

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 105-216, July 29, 1998, 112 Stat. 897, known as the Homeowners Protection Act of 1998. For complete classification of this Act to the Code, see Short Title note below and Tables.

The National Housing Act, referred to in par. (13), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

The Housing Act of 1949, referred to in par. (13), is act July 15, 1949, ch. 338, 63 Stat. 413. Title V of the Act is classified generally to subchapter III (§1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

AMENDMENTS

2000—Par. (1). Pub. L. 106-569, §402(b), inserted at end “A residential mortgage that: (A) does not fully amortize over the term of the obligation; and (B) contains a conditional right to refinance or modify the unamortized principal at the maturity date of the term, shall be considered to be an adjustable rate mortgage for purposes of this chapter.”

Par. (2)(B)(i). Pub. L. 106-569, §402(a)(1)(A), substituted “the amortization schedule then in effect” for “amortization schedules”.

Par. (4)(A). Pub. L. 106-569, §405(a)(1), inserted “the later of (i)” before “the date on which the mortgage” and “, or (ii) the date that the mortgagor submits a request for cancellation under section 4902(a)(1) of this title” before the semicolon.

Par. (4)(B). Pub. L. 106-569, §405(a)(2), inserted “the later of (i)” before “the date on which the mortgage” and “, or (ii) the date that the mortgagor submits a request for cancellation under section 4902(a)(1) of this title” before period at end.

Par. (6). Pub. L. 106-569, §402(a)(1)(D), added par. (6). Former par. (6) redesignated (8).

Par. (7). Pub. L. 106-569, §406(b), added par. (7). Former par. (7) redesignated (9).

Pars. (8) to (11). Pub. L. 106-569, §402(a)(1)(C), redesignated pars. (6) to (9) as (8) to (11), respectively. Former pars. (10) and (11) redesignated (12) and (13), respectively.

Par. (12). Pub. L. 106-569, §406(c), inserted “transaction” after “a residential mortgage” and inserted at end “In the case of a residential mortgage transaction for refinancing the principal residence of the mortgagor, such term means only the appraised value relied upon by the mortgagee to approve the refinance transaction.”

Pub. L. 106-569, §402(a)(1)(C), redesignated par. (10) as (12). Former par. (12) redesignated (14).

Par. (13). Pub. L. 106-569, §402(a)(1)(C), redesignated par. (11) as (13). Former par. (13) redesignated (15).

Par. (14). Pub. L. 106-569, §406(d)(1), substituted “principal residence of the mortgagor” for “primary residence of the mortgagor”.

Pub. L. 106-569, §402(a)(1)(C), redesignated par. (12) as (14). Former par. (14) redesignated (16).

Par. (15). Pub. L. 106-569, §406(d)(2), substituted “principal residence of the mortgagor” for “primary residence of the mortgagor”.

Pub. L. 106-569, §402(a)(1)(C), redesignated par. (13) as (15). Former par. (15) redesignated (17).

Par. (16). Pub. L. 106-569, §402(a)(1)(C), redesignated par. (14) as (16). Former par. (16) redesignated (18).

Par. (16)(B). Pub. L. 106-569, §402(a)(1)(B), substituted “the amortization schedule then in effect” for “amortization schedules”.

Pars. (17), (18). Pub. L. 106-569, §402(a)(1)(C), redesignated pars. (15) and (16) as (17) and (18), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 105-216, §13, July 29, 1998, 112 Stat. 908, provided that: “This Act [enacting this chapter and amending section 1088 of Title 20, Education], other than section 14 [enacting provisions set out as notes under sections 1441a and 1831q of this title and amending provisions set out as a note under section 1831q of this title], shall become effective 1 year after the date of enactment of this Act [July 29, 1998].”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-569, title IV, §401, Dec. 27, 2000, 114 Stat. 2956, provided that: “This title [amending this section and sections 4902, 4903, and 4905 of this title] may be cited as the ‘Private Mortgage Insurance Technical Corrections and Clarification Act.’”

SHORT TITLE

Pub. L. 105-216, §1(a), July 29, 1998, 112 Stat. 897, provided that: “This Act [enacting this chapter, amending section 1088 of Title 20, Education, enacting provisions set out as notes under sections 1441a and 1831q of this title, and amending provisions set out as a note under section 1831q of this title] may be cited as the ‘Homeowners Protection Act of 1998’.”

§ 4902. Termination of private mortgage insurance

(a) Borrower cancellation

A requirement for private mortgage insurance in connection with a residential mortgage transaction shall be canceled on the cancellation date or any later date that the mortgagor fulfills all of the requirements under paragraphs (1) through (4), if the mortgagor—

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

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

(3) is current on the payments required by the terms of the residential mortgage transaction; and

(4) has satisfied any requirement of the holder of the mortgage (as of the date of a request under paragraph (1)) for—

(A) evidence (of a type established in advance and made known to the mortgagor by the servicer promptly upon receipt of a request under paragraph (1)) that the value of the property securing the mortgage has not declined below the original value of the property; and

(B) certification that the equity of the mortgagor in the residence securing the mortgage is unencumbered by a subordinate lien.

(b) Automatic termination

A requirement for private mortgage insurance in connection with a residential mortgage transaction shall terminate with respect to payments for that mortgage insurance made by the mortgagor—

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

(2) if the mortgagor is not current on the termination date, on the first day of the first month beginning after the date that the mortgagor becomes current on the payments re-

quired by the terms of the residential mortgage transaction.

(c) Final termination

If a requirement for private mortgage insurance is not otherwise canceled or terminated in accordance with subsection (a) or (b), in no case may such a requirement be imposed on residential mortgage transactions beyond the first day of the month immediately following the date that is the midpoint of the amortization period of the loan if the mortgagor is current on the payments required by the terms of the mortgage.

(d) Treatment of loan modifications

If a mortgagor and mortgagee (or holder of the mortgage) agree to a modification of the terms or conditions of a loan pursuant to a residential mortgage transaction, the cancellation date, termination date, or final termination shall be recalculated to reflect the modified terms and conditions of such loan.

(e) No further payments

No payments or premiums may be required from the mortgagor in connection with a private mortgage insurance requirement terminated or canceled under this section—

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

(A) the date on which a request under subsection (a)(1) is received; or

(B) the date on which the mortgagor satisfies any evidence and certification requirements under subsection (a)(4);

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

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

(f) Return of unearned premiums

(1) In general

Not later than 45 days after the termination or cancellation of a private mortgage insurance requirement under this section, all unearned premiums for private mortgage insurance shall be returned to the mortgagor by the servicer.

(2) Transfer of funds to servicer

Not later than 30 days after notification by the servicer of termination or cancellation of private mortgage insurance under this chapter with respect to a mortgagor, a mortgage insurer that is in possession of any unearned premiums of that mortgagor shall transfer to the servicer of the subject mortgage an amount equal to the amount of the unearned premiums for repayment in accordance with paragraph (1).

(g) Exceptions for high risk loans

(1) In general

The termination and cancellation provisions in subsections (a) and (b) do not apply to any residential mortgage transaction that, at the

time at which the residential mortgage transaction is consummated, has high risks associated with the extension of the loan—

(A) as determined in accordance with guidelines published by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, in the case of a mortgage loan with an original principal balance that does not exceed the applicable annual conforming loan limit for the secondary market established pursuant to section 1454(a)(2) of this title, so as to require the imposition or continuation of a private mortgage insurance requirement beyond the terms specified in subsection (a) or (b) of this section; or

(B) as determined by the mortgagee in the case of any other mortgage, except that termination shall occur—

(i) with respect to a fixed rate mortgage, on the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan; and

(ii) with respect to an adjustable rate mortgage, on the date on which the principal balance of the mortgage, based solely on the amortization schedule then in effect for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan.

(2) Termination at midpoint

A private mortgage insurance requirement in connection with a residential mortgage transaction described in paragraph (1) shall terminate in accordance with subsection (c).

(3) Rule of construction

Nothing in this subsection may be construed to require a residential mortgage or residential mortgage transaction described in paragraph (1)(A) to be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(4) GAO report

Not later than 2 years after July 29, 1998, the Comptroller General of the United States shall submit to the Congress a report describing the volume and characteristics of residential mortgages and residential mortgage transactions that, pursuant to paragraph (1) of this subsection, are exempt from the application of subsections (a) and (b). The report shall—

(A) determine the number or volume of such mortgages and transactions compared to residential mortgages and residential mortgage transactions that are not classified as high-risk for purposes of paragraph (1); and

(B) identify the characteristics of such mortgages and transactions that result in their classification (for purposes of paragraph (1)) as having high risks associated with the extension of the loan and describe such characteristics, including—

- (i) the income levels and races of the mortgagors involved;
- (ii) the amount of the downpayments involved and the downpayments expressed as percentages of the acquisition costs of the properties involved;
- (iii) the types and locations of the properties involved;
- (iv) the mortgage principal amounts; and
- (v) any other characteristics of such mortgages and transactions that may contribute to their classification as high risk for purposes of paragraph (1), including whether such mortgages are purchase-money mortgages or refinancings and whether and to what extent such loans are low-documentation loans.

(h) Accrued obligation for premium payments

The cancellation or termination under this section of the private mortgage insurance of a mortgagor shall not affect the rights of any mortgagee, servicer, or mortgage insurer to enforce any obligation of such mortgagor for premium payments accrued prior to the date on which such cancellation or termination occurred.

(Pub. L. 105-216, § 3, July 29, 1998, 112 Stat. 899; Pub. L. 106-569, title IV, §§ 402(a)(2), (c)(1), 403(a), 404, 405(b), (c), Dec. 27, 2000, 114 Stat. 2956-2958.)

Editorial Notes

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-569, § 404(1)(A), inserted “or any later date that the mortgagor fulfills all of the requirements under paragraphs (1) through (4)” after “cancellation date” in introductory provisions.

Subsec. (a)(3), (4). Pub. L. 106-569, § 404(1)(B)-(D), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(2). Pub. L. 106-569, § 405(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “on the date after the termination date on which the mortgagor becomes current on the payments required by the terms of the residential mortgage transaction.”

Subsec. (c). Pub. L. 106-569, § 403(a)(1), inserted “on residential mortgage transactions” after “requirement be imposed”.

Subsec. (d). Pub. L. 106-569, § 402(c)(1)(B), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 106-569, § 402(c)(1)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1)(B). Pub. L. 106-569, § 404(2), substituted “subsection (a)(4)” for “subsection (a)(3)”.

Subsec. (f). Pub. L. 106-569, § 402(c)(1)(A), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1)(B)(ii). Pub. L. 106-569, § 402(a)(2), substituted “the amortization schedule then in effect” for “amortization schedules”.

Subsec. (g). Pub. L. 106-569, § 402(c)(1)(A), redesignated subsec. (f) as (g).

Subsec. (g)(1). Pub. L. 106-569, § 403(a)(2)(A), struck out “mortgage or” after “do not apply to any residential” in introductory provisions.

Subsec. (g)(2). Pub. L. 106-569, § 403(a)(2)(B), struck out “mortgage or” after “in connection with a residential”.

Subsec. (g)(3). Pub. L. 106-569, § 403(a)(2)(C), substituted “residential mortgage or residential” for “mortgage or”.

Subsec. (h). Pub. L. 106-569, § 405(c), added subsec. (h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 year after July 29, 1998, see section 13 of Pub. L. 105-216, set out as a note under section 4901 of this title.

§ 4903. Disclosure requirements

(a) Disclosures for new mortgages at time of transaction

(1) Disclosures for non-exempted transactions

In any case in which private mortgage insurance is required in connection with a residential mortgage transaction (other than a residential mortgage transaction described in section 4902(g)(1) of this title), at the time at which the transaction is consummated, the mortgagee shall provide to the mortgagor—

(A) if the transaction relates to a fixed rate mortgage—

(i) a written initial amortization schedule; and

(ii) written notice—

(I) that the mortgagor may cancel the requirement in accordance with section 4902(a) of this title indicating the date on which the mortgagor may request cancellation, based solely on the initial amortization schedule;

(II) that the mortgagor may request cancellation in accordance with section 4902(a) of this title earlier than provided for in the initial amortization schedule, based on actual payments;

(III) that the requirement for private mortgage insurance will automatically terminate on the termination date in accordance with section 4902(b) of this title, and what that termination date is with respect to that mortgage; and

(IV) that there are exemptions to the right to cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 4902(g) of this title, and whether such an exemption applies at that time to that transaction; and

(B) if the transaction relates to an adjustable rate mortgage, a written notice that—

(i) the mortgagor may cancel the requirement in accordance with section 4902(a) of this title on the cancellation date, and that the servicer will notify the mortgagor when the cancellation date is reached;

(ii) the requirement for private mortgage insurance will automatically terminate on the termination date, and that on the termination date, the mortgagor will be notified of the termination or that the requirement will be terminated as soon as the mortgagor is current on loan payments; and

(iii) there are exemptions to the right of cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 4902(g) of this title, and whether such an exemption applies at that time to that transaction.

(2) Disclosures for excepted transactions

In the case of a residential mortgage transaction described in section 4902(g)(1) of this