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HOUSE BILL 676

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

LUCIANO "LUCKY" VARELA

AN ACT

RELATING TO INSURANCE; PROHIBITING LENDERS FROM REQUIRING
PRIVATE MORTGAGE INSURANCE IN CERTAIN LOAN TRANSACTIONS;
REQUIRING NOTIFICATION OF CONSUMER OF CONDITIONS UNDER WHICH
PRIVATE MORTGAGE INSURANCE REQUIRED BY A LENDER MAY BE CANCELED;
AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-28-1 NMSA 1978 (being Laws 1984,
Chapter 127, Section 488) is amended to read:

"59A-28-1. SCOPE OF ARTICLE. -- [~~This article~~] Chapter 59A,
Article 28 NMSA 1978 shall apply only with respect to contracts
of mortgage guaranty insurance as defined in Section [~~112 of the~~
~~Insurance Code. Such~~] 59A-7-6 NMSA 1978. Mortgage guaranty
insurance contracts are also subject to the applicable
provisions of Chapter 59A, Article 18 [~~(the insurance contract)~~]

Underscored material = new
[bracketed material] = delete

1 ~~of the Insurance Code]~~ NMSA 1978. "

2 Section 2. A new section of Chapter 59A, Article 28 NMSA
3 1978 is enacted to read:

4 " [NEW MATERIAL] LIMITATION ON LENDER'S RIGHT TO REQUIRE
5 PRIVATE MORTGAGE INSURANCE AS CONDITION OF MAKING OR CONTINUING
6 LOAN SECURED BY MORTGAGE ON REAL PROPERTY--NOTIFICATION OF
7 CONSUMER OF CANCELLATION RIGHTS--DISCLOSURE REQUIRED. --

8 A. A consumer shall not be required to purchase or
9 pay the cost of premiums charged for private mortgage insurance
10 benefiting the lender as a condition of obtaining or continuing
11 a loan secured or to be secured by a first mortgage on
12 residential real property when the unpaid principal amount of
13 the loan represents eighty percent or less of the real
14 property's appraised value at the time the loan is
15 made.

16 B. A consumer shall not be required to purchase or
17 pay the cost of premiums charged for private mortgage insurance
18 benefiting the junior lender as a condition of obtaining or
19 continuing a loan secured by a junior mortgage on residential
20 real property when the unpaid principal balance of that loan,
21 combined with all existing loan amounts secured by mortgages on
22 that real property, is less than sixty percent of the real
23 property's appraised value at the time the junior loan is made.

24 C. If a consumer is required to obtain and maintain
25 private mortgage insurance as a condition of obtaining a loan

1 secured by a mortgage on residential real property, the lender
2 shall disclose in writing at the time the loan is closed whether
3 or not the private mortgage insurance may be canceled at the
4 request of the consumer while the mortgage is outstanding. If
5 it may be canceled, the lender shall further disclose in writing
6 the following information at the time the loan is closed:

7 (1) information necessary to permit the
8 consumer to communicate with the lender, any subsequent servicer
9 of the mortgage, or the issuer of the private mortgage insurance
10 concerning any condition required to be met before the private
11 mortgage insurance may be canceled at the request of the
12 consumer, including the following:

13 (a) if a condition for canceling the
14 private mortgage insurance is based on a minimum ratio between
15 the principal on the loan remaining outstanding and the original
16 value of the property securing the loan, that ratio; and

17 (b) information relating to the time
18 required for canceling the insurance; and

19 (2) the procedures required to be followed by
20 the consumer in obtaining cancellation of the private mortgage
21 insurance.

22 D. If a consumer is required to obtain and maintain
23 private mortgage insurance benefiting the lender as a condition
24 for obtaining a loan secured by a mortgage on residential real
25 property, the person servicing the mortgage shall include in or

1 with each written statement of account provided to the consumer
2 while the insurance is in effect, but not less often than
3 annually:

4 (1) the information required to be disclosed
5 under Subsection C of this section; or

6 (2) a clear and conspicuous written statement
7 containing:

8 (a) a statement that the consumer may be
9 able to obtain cancellation of the private mortgage insurance if
10 that is the case; and

11 (b) an address and telephone number that
12 the consumer may use to contact the creditor or the person
13 servicing the mortgage to determine whether the consumer has the
14 right to cancellation of the private mortgage insurance and, if
15 so, the conditions and procedures for canceling the insurance.

16 E. No fee or other cost may be imposed on any
17 consumer with respect to the provision of any notice or
18 information to the consumer pursuant to this section.

19 F. As used in this section:

20 (1) "mortgage insurance" means insurance,
21 including any mortgage guaranty insurance, against the
22 nonpayment of, or default on, a loan or a mortgage on
23 residential real property securing the loan;

24 (2) "private mortgage insurance" means mortgage
25 insurance other than mortgage insurance made available under the

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~~[bracketed material] = delete~~

1 National Housing Act, title 38 of the United States Code, or
2 title 5 of the National Housing Act of 1949; and

3 (3) "residential real property" means a
4 dwelling designed or used for occupancy by one family together
5 with the land upon which the dwelling is located."

6 Section 3. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 1997.

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**State of New Mexico
House of Representatives**

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

February 25, 1997

Mr. Speaker:

**Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
been referred**

HOUSE BILL 676

**has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
CONSUMER AND PUBLIC AFFAIRS COMMITTEE.**

Respectfully submitted,

Fred Luna, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HBIC/HB 676

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: None

Absent: Getty

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