

AMENDED IN SENATE MAY 3, 2001

SENATE BILL

No. 270

Introduced by Senator Speier

February 16, 2001

An act to amend Section 2954.6 of the Civil Code, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

SB 270, as amended, Speier. Mortgages: mortgage insurance: disclosures.

Existing law requires a lender or other person making or arranging a loan to make certain disclosures about the *borrower's* potential right to cancel private mortgage insurance or mortgage guaranty insurance on any loan for which private mortgage insurance or mortgage guaranty insurance is maintained, as specified.

~~This bill would require that these disclosures shall be in a separate document, set forth in at least 12-point type, and that they shall include other specified information about the termination of mortgage insurance payments. Existing law further requires specified disclosures to contain a clear and conspicuous written statement indicating that the borrower may be able to cancel this insurance.~~

This bill would additionally require the above disclosures to specify that cancellation may be based on various factors, including appreciation in property value based on a current appraisal.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2954.6 of the Civil Code is amended to
2 read:

3 2954.6. (a) If private mortgage insurance or mortgage
4 guaranty insurance, as defined in subdivision (a) of Section
5 12640.02 of the Insurance Code, is required as a condition of a loan
6 secured by a deed of trust or mortgage on real property, the lender
7 or person making or arranging the loan shall notify the borrower
8 whether or not the borrower has the right to cancel the insurance.
9 If the borrower has the right to cancel, then the lender or person
10 making or arranging the loan shall notify the borrower in writing
11 of the following:

12 (1) Any identifying loan or insurance information necessary to
13 permit the borrower to communicate with the insurer or the lender
14 concerning the insurance.

15 (2) The conditions that are required to be satisfied before the
16 private mortgage insurance or mortgage guaranty insurance may
17 be subject to cancellation, which shall include, but is not limited
18 to, both of the following:

19 (A) If the condition is a minimum ratio between the remaining
20 principal balance of the loan and the original or current value of
21 the property, that ratio shall be stated.

22 (B) Information concerning whether or not an appraisal may be
23 necessary.

24 (3) The procedure the borrower is required to follow to cancel
25 the private mortgage insurance or mortgage guaranty insurance.

26 (b) The notice required in subdivision (a) shall be given to the
27 borrower no later than 30 days after the close of escrow. The notice
28 shall be set forth in at least 10-point bold type.

29 (c) With respect to any loan specified in subdivision (a) for
30 which private mortgage insurance or mortgage guaranty insurance
31 is still maintained, the lender or person making, arranging, or
32 servicing the loan shall provide the borrower with a notice
33 containing the same information as specified in subdivision (a) or
34 a clear and conspicuous written statement indicating that (1) the
35 borrower may be able to cancel the private mortgage insurance or
36 mortgage guaranty insurance *based upon various factors,*
37 *including appreciation of the value of the property derived from a*
38 *current appraisal performed by an appraiser selected by the lender*



1 *or servicer, and paid for by the borrower, and (2) the borrower may*
2 *contact the lender or person making, arranging, or servicing the*
3 *loan at a designated address and telephone number to determine*
4 *whether the borrower has a right of cancellation and, if so, the*
5 *conditions and procedure to effect cancellation. The notice or*
6 *statement required by this subdivision shall be provided in a*
7 ~~*separate document, set forth in at least 12 point type, and mailed*~~
8 ~~*to a borrower within 60 days after the end of each calendar year.*~~
9 ~~*The notice or statement shall also include the information found*~~
10 ~~*in subdivision (a) of Section 2954.7. or with each written*~~
11 ~~*statement required by Section 2954.2.*~~

12 (d) The notice required under this section shall be provided
13 without cost to the borrower.

14 (e) Any person harmed by a violation of this section may obtain
15 injunctive relief and may recover treble damages and reasonable
16 attorney's fees and costs.

17 (f) This section shall not apply to any mortgage funded with
18 bond proceeds issued under an indenture requiring mortgage
19 insurance for the life of the loan nor to any insurance issued
20 pursuant to Part 4 (commencing with Section 51600) of Division
21 31 of the Health and Safety Code, or loans insured by the Federal
22 Housing Administration or Veterans Administration.

