SENATE BILL REPORT

SHB 2611

As Reported By Senate Committee On:
Financial Institutions, Insurance & Housing, February 26, 1998

Title: An act relating to mortgage insurance.

Brief Description: Regulating mortgage insurance.

Sponsors: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Keiser, Wolfe, Benson, Gardner and Dickerson).

Brief History:
Committee Activity: Financial Institutions, Insurance & Housing: 2/19/98, 2/26/98 [DPA].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, INSURANCE & HOUSING

Majority Report: Do pass as amended.
Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Staff: David Cheal (786-7576)

Background: Mortgage insurance, or mortgage guarantee insurance, is insurance that protects the lender if the borrower defaults. Generally, the insurance is required when the loan-to-value (LTV) ratio exceeds 80 percent; the insurance brings the lender's exposure down to at least an 80 percent LTV. The borrower pays for this insurance.

Most mortgage lending, especially first mortgages, follows standards established by the secondary market, which is comprised primarily of federal agencies such as FHA, FNMA, Freddie Mac, etc. Typical underwriting requirements by the secondary market mandate mortgage insurance when the LTV is above 80 percent. Generally, this insurance must be maintained for at least two years and until the LTV is at or below 80 percent. Depending on the federal secondary market institution policy or the loan agreement, a borrower may be able to cancel mortgage insurance when the LTV falls below 80 percent; the lender often requires proof, such as an appraisal.

Federal Truth-in-Lending law (TIL) requires disclosure of mortgage insurance on the TIL disclosure. The lender should disclose the insurer as one of several third parties who provide services related to the loan (such as title insurance, the appraisal, the credit report, etc.).

Summary of Amended Bill: For loans made on or after July 1, 1998, if mortgage insurance is required, the lender must disclose to the borrower whether and under what conditions the mortgage insurance can be canceled. For existing loans with mortgage insurance, and for loans with mortgage insurance entered into on or after July 1, 1998, the

lender or loan servicer must annually disclose to the borrower whether and under what circumstances the mortgage insurance can be canceled. Information necessary to cancel the mortgage insurance must also be supplied. These provisions do not apply to mortgages funded with bond proceeds or made through the Federal Housing Administration or the Veterans Administration. Penalties for violating these provisions are provided.

For loans with mortgage insurance made on or after July 1, 1998, except when a federal statute or a rule or guideline of a federal secondary market organization prohibits cancellation of mortgage insurance, the lender cannot collect and the borrower does not have to pay mortgage insurance after all the following occur: (1) the borrower makes a written request to cancel the mortgage insurance; (2) the residential loan is at least two years old; (3) the outstanding principal balance is not over 80 percent of the property value (the lender can require a current appraisal and splits the cost with the borrower); and (4) the borrower is current on his or her payments and has made payments in a timely manner. This does not apply to mortgages funded with bond proceeds or where federal statute, rule, or guideline prohibits canceling mortgage insurance. Lenders or loan servicers comply with these requirements if they follow secondary market standards.

Compliance with federal law regarding notifications, disclosures, whether mortgage insurance is required, or cancellations of mortgage insurance is deemed in compliance with similar provisions of this act.

For loan mortgages made on or after July 1, 1998, mortgage insurance cannot be required if the loan-to-value (LTV) ratio is below 80 percent, except that for large non-standard loans the lender and borrower can agree to mortgage insurance even if the LTV ratio is below 80 percent.

Amended Bill Compared to Substitute Bill: The prohibition requiring mortgage insurance for a loan under 80 percent of market value is amended to indicate that compliance with a comparable federal rule is compliance with this provision.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect on July 1, 1998.

Testimony For: Clear rules and full disclosure regarding mortgage insurance can save homeowner-borrowers money, while still protecting the legitimate interests of borrowers.

Testimony Against: None.

Testified: Representative Karen Keiser, original prime sponsor.