

Senate Bill No. 270

CHAPTER 137

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

[Approved by Governor August 6, 2001. Filed with Secretary of State August 6, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 270, 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. 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, operative July 1, 2002, 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.

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

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

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

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

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



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

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

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

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

(c) With respect to any loan specified in subdivision (a) for which private mortgage insurance or mortgage guaranty insurance is still maintained, the lender or person making, arranging, or servicing the loan shall provide the borrower with a notice containing the same information as specified in subdivision (a) or a clear and conspicuous written statement indicating that (1) the borrower may be able to cancel the private mortgage insurance or mortgage guaranty insurance based upon various factors, including appreciation of the value of the property derived from a current appraisal performed by an appraiser selected by the lender or servicer, and paid for by the borrower, and (2) the borrower may contact the lender or person making, arranging, or servicing the loan at a designated address and telephone number to determine whether the borrower has a right of cancellation and, if so, the conditions and procedure to effect cancellation. The notice or statement required by this subdivision shall be provided in or with each written statement required by Section 2954.2.

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

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

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

SEC. 2. This act shall become operative on July 1, 2002.

