HOUSE RESEARCH ORGANIZATION bill analysis | 5/5/97 | HB 1755 Burnam (CSHB 1755 by Olivo)

SUBJECT: Requiring notice of right to cancel private mortgage insurance

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Smithee, Van de Putte, Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise

0 nays

WITNESSES: For — Birny Birnbaum

Against — None

BACKGROUND: Private mortgage insurance (PMI) is an additional cost added to a mortgage payment when the borrower is unable to make a 20 percent down payment. PMI is designed to protect the lender against any deficiency should there be a foreclosure. Federal lending laws require PMI or additional collateral in order for a lender to lend more than 80 percent of the value of property. In order to cancel the insurance, most lenders require the borrower's equity in the home to be over 20 percent of the fair market value of the home.

DIGEST: CSHB 1755 would require any lender that requires a borrower to pay for PMI to provide an annual notice to the borrower of their right to cancel the insurance and the circumstances that would allow such cancellation. The form of the notice would be specified in statute and instruct the recipient to contact the lender or the Texas Department of Insurance to obtain further information.

If the lender received a refund of an unearned mortgage insurance premium, the lender would be required to remit that refund to the borrower within 10 business days.

CSHB 1755 would take effect on January 1, 1998.

SUPPORTERS SAY: PMI premium payments can cost homeowners $20 to $150 each month. After reaching a certain amount of equity on their homes, such insurance is no longer required, but most homeowners do not know that the insurance can be cancelled and continue to pay it as part of their monthly mortgage payment.

CSHB 1755 would simply require lenders to include a notice in their annual statements that informs the homeowners of their rights. It would not require the lender to calculate when the insurance could be cancelled, but only allow interested homeowners who think they would qualify to contact the lender to find out. The cost of including the notice would be minimal; it could be included in the annual statement already sent to borrowers.

Paying for insurance after the equity in the home has reached the 20 percent threshold is like throwing money away. The purpose of mortgage insurance is to protect the bank in case of foreclosure before that threshold is met. After that point, the insurance provides no protection to the lender.

The bill would also clarify the law concerning refunds of unearned premiums. Currently, if a person cancels mortgage insurance, the insurance company returns a pro-rata portion of the payment made to the lender. Lenders often pay the premiums on behalf of the borrowers in annual or semi-annual installments. CSHB 1755 would require the lender to refund any money received to the borrower within a reasonable amount of time.

The U.S. House of Representatives by 421-7 recently passed legislation, H.R. 607 by Rep. James Hansen (R-Utah), requiring automatic cancellation of mortgage insurance once the homeowner's equity reached 25 percent of the market value of the home. CSHB 1755 would not affect that legislation and would be a benefit to Texas borrowers if that legislation were not finally adopted by Congress.

OPPONENTS SAY:

Federal legislation is currently pending that may supersede this legislation. Because it appears that the federal legislation is very likely to pass, this Legislature should not create any requirement that could conflict with federal legislation and likely require corrective action in the next legislative session.

OTHER OPPONENTS SAY:

PMI should be cancelled automatically once the homeowner reached the necessary equity level, as is currently proposed in the federal legislation.

NOTES: The original version of the bill would have required insurers, rather than lenders, to notify borrowers of their right to cancel the insurance.

A companion bill, SB 1418 by Moncrief, has been referred to the Senate Economic Development Committee.