

action consummated on or after the date that is 1 year after July 29, 1998.

(b) Disclosures for existing mortgages

If private mortgage insurance was required in connection with a residential mortgage entered into at any time before the effective date of this chapter, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(1) that the private mortgage insurance may, under certain circumstances, be canceled by the mortgagor (with the consent of the mortgagee or in accordance with applicable State law); and

(2) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(c) Inclusion in other annual notices

The information and disclosures required under subsection (b) of this section and subsection (a)(3) of this section may be provided on the annual disclosure relating to the escrow account made as required under the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.], or as part of the annual disclosure of interest payments made pursuant to Internal Revenue Service regulations, and on a form promulgated by the Internal Revenue Service for that purpose.

(d) Standardized forms

The mortgagee or servicer may use standardized forms for the provision of disclosures required under this section, which disclosures shall relate to the mortgagor's rights under this chapter.

(Pub. L. 105-216, § 4, July 29, 1998, 112 Stat. 902; Pub. L. 106-569, title IV, §§ 402(c)(2), 403(b), Dec. 27, 2000, 114 Stat. 2957.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (b), is 1 year after July 29, 1998, see section 13 of Pub. L. 105-216, set out as an Effective Date note under section 4901 of this title.

The Real Estate Settlement Procedures Act of 1974, referred to in subsec. (c), is Pub. L. 93-533, Dec. 22, 1974, 88 Stat. 1724, as amended, which is classified principally to chapter 27 (§ 2601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106-569, §§ 402(c)(2)(A)(i), 403(b)(1)(A), substituted “residential mortgage transaction (other than a residential mortgage transaction described in section 4902(g)(1) of this title)” for “residential mortgage or mortgage transaction (other than a mortgage or mortgage transaction described in section 4902(f)(1) of this title)” in introductory provisions.

Subsec. (a)(1)(A)(ii)(IV), (B)(iii). Pub. L. 106-569, § 402(c)(2)(A)(ii), (iii), substituted “section 4902(g) of this title” for “section 4902(f) of this title”.

Subsec. (a)(2). Pub. L. 106-569, §§ 402(c)(2)(B), 403(b)(1)(B), substituted “residential mortgage transaction” for “mortgage or mortgage transaction” and “section 4902(g)(1) of this title” for “section 4902(f)(1) of this title”.

Subsec. (c). Pub. L. 106-569, § 403(b)(2), substituted “subsection (a)(3) of this section” for “paragraphs (1)(B) and (3) of subsection (a) of this section”.

Subsec. (d). Pub. L. 106-569, § 403(b)(3), inserted before period at end “, which disclosures shall relate to the mortgagor's rights under this chapter”.

§ 4904. Notification upon cancellation or termination

(a) In general

Not later than 30 days after the date of cancellation or termination of a private mortgage insurance requirement in accordance with this chapter, the servicer shall notify the mortgagor in writing—

(1) that the private mortgage insurance has terminated and that the mortgagor no longer has private mortgage insurance; and

(2) that no further premiums, payments, or other fees shall be due or payable by the mortgagor in connection with the private mortgage insurance.

(b) Notice of grounds

(1) In general

If a servicer determines that a mortgage did not meet the requirements for termination or cancellation of private mortgage insurance under subsection (a) or (b) of section 4902 of this title, the servicer shall provide written notice to the mortgagor of the grounds relied on to make the determination (including the results of any appraisal used to make the determination).

(2) Timing

Notice required by paragraph (1) shall be provided—

(A) with respect to cancellation of private mortgage insurance under section 4902(a) of this title, not later than 30 days after the later of—

(i) the date on which a request is received under section 4902(a)(1) of this title; or

(ii) the date on which the mortgagor satisfies any evidence and certification requirements under section 4902(a)(3)¹ of this title; and

(B) with respect to termination of private mortgage insurance under section 4902(b) of this title, not later than 30 days after the scheduled termination date.

(Pub. L. 105-216, § 5, July 29, 1998, 112 Stat. 903.)

REFERENCES IN TEXT

Section 4902(a)(3) of this title, referred to in subsec. (b)(2)(A)(ii), was redesignated section 4902(a)(4) of this title by Pub. L. 106-569, title IV, § 404(1)(C), Dec. 27, 2000, 114 Stat. 2958.

§ 4905. Disclosure requirements for lender paid mortgage insurance

(a) Definitions

For purposes of this section—

(1) the term “borrower paid mortgage insurance” means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by the borrower;

(2) the term “lender paid mortgage insurance” means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by a person other than the borrower; and

¹ See References in Text note below.

(3) the term “loan commitment” means a prospective mortgagee’s written confirmation of its approval, including any applicable closing conditions, of the application of a prospective mortgagor for a residential mortgage loan.

(b) Exclusion

Sections 4902 through 4904 of this title do not apply in the case of lender paid mortgage insurance.

(c) Notices to mortgagor

In the case of lender paid mortgage insurance that is required in connection with a residential mortgage transaction—

(1) not later than the date on which a loan commitment is made for the residential mortgage transaction, the prospective mortgagee shall provide to the prospective mortgagor a written notice—

(A) that lender paid mortgage insurance differs from borrower paid mortgage insurance, in that lender paid mortgage insurance may not be canceled by the mortgagor, while borrower paid mortgage insurance could be cancelable by the mortgagor in accordance with section 4902(a) of this title, and could automatically terminate on the termination date in accordance with section 4902(b) of this title;

(B) that lender paid mortgage insurance—

(i) usually results in a residential mortgage having a higher interest rate than it would in the case of borrower paid mortgage insurance; and

(ii) terminates only when the residential mortgage is refinanced (under the meaning given such term in the regulations issued by the Board of Governors of the Federal Reserve System to carry out the Truth in Lending Act (15 U.S.C. 1601 et seq.)), paid off, or otherwise terminated; and

(C) that lender paid mortgage insurance and borrower paid mortgage insurance both have benefits and disadvantages, including a generic analysis of the differing costs and benefits of a residential mortgage in the case lender paid mortgage insurance versus borrower paid mortgage insurance over a 10-year period, assuming prevailing interest and property appreciation rates;

(D) that lender paid mortgage insurance may be tax-deductible for purposes of Federal income taxes, if the mortgagor itemizes expenses for that purpose; and

(2) not later than 30 days after the termination date that would apply in the case of borrower paid mortgage insurance, the servicer shall provide to the mortgagor a written notice indicating that the mortgagor may wish to review financing options that could eliminate the requirement for private mortgage insurance in connection with the residential mortgage transaction.

(d) Standard forms

The servicer of a residential mortgage transaction may develop and use a standardized form or forms for the provision of notices to the mortgagor, as required under subsection (c) of this section.

(Pub. L. 105-216, §6, July 29, 1998, 112 Stat. 904; Pub. L. 106-569, title IV, §§403(c), 406(a), Dec. 27, 2000, 114 Stat. 2957, 2959.)

REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec.(c)(1)(B)(i), is title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146, as amended, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106-569, §403(c)(1)(A), struck out “a residential mortgage or” before “a residential mortgage transaction” in introductory provisions.

Subsec. (c)(1)(B)(ii). Pub. L. 106-569, §406(a), inserted “(under the meaning given such term in the regulations issued by the Board of Governors of the Federal Reserve System to carry out the Truth in Lending Act (15 U.S.C. 1601 et seq.))” after “refinanced”.

Subsec. (c)(2). Pub. L. 106-569, §403(c)(1)(B), inserted “transaction” before period at end.

Subsec. (d). Pub. L. 106-569, §403(c)(2), inserted “transaction” after “residential mortgage”.

§ 4906. Fees for disclosures

No fee or other cost may be imposed on any mortgagor with respect to the provision of any notice or information to the mortgagor pursuant to this chapter.

(Pub. L. 105-216, §7, July 29, 1998, 112 Stat. 905.)

§ 4907. Civil liability

(a) In general

Any servicer, mortgagee, or mortgage insurer that violates a provision of this chapter shall be liable to each mortgagor to whom the violation relates for—

(1) in the case of an action by an individual, or a class action in which the liable party is not subject to section 4909 of this title, any actual damages sustained by the mortgagor as a result of the violation, including interest (at a rate determined by the court) on the amount of actual damages, accruing from the date on which the violation commences;

(2) in the case of—

(A) an action by an individual, such statutory damages as the court may allow, not to exceed \$2,000; and

(B) in the case of a class action—

(i) in which the liable party is subject to section 4909 of this title, such amount as the court may allow, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of \$500,000 or 1 percent of the net worth of the liable party, as determined by the court; and

(ii) in which the liable party is not subject to section 4909 of this title, such amount as the court may allow, not to exceed \$1,000 as to each member of the class, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of \$500,000 or 1 per-