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SENATE BILL NO. 468

Offered January 26, 1998

A *BILL to amend the Code of Virginia by adding in Title 6.1 a chapter numbered 1.4, consisting of sections numbered 6.1-2.30 through 6.1-2.34, relating to banking and finance; private mortgage insurance; termination.*

Patron—Quayle

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 6.1 a chapter numbered 1.4, consisting of sections numbered 6.1-2.30 through 6.1-2.34, as follows:

CHAPTER 1.4.**PRIVATE MORTGAGE INSURANCE PROTECTION ACT.****§ 6.1-2.30. Definition.**

For purposes of this chapter:

"Institutional third party" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association and any other substantially similar organization, whether public or private, which establishes and adheres to rules applicable to the right of cancellation of private mortgage insurance (mortgage guaranty insurance) that are the same or substantially the same as those utilized by the above-named institutions.

"Mortgage loan" has the meaning set forth in § 6.1-409.

§ 6.1-2.31. Disclosures relating to private mortgage insurance.

A. With regard to any mortgage loan, the lender shall disclose in writing to the borrower at or before settlement whether any private mortgage insurance shall be required to be obtained or maintained with respect to such mortgage loan, including any lender-paid private mortgage insurance, and the periods during which such insurance will be required to be in effect.

B. If the lender requires, as a condition for making a mortgage loan, the borrower to make payments toward the premiums for private mortgage insurance with respect to such mortgage loan, the lender shall disclose to the borrower, in writing at or before the settlement of such mortgage loan, the following notice:

"Termination of PMI Obligations

The borrower's obligation to make payments toward the premiums for private mortgage insurance may be terminated while the mortgage loan is outstanding.

The borrower will be notified by the servicer annually of an address and a telephone number which the borrower may use to contact the servicer to determine (i) whether the borrower's obligation to make payments toward the premium for private mortgage insurance may be terminated while the mortgage loan is outstanding and (ii) if such obligation may be terminated while the loan is outstanding, the conditions and procedures for such termination."

§ 6.1-2.32. PMI obligations termination.

A. Notwithstanding any provision of an institutional third party mortgage loan, any obligation of the borrower to make payments towards the premiums for any private mortgage insurance in effect with respect to such loan shall terminate, except as provided in § 6.1-2.33, as of the first day of the first month which begins after the date on which the principal balance outstanding on all residential mortgages on the property securing the loan is equal to or less than seventy-five percent of either:

1. The sales price of the property when purchased;

2. The appraised value of the property, as determined by the appraisal performed in connection with the making of the loan; or

3. The appraised value of the property, as determined by an appraisal performed at any time after the making of the loan.

B. Not later than forty-five days after the date of termination pursuant to subsection A of a private mortgage insurance requirement for a mortgage loan, the servicer shall notify the borrower under the loan, in writing, that:

1. The private mortgage insurance has terminated and the borrower no longer has private mortgage insurance; and

2. No further premiums, payments, or other fees shall be due or payable by the borrower in connection with private mortgage insurance.

C. The servicer for a mortgage loan shall promptly return to the borrower any payments toward the

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SB468

60 premiums for any private mortgage insurance for such loan covering any period occurring after the date
61 of the automatic termination of the private mortgage insurance.

62 D. The private mortgage insurer for a mortgage loan shall promptly return to the servicer any
63 payments received from the servicer toward the premiums for any private mortgage insurance for such
64 loan covering any period occurring after the date of automatic termination of the private mortgage
65 insurance.

66 § 6.1-2.33. Exceptions.

67 The provisions of § 6.1-2.32 shall not apply with respect to:

68 1. Any mortgage loan on which the payments are not current as of the date that the obligation to
69 make private mortgage insurance premium payments in connection with the loan would otherwise
70 terminate;

71 2. Any mortgage loan which, during the twelve months prior to cancellation, the borrower has been
72 assessed more than one late penalty for any scheduled payment;

73 3. Any mortgage loan made or executed before July 1, 1998; or

74 4. Any note or evidence of indebtedness secured by a deed of trust or mortgage that is funded in
75 whole or in part pursuant to authority granted by statute or regulation that, as a condition of that
76 funding, prohibits or limits termination of payments for private mortgage insurance during the term of
77 indebtedness.

78 § 6.1-2.34. Institutional third party standards.

79 If the note secured by the deed of trust or mortgage will be or has been sold in whole or in part to
80 an institutional third party, adherence to the institutional third party's standards for termination of
81 future payments for private mortgage insurance shall be deemed in compliance with the requirements of
82 this chapter.