreements prior to the effective date of this bill.

Mortgagees or their servicing organizations are required to provide to mortgagors whom they require to purchase and maintain private mortgage insurance, at the time of closing a mortgage loan: the ratio of the amount of the outstanding principal balance of the mortgage loan to the value of the property securing the mortgage loan; the circumstances under which the private mortgage insurance may be canceled, including the fact that when the private mortgage insurance ratio reaches 80 percent or less, the mortgagor may cancel the private mortgage insurance; information the mortgagor needs in order to communicate with the mortgagee or its servicing organization about the private mortgage insurance; and the procedures the mortgagor needs to follow in order to cancel the mortgagor's private mortgage insurance. In addition to providing this information to the mortgagor at the time of closing the mortgage loan, the mortgagee is required to provide this information at least once a year with or in the annual statement the mortgagee is required to submit to the mortgagor by federal law, or more frequently if requested by the mortgagor.

The provisions of the bill apply to all existing mortgage loans secured by real property located in this State. Mortgagees have 180 days from the effective date of the bill to provide mortgagors whom they have required to purchase and maintain private mortgage insurance, and which insurance is still in effect, with the same information regarding the rights of the mortgagor to cancel the mortgagor's private mortgage insurance and how to go about it.

If the mortgagor pays the premiums directly to an insurer, the mortgagor may cancel the private mortgage insurance upon receipt of information from the mortgagee or its servicing organization that the private mortgage insurance ratio is 80 percent or less.

If the premium for private mortgage insurance is included as part

1 of a monthly escrow payment made by the mortgagor, upon receipt of
2 information from the mortgagee or its servicing organization that the
3 private mortgage insurance ratio is 80 percent or less, the mortgagor
4 may request the mortgagee or its servicing organization to cancel the
5 private mortgage insurance. The mortgagee or its servicing
6 organization is required to cancel the private mortgage insurance
7 immediately upon receipt of that request. If there is any refund from
8 the insurer upon cancellation of the private mortgage insurance, the
9 mortgagee or its servicing organization is required to return the
10 amount of the refund to the mortgagor.