§ 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

(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).

(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)(ii), 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''.

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.

§ 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.)

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.

§ 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;