

substantially improve the process of licensing federal technology for commercial applications and make it more attractive for industry to partner with government.

The bill before us represents a bipartisan consensus. I am pleased that we have worked closely with the members of the Minority in revising the bill since it was originally introduced. I would also like to thank the Chairman and Ranking Member of the Science Committee, Mr. SENSENBRENNER and Mr. BROWN, as well as the Ranking Member of the Technology Subcommittee, Mr. BARCIA, for their support of H.R. 2544.

I look forward to working with them and my Senate counterparts to have this bill signed into law before the conclusion of the 105th Congress. I urge all of my colleagues to pass this important measure.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2544, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2544, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

#### HOMEOWNERS PROTECTION ACT OF 1998

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 318) to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes, as amended.

The Clerk read as follows:

S. 318

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeowners Protection Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Termination of private mortgage insurance.
- Sec. 4. Disclosure requirements.
- Sec. 5. Notification upon cancellation or termination.

Sec. 6. Disclosure requirements for lender paid mortgage insurance.

Sec. 7. Fees for disclosures.

Sec. 8. Civil liability.

Sec. 9. Effect on other laws and agreements.

Sec. 10. Enforcement.

Sec. 11. Construction

Sec. 12. Effective date.

Sec. 13. Abolishment of the Thrift Depositor Protection Oversight Board.

#### SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ADJUSTABLE RATE MORTGAGE.—The term "adjustable rate mortgage" means a residential mortgage that has an interest rate that is subject to change.

(2) CANCELLATION DATE.—The term "cancellation date" means—

(A) with respect to a fixed rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, reaches 80 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, first reaches 80 percent of the original value of the property securing the loan.

(3) FIXED RATE MORTGAGE.—The term "fixed rate mortgage" means a residential mortgage that has an interest rate that is not subject to change.

(4) GOOD PAYMENT HISTORY.—The term "good payment history" means, with respect to a mortgagor, that the mortgagor has not—

(A) made a mortgage payment that was 60 days or longer past due during the 12-month period beginning 24 months before the date on which the mortgage reaches the cancellation date; or

(B) made a mortgage payment that was 30 days or longer past due during the 12-month period preceding the date on which the mortgage reaches the cancellation date.

(5) INITIAL AMORTIZATION SCHEDULE.—The term "initial amortization schedule" means a schedule established at the time at which a residential mortgage transaction is consummated with respect to a fixed rate mortgage, showing—

(A) the amount of principal and interest that is due at regular intervals to retire the principal balance and accrued interest over the amortization period of the loan; and

(B) the unpaid principal balance of the loan after each scheduled payment is made.

(6) MORTGAGE INSURANCE.—The term "mortgage insurance" means insurance, including any mortgage guaranty insurance, against the nonpayment of, or default on, an individual mortgage or loan involved in a residential mortgage transaction.

(7) MORTGAGE INSURER.—The term "mortgage insurer" means a provider of private mortgage insurance, as described in this Act, that is authorized to transact such business in the State in which the provider is transacting such business.

(8) MORTGAGEE.—The term "mortgagee" means the holder of a residential mortgage

at the time at which that mortgage transaction is consummated.

(9) MORTGAGOR.—The term "mortgagor" means the original borrower under a residential mortgage or his or her successors or assignees.

(10) ORIGINAL VALUE.—The term "original value", with respect to a residential mortgage, means the lesser of the sales price of the property securing the mortgage, as reflected in the contract, or the appraised value at the time at which the subject residential mortgage transaction was consummated.

(11) PRIVATE MORTGAGE INSURANCE.—The term "private mortgage insurance" means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(12) RESIDENTIAL MORTGAGE.—The term "residential mortgage" means a mortgage, loan, or other evidence of a security interest created with respect to a single-family dwelling that is the primary residence of the mortgagor.

(13) RESIDENTIAL MORTGAGE TRANSACTION.—The term "residential mortgage transaction" means a transaction consummated on or after the date that is 1 year after the date of enactment of this Act, in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against a single-family dwelling that is the primary residence of the mortgagor to finance the acquisition, initial construction, or refinancing of that dwelling.

(14) SERVICER.—The term "servicer" has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974, with respect to a residential mortgage.

(15) SINGLE-FAMILY DWELLING.—The term "single-family dwelling" means a residence consisting of 1 family dwelling unit.

(16) TERMINATION DATE.—The term "termination date" means—

(A) with respect to a fixed rate mortgage, the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan.

#### SEC. 3. TERMINATION OF PRIVATE MORTGAGE INSURANCE.

(a) BORROWER CANCELLATION.—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall be canceled on the cancellation date, if the mortgagor—

(1) submits a request in writing to the servicer that cancellation be initiated;

(2) has a good payment history with respect to the residential mortgage; and

(3) has satisfied any requirement of the holder of the mortgage (as of the date of a request under paragraph (1)) for—

(A) evidence (of a type established in advance and made known to the mortgagor by the servicer promptly upon receipt of a request under paragraph (1)) that the value of the property securing the mortgage has not declined below the original value of the property; and

(B) certification that the equity of the mortgagor in the residence securing the

mortgage is unencumbered by a subordinate lien.

(b) **AUTOMATIC TERMINATION.**—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall terminate with respect to payments for that mortgage insurance made by the mortgagor—

(1) on the termination date if, on that date, the mortgagor is current on the payments required by the terms of the residential mortgage transaction; or

(2) on the date after the termination date on which the mortgagor becomes current on the payments required by the terms of the residential mortgage transaction.

(c) **FINAL TERMINATION.**—If a requirement for private mortgage insurance is not otherwise canceled or terminated in accordance with subsection (a) or (b), in no case may such a requirement be imposed beyond the first day of the month immediately following the date that is the midpoint of the amortization period of the loan if the mortgagor is current on the payments required by the terms of the mortgage.

(d) **NO FURTHER PAYMENTS.**—No payments or premiums may be required from the mortgagor in connection with a private mortgage insurance requirement terminated or canceled under this section—

(1) in the case of cancellation under subsection (a), more than 30 days after the later of—

(A) the date on which a request under subsection (a)(1) is received; or

(B) the date on which the mortgagor satisfies any evidence and certification requirements under subsection (a)(3);

(2) in the case of termination under subsection (b), more than 30 days after the termination date or the date referred to in subsection (b)(2), as applicable; and

(3) in the case of termination under subsection (c), more than 30 days after the final termination date established under that subsection.

(e) **RETURN OF UNEARNED PREMIUMS.**—

(1) **IN GENERAL.**—Not later than 45 days after the termination or cancellation of a private mortgage insurance requirement under this section, all unearned premiums for private mortgage insurance shall be returned to the mortgagor by the servicer.

(2) **TRANSFER OF FUNDS TO SERVICER.**—Not later than 30 days after notification by the servicer of termination or cancellation of private mortgage insurance under this Act with respect to a mortgagor, a mortgage insurer that is in possession of any unearned premiums of that mortgagor shall transfer to the servicer of the subject mortgage an amount equal to the amount of the unearned premiums for repayment in accordance with paragraph (1).

(f) **EXCEPTIONS FOR HIGH RISK LOANS.**—

(1) **IN GENERAL.**—The termination and cancellation provisions in subsections (a) and (b) do not apply to any residential mortgage or mortgage transaction that, at the time at which the residential mortgage transaction is consummated, has high risks associated with the extension of the loan—

(A) as determined in accordance with guidelines published by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, in the case of a mortgage loan with an original principal balance that does not exceed the applicable annual conforming loan limit for the secondary market established pursuant to section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, so as to require the imposition or continuation of a private mortgage insurance requirement beyond the terms specified in subsection (a) or (b) of section 3; or

(B) as determined by the mortgagee in the case of any other mortgage, except that termination shall occur—

(i) with respect to a fixed rate mortgage, on the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan; and

(ii) with respect to an adjustable rate mortgage, on the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan.

(2) **TERMINATION AT MIDPOINT.**—A private mortgage insurance requirement in connection with a residential mortgage or mortgage transaction described in paragraph (1) shall terminate in accordance with subsection (c).

(3) **RULE OF CONSTRUCTION.**—Nothing in this subsection may be construed to require a mortgage or mortgage transaction described in paragraph (1)(A) to be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(4) **GAO REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report describing the volume and characteristics of residential mortgages and residential mortgage transactions that, pursuant to paragraph (1) of this subsection, are exempt from the application of subsections (a) and (b). The report shall—

(A) determine the number or volume of such mortgages and transactions compared to residential mortgages and residential mortgage transactions that are not classified as high-risk for purposes of paragraph (1); and

(B) identify the characteristics of such mortgages and transactions that result in their classification (for purposes of paragraph (1)) as having high risks associated with the extension of the loan and describe such characteristics, including—

(i) the income levels and races of the mortgagors involved;

(ii) the amount of the downpayments involved and the downpayments expressed as percentages of the acquisition costs of the properties involved;

(iii) the types and locations of the properties involved;

(iv) the mortgage principal amounts; and

(v) any other characteristics of such mortgages and transactions that may contribute to their classification as high risk for purposes of paragraph (1), including whether such mortgages are purchase-money mortgages or refinancings and whether and to what extent such loans are low-documentation loans.

#### SEC. 4. DISCLOSURE REQUIREMENTS.

(a) **DISCLOSURES FOR NEW MORTGAGES AT TIME OF TRANSACTION.**—

(1) **DISCLOSURES FOR NON-EXEMPTED TRANSACTIONS.**—In any case in which private mortgage insurance is required in connection with a residential mortgage or mortgage transaction (other than a mortgage or mortgage transaction described in section 3(f)(1)), at the time at which the transaction is consummated, the mortgagee shall provide to the mortgagor—

(A) if the transaction relates to a fixed rate mortgage—

(i) a written initial amortization schedule; and

(ii) written notice—

(I) that the mortgagor may cancel the requirement in accordance with section 3(a) of this Act indicating the date on which the

mortgagor may request cancellation, based solely on the initial amortization schedule;

(II) that the mortgagor may request cancellation in accordance with section 3(a) of this Act earlier than provided for in the initial amortization schedule, based on actual payments;

(III) that the requirement for private mortgage insurance will automatically terminate on the termination date in accordance with section 3(b) of this Act, and what that termination date is with respect to that mortgage; and

(IV) that there are exemptions to the right to cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(f) of this Act, and whether such an exemption applies at that time to that transaction; and

(B) if the transaction relates to an adjustable rate mortgage, a written notice that—

(i) the mortgagor may cancel the requirement in accordance with section 3(a) of this Act on the cancellation date, and that the servicer will notify the mortgagor when the cancellation date is reached;

(ii) the requirement for private mortgage insurance will automatically terminate on the termination date, and that on the termination date, the mortgagor will be notified of the termination or that the requirement will be terminated as soon as the mortgagor is current on loan payments; and

(iii) there are exemptions to the right of cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(f) of this Act, and whether such an exemption applies at that time to that transaction.

(2) **DISCLOSURES FOR EXCEPTED TRANSACTIONS.**—In the case of a mortgage or mortgage transaction described in section 3(f)(1), at the time at which the transaction is consummated, the mortgagee shall provide written notice to the mortgagor that in no case may private mortgage insurance be required beyond the date that is the midpoint of the amortization period of the loan, if the mortgagor is current on payments required by the terms of the residential mortgage.

(3) **ANNUAL DISCLOSURES.**—If private mortgage insurance is required in connection with a residential mortgage transaction, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(A) the rights of the mortgagor under this Act to cancellation or termination of the private mortgage insurance requirement; and

(B) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(4) **APPLICABILITY.**—Paragraphs (1) through (3) shall apply with respect to each residential mortgage transaction consummated on or after the date that is 1 year after the date of enactment of this Act.

(b) **DISCLOSURES FOR EXISTING MORTGAGES.**—If private mortgage insurance was required in connection with a residential mortgage entered into at any time before the effective date of this Act, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(1) that the private mortgage insurance may, under certain circumstances, be canceled by the mortgagor (with the consent of the mortgagee or in accordance with applicable State law); and

(2) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(c) **INCLUSION IN OTHER ANNUAL NOTICES.**—The information and disclosures required

under subsection (b) and paragraphs (1)(B) and (3) of subsection (a) may be provided on the annual disclosure relating to the escrow account made as required under the Real Estate Settlement Procedures Act of 1974, or as part of the annual disclosure of interest payments made pursuant to Internal Revenue Service regulations, and on a form promulgated by the Internal Revenue Service for that purpose.

(d) **STANDARDIZED FORMS.**—The mortgagee or servicer may use standardized forms for the provision of disclosures required under this section.

**SEC. 5. NOTIFICATION UPON CANCELLATION OR TERMINATION.**

(a) **IN GENERAL.**—Not later than 30 days after the date of cancellation or termination of a private mortgage insurance requirement in accordance with this Act, the servicer shall notify the mortgagor in writing—

(1) that the private mortgage insurance has terminated and that the mortgagor no longer has private mortgage insurance; and

(2) that no further premiums, payments, or other fees shall be due or payable by the mortgagor in connection with the private mortgage insurance.

(b) **NOTICE OF GROUNDS.**—

(1) **IN GENERAL.**—If a servicer determines that a mortgage did not meet the requirements for termination or cancellation of private mortgage insurance under subsection (a) or (b) of section 3, the servicer shall provide written notice to the mortgagor of the grounds relied on to make the determination (including the results of any appraisal used to make the determination).

(2) **TIMING.**—Notice required by paragraph (1) shall be provided—

(A) with respect to cancellation of private mortgage insurance under section 3(a), not later than 30 days after the later of—

(i) the date on which a request is received under section 3(a)(1); or

(ii) the date on which the mortgagor satisfies any evidence and certification requirements under section 3(a)(3); and

(B) with respect to termination of private mortgage insurance under section 3(b), not later than 30 days after the scheduled termination date.

**SEC. 6. 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 3 through 5 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 or 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 insur-

ance, 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 3(a) of this Act, and could automatically terminate on the termination date in accordance with section 3(b) of this Act;

(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, 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.

(d) **STANDARD FORMS.**—The servicer of a residential mortgage may develop and use a standardized form or forms for the provision of notices to the mortgagor, as required under subsection (c).

**SEC. 7. 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 Act.

**SEC. 8. CIVIL LIABILITY.**

(a) **IN GENERAL.**—Any servicer, mortgagee, or mortgage insurer that violates a provision of this Act 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 10, 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;

(2) in the case of—

(A) an action by an individual, such statutory damages as the court may allow, not to exceed \$2,000; and

(B) in the case of a class action—

(i) in which the liable party is subject to section 10, such amount as the court may allow, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of \$500,000 or 1 percent of the net worth of the liable party, as determined by the court; and

(ii) in which the liable party is not subject to section 10, such amount as the court may allow, not to exceed \$1000 as to each member of the class, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of \$500,000 or 1 percent of the gross revenues of the liable party, as determined by the court;

(3) costs of the action; and

(4) reasonable attorney fees, as determined by the court.

(b) **TIMING OF ACTIONS.**—No action may be brought by a mortgagor under subsection (a) later than 2 years after the date of the discovery of the violation that is the subject of the action.

(c) **LIMITATIONS ON LIABILITY.**—

(1) **IN GENERAL.**—With respect to a residential mortgage transaction, the failure of a servicer to comply with the requirements of this Act due to the failure of a mortgage insurer or a mortgagee to comply with the requirements of this Act, shall not be construed to be a violation of this Act by the servicer.

(2) **RULE OF CONSTRUCTION.**—Nothing in paragraph (1) shall be construed to impose any additional requirement or liability on a mortgage insurer, a mortgagee, or a holder of a residential mortgage.

**SEC. 9. EFFECT ON OTHER LAWS AND AGREEMENTS.**

(a) **EFFECT ON STATE LAW.**—

(1) **IN GENERAL.**—With respect to any residential mortgage or residential mortgage transaction consummated after the effective date of this Act, and except as provided in paragraph (2), the provisions of this Act shall supersede any provisions of the law of any State relating to requirements for obtaining or maintaining private mortgage insurance in connection with residential mortgage transactions, cancellation or automatic termination of such private mortgage insurance, any disclosure of information addressed by this Act, and any other matter specifically addressed by this Act.

(2) **PROTECTION OF EXISTING STATE LAWS.**—

(A) **IN GENERAL.**—The provisions of this Act do not supersede protected State laws, except to the extent that the protected State laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency.

(B) **INCONSISTENCIES.**—A protected State law shall not be considered to be inconsistent with a provision of this Act if the protected State law—

(i) requires termination of private mortgage insurance or other mortgage guaranty insurance—

(I) at a date earlier than as provided in this Act; or

(II) when a mortgage principal balance is achieved that is higher than as provided in this Act; or

(ii) requires disclosure of information—

(I) that provides more information than the information required by this Act; or

(II) more often or at a date earlier than is required by this Act.

(C) **PROTECTED STATE LAWS.**—For purposes of this paragraph, the term “protected State law” means a State law—

(i) regarding any requirements relating to private mortgage insurance in connection with residential mortgage transactions;

(ii) that was enacted not later than 2 years after the date of the enactment of this Act; and

(iii) that is the law of a State that had in effect, on or before January 2, 1998, any State law described in clause (i).

(b) **EFFECT ON OTHER AGREEMENTS.**—The provisions of this Act shall supersede any conflicting provision contained in any agreement relating to the servicing of a residential mortgage loan entered into by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any private investor or note holder (or any successors thereto).

**SEC. 10. ENFORCEMENT.**

(a) IN GENERAL.—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act; and

(3) part C of title V of the Farm Credit Act of 1971 (12 U.S.C. 2261 et seq.), by the Farm Credit Administration in the case of an institution that is a member of the Farm Credit System.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) ENFORCEMENT AND REIMBURSEMENT.—In carrying out its enforcement activities under this section, each agency referred to in subsection (a) shall—

(1) notify the mortgagee or servicer of any failure of the mortgagee or servicer to comply with 1 or more provisions of this Act;

(2) with respect to each such failure to comply, require the mortgagee or servicer, as applicable, to correct the account of the mortgagor to reflect the date on which the mortgage insurance should have been canceled or terminated under this Act; and

(3) require the mortgagee or servicer, as applicable, to reimburse the mortgagor in an amount equal to the total unearned premiums paid by the mortgagor after the date on which the obligation to pay those premiums ceased under this Act.

**SEC. 11. CONSTRUCTION.**

(a) PMI NOT REQUIRED.—Nothing in this Act shall be construed to impose any requirement for private mortgage insurance in connection with a residential mortgage transaction.

(b) NO PRECLUSION OF CANCELLATION OR TERMINATION AGREEMENTS.—Nothing in this Act shall be construed to preclude cancellation or termination, by agreement between a mortgagor and the holder of the mortgage, of a requirement for private mortgage insurance in connection with a residential mortgage transaction before the cancellation or termination date established by this Act for the mortgage.

**SEC. 12. EFFECTIVE DATE.**

This Act, other than section 13, shall become effective 1 year after the date of enactment of this Act.

**SEC. 13. ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.**

(a) IN GENERAL.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the Thrift Depositor Protection Oversight Board established under section 21A of the Federal Home Loan Bank Act (hereafter in this section referred to as the "Oversight Board") is hereby abolished.

(b) DISPOSITION OF AFFAIRS.—

(1) POWER OF CHAIRPERSON.—Effective on the date of enactment of this Act, the Chairperson of the Oversight Board (or the designee of the Chairperson) may exercise on behalf of the Oversight Board any power of the Oversight Board necessary to settle and conclude the affairs of the Oversight Board.

(2) AVAILABILITY OF FUNDS.—Funds available to the Oversight Board shall be available to the Chairperson of the Oversight Board to pay expenses incurred in carrying out paragraph (1).

(c) SAVINGS PROVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this section shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Oversight Board, the Resolution Trust Corporation, or any other person that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the abolishment of the Oversight Board in accordance with subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board with respect to any function of the Oversight Board shall abate by reason of the enactment of this section.

(3) LIABILITIES.—

(A) IN GENERAL.—All liabilities arising out of the operation of the Oversight Board during the period beginning on August 9, 1989, and the date that is 3 months after the date of enactment of this Act shall remain the direct liabilities of the United States.

(B) NO SUBSTITUTION.—The Secretary of the Treasury shall not be substituted for the Oversight Board as a party to any action or proceeding referred to in subparagraph (A).

(4) CONTINUATIONS OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS PERTAINING TO THE RESOLUTION FUNDING CORPORATION.—

(A) IN GENERAL.—All orders, resolutions, determinations, and regulations regarding the Resolution Funding Corporation shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations until modified, terminated, set aside, or superseded in accordance with applicable law if such orders, resolutions, determinations, or regulations—

(i) have been issued, made, and prescribed, or allowed to become effective by the Oversight Board, or by a court of competent jurisdiction, in the performance of functions transferred by this section; and

(ii) are in effect at the end of the 3-month period beginning on the date of enactment of this section.

(B) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS BEFORE TRANSFER.—Before the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution

Funding Corporation shall be enforceable by and against the United States.

(C) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS AFTER TRANSFER.—On and after the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the Secretary of the Treasury.

(d) TRANSFER OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUTHORITY AND DUTIES OF RESOLUTION FUNDING CORPORATION TO SECRETARY OF THE TREASURY.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the authority and duties of the Oversight Board under sections 21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act are transferred to the Secretary of the Treasury (or the designee of the Secretary).

(e) MEMBERSHIP OF THE AFFORDABLE HOUSING ADVISORY BOARD.—Effective on the date of enactment of this Act, section 14(b)(2) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(f) TIME OF MEETINGS OF THE AFFORDABLE HOUSING ADVISORY BOARD.—

(1) IN GENERAL.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(A) by striking "4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or" and inserting "2 times a year or at the request of"; and

(B) by striking the second sentence.

(2) CLERICAL AMENDMENT.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended, in the subparagraph heading, by striking "AND LOCATION".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

(Mr. LEACH asked and was given permission to revise and extend his remarks.)

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 318, the Homeowners Protection Act. This legislation is about saving money for America's homeowners by ensuring that they do not overpay for private mortgage insurance, or PMI.

Private mortgage insurance, although paid by the homeowner, is designed to protect lenders from mortgage default risk, and it is usually required when the homeowner has less than 20 percent equity in his or her home. While most industry standards allow for cancellation of PMI once the 20 percent equity level is achieved, homeowners are not always aware of how it can be terminated. It is estimated that some borrowers are paying \$240 to \$1,200 annually for mortgage insurance that is no longer needed.

By requiring that automatic termination of PMI when insurance is no

longer necessary and by requiring mortgage companies and other financial institutions to provide homeowners with information on the terms and conditions of this insurance and how it can be canceled, S. 318 protects homeowners from paying for PMI after all parties in the mortgage process agree that it is no longer needed.

□ 1515

Over the last 30 years, the mortgage financial markets have evolved with innovative products that leverage private sector resources in a manner that facilitates and expands affordable home ownership opportunities. In fact, the United States home ownership rate is at a record level today, with 66 percent of Americans owning their own home.

The Senate bill, S. 318, will further enhance home ownership opportunities by making home ownership less expensive and by providing the industry with clear and certain Federal rules on when and how mortgage insurance can be canceled.

The bill before us, which represents a compromise agreed to by the Senate Committee on Banking, is based on legislation originally introduced by the gentleman from Utah (Mr. HANSEN). The gentleman's firsthand difficulties in canceling PMI and the mortgage secured by his condominium led him to introduce legislation, H.R. 607, on this subject.

The Committee on Banking and Financial Services reported out the Hansen bill on March 20, 1997, and the full House approved by a vote of 421 to 7 on April 16, 1997. The Senate followed suit last fall in approving its version of PMI legislation, which is before the House today.

The homeowner protections contained in this bill cover owners of condominiums and cooperatives as well as owners of single-family detached homes. Under S. 318, the PMI disclosure and cancellation mandates cover residential mortgages and mortgage transactions for single-family dwellings. In the context of this legislation, the term "single-family dwellings" applies to condominium and cooperative home ownership arrangements.

In closing, I would like to thank my colleague, the gentleman from Utah (Mr. HANSEN), for his perseverance in his fight for the average homeowner, and the gentlewoman from Connecticut (Mrs. ROUKEMA), the gentleman from New York (Mr. LAZIO), the gentleman from New York (Mr. LAFALCE), the gentleman from Minnesota (Mr. VENTO), the gentleman from Massachusetts (Mr. KENNEDY), the gentlewoman from California (Ms. WATERS), the gentlewoman from Texas (Ms. JACKSON-LEE) and other members of this committee who have been such constructive participants in crafting the legislation before the House today.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Speaker, I thank the chairman of the Committee on Banking and Financial Services for his kind words. This has been a very bipartisan and collegial process that has brought us to the floor today.

The fact is, if you are a homeowner today, or are thinking of becoming one, you do not want to spend any more money than you have to, especially on unnecessary payments. But, unfortunately, between 250,000 to 400,000 families nationwide are now doing exactly that. They are making unnecessary payments. They are paying up to \$100 each month and thousands of dollars over the life of their mortgages for unnecessary private mortgage insurance.

There is nothing inherently wrong with private mortgage insurance, or PMI. It can be a valuable and essential tool used by many families who want to buy a home but are unable to finance a full 20 percent down payment. Fully 54 percent of mortgages offered last year did require PMI, private mortgage insurance.

That means the lender requires the borrower to buy and pay for insurance to protect the lender in case of a borrower's default. As a result, lenders have then been able to issue mortgages to families with smaller down payments who otherwise could not afford homes. So far, so good.

The problem with PMI arises once you have established approximately 20 percent equity in your home. This is the figure generally accepted by the mortgage industry as a benchmark of the risk they take in financing your home. At that point, PMI should no longer be necessary, since there is minimal risk to the lender. After all, the lender holds title to the home if you should default, and can always sell the property. But many homeowners are never even notified that they can discontinue their private mortgage insurance, and just keep on paying and paying. It adds up to thousands of dollars.

Continuing to pay insurance to protect the lender after a borrower no longer represents a serious risk is an unjustified windfall to insurance companies, and an unfair burden on homeowners. That practice must stop, and our action today will insure that it does stop.

Mr. Speaker, I give special credit to the gentleman from Utah (Mr. HANSEN) for bringing this issue to the attention of our Committee on Banking and Financial Services and for bringing it to the attention of the full House of Representatives.

The bill he introduced initially would have required disclosure to homebuyers, both at the mortgage signing and in annual statements, of the precise conditions that might enable them to cancel payments of that insurance.

But after committee members had time to reflect upon it, we believed that that would be helpful but not helpful enough. Some argued we should move beyond disclosure and also create a right to terminate, at least after certain conditions were met.

But many thought, well, even that is not good enough. We should go further still. This was my position. Simple disclosure and creation of a right to cancel is not enough. Unnecessary insurance payments should be terminated as a matter of law. No borrower in his right mind would choose to pay for insurance to protect a lender against the borrower's own default unless forced to do so.

Therefore, rather than create a right to reject and cancel insurance, which any reasonable person would always exercise, we argued we should legislate, instead, the actual termination of the insurance once certain conditions are met. That is the bill we have before us today.

The bill protects the consumer's right to initiate cancellation of the private mortgage insurance once 20 percent of the mortgage is satisfied, and requires servicers to cancel a consumer's mortgage insurance once 22 percent of the mortgage is satisfied.

Nonetheless, I am convinced we could have and should have gone even further. For instance, the bill does not afford the same automatic cancellation rights to so-called high-risk consumers, whose PMI will be canceled at the half-life of the mortgage. The bill does direct the housing enterprises, FNMA and FreddieMac, to establish industry guidelines defining what constitutes a risky borrower.

I assume and hope, and will watch to see, that the GSEs use their authority prudently, but I want to be clear that this provision was not included to enable lenders or investors to circumvent the intent of this legislation or to discriminate against certain types of borrowers. We will be watching this very closely.

With that in mind, I have asked that the bill require the GAO to evaluate how the high-risk exception is being applied, and report the findings to the Congress after enactment.

With regard to State preemption, again, I much preferred the House version. At least in this case the bill does protect State PMI cancellation and consumer laws in effect prior to January 2, 1998, and provides those States, eight of them, 2 years to revise and amend their laws: California, Minnesota, New York, Colorado, Connecticut, Maryland, Massachusetts, and Missouri.

I would have strongly preferred that the bill simply respect the rights of all States to enact stronger cancellation and disclosure laws, or had allowed the eight States with laws on the books to amend their laws without limitation. Nonetheless, I am pleased that we are now protecting stronger State consumer laws in States like New York, where they already do exist.

All in all, this is a strong consumer bill. It could have been stronger, and we might make it even stronger in future years. I urge my colleagues now to join me in supporting S. 318.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Utah (Mr. HANSEN), the author of this bill and our good friend and great leader on this subject.

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, I thank the chairman of the committee, the gentleman from Iowa (Mr. JIM LEACH), for the great leadership he has shown on this legislation, and the gentleman from New York (Mr. LAFALCE) for what he has done on this. I just say amen to what they have said. Both of them have hit it on the head.

Let me add a little, if I may. What is PMI? What is private mortgage insurance? It is a good thing, and I am grateful that the lending institutions have come up with this creative way in which to help people who could not pay at least 20 percent down on their loans. So they get into these things, they buy the house, they are elated, they are given the key to the house, this is a big moment, and they walk in.

Then after that goes away after a short time, they start looking at that payment bill that comes in. Anywhere between \$20 to \$100 they see every month, and say, what am I paying this for? They find that they are paying private mortgage insurance. When we think of insurance, we think of something that we buy to help us. This is not the case in this instance. This is something we buy to take care of the lender in case we do not make our payments.

It is an interesting history. I have to admit I did not know too much about it. After my first term I sold my place out in Virginia and bought a little condo across from the Pentagon. I wanted to be close to the House. I noticed that when I got my bill, there was something about private mortgage insurance. I did not even know what it was.

I called up the lending institution and said, what is this, anyway? They explained it to me, as it has been explained today. I said, that is all well and good, how do I get rid of it? They said, you send us a check for  $x$  amount of dollars and we will take it off.

I sent them the check. They did not take it off. I said, why did you not take it off? They said, we do not have to take it off. But if you will have an independent appraisal done on your place, we will be happy to consider it. How much is that? \$1,200. Now, the average American paying between \$20 to \$100 for this, he is not going to see a lawyer, he is not going to fuss, he is going to be mad and hunker down and do it.

They did not do it after the appraisal. So I called them up again and

they said, we do not have to take it off. Then, just like most people in our business, I started using this speech around America, and lo and behold, half the people in the audience would come up and say, I have this same problem. I have been paying this year after year after year.

A couple of attorneys came to see me, one from Alabama. He had a class action going of two or three thousand people who had faithfully made payments on their PMI, and they would not take it off. Then we started getting letters. I have stacks of letters now in my office where people would write in and show me the sarcastic and cavalier way that many of the banks, lending institutions, would come up with, and say, we do not have to take it off. Pay it the rest of your life.

That is what has happened, Mr. Speaker. Many people in America have paid it the rest of their lives. It would be interesting some day to see all of the letters we have, such as from a little lady in Texas, one in Nevada, one in Massachusetts, scattered all over America, who have faithfully made their payments on time and are enriching insurance companies, servicers, and lending institutions to the point of millions of dollars which did not have to be paid.

This is a piece of consumer legislation which I think is extremely important. I would like to point out that the language as we got it from the Senate says "single-family dwelling." If you go into a homeowner's policy or a policy such as that, that is interpreted to mean a freestanding place and only one family living in it. I think the gentleman from Iowa (Mr. LEACH) adequately addressed this, but if someone wants to try this case, I think it comes down to the idea that we mean a single family in a condo, in any other area, a unit which they are buying, so we do not exclude all those particular people.

As the gentleman from New York (Mr. LAFALCE) pointed out, this bill will require full disclosure of what PMI is. It will require notification of their right to cancel, and will have some information in the bill about automatic cancellation if they live up to it.

I want to thank the members of the Committee on Banking and Financial Services, who have worked so diligently on this. I really feel that this is a good piece of legislation. The Senate and the House have worked diligently to do it. In my humble opinion, this is one of the better pieces of consumer legislation we have come up with this in term. I would urge the support of my colleagues in passing this legislation.

Mr. LAFALCE. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. VENTO).

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I rise in support of this measure. It has a Senate number but, candidly, the catalyst for this was, as has been indicated, our

colleague, the gentleman from Utah (Mr. JIM HANSEN), and the measure that we worked on, H.R. 607, which I think was a good proposal in terms of disclosure, in terms of bringing the issue into focus, and one in which we worked to in fact provide an automatic cancellation.

In fact, private mortgage insurance (PMI) is a good product. We have, of course, some Federal programs, the Federal Housing Administration and the insurance that it provides, it means that if a person has a lower down payment, they can become a homeowner with this insurance providing a pool of dollars that will provide for default or delinquency in the case that default occurs with regard to the mortgage.

□ 1530

But clearly if you make a large enough down payment, you can completely avert, such insurance whether it is FHA insurance or if it is PMI insurance. The case here is that after someone has paid for even the half-life of the mortgage or paid down to the loan-to-value ratio of 80 percent, they should be entitled and should have the opportunity to discharge this responsibility, cost and this insurance because it is no longer necessary. There is not the risk in that loan. The homeowner is paying a fair rate of interest on the loan. They should not have to pay, on a \$100,000 mortgage, as is indicated, this could be anywhere from \$40 to \$80 a month over the course of a \$100,000 mortgage on a home. That can easily obviously be \$1000 a year in insurance payments that they are making that would not be necessary. This bill provides for the termination of such insurance and the cost to the consumer.

There are some concerns about the bill specifically with regard to the high risk mortgages because that is left somewhat undefined. I know our colleagues in the House were in agreement that we should define hi risk mortgages. We should be more specific and not leave any uncertainty. But we were not able to convince our Senate colleagues who rely upon the Federal National Mortgage Association and others to help in terms of such guidelines to follow guidelines in terms of defining high risk mortgages. But if it proves to be a problem, we have, I think, put in place a measure where we will get needed information from the General Accounting Office and others to in fact lead us in a direction to resolve such problems.

This is an important measure because it means that housing, homeownership will be facilitated. It will cost less. It is fair. It is fair to those that extend the mortgages. It is fair to the insurance companies that are making the dollars on real risk and assuming real risk, and it is certainly fair to the homeowners. So this is a step in the right direction.

I again commend my colleagues. This is an important issue in terms of

achieving homeownership, and it is fair to the States that have already taken actions, such as my State of Minnesota, which has a private mortgage insurance provision, and the 7 or 8 other States which have similar provisions. So it is a good measure.

I am pleased to join my colleague from Utah and the others on my committee in terms of support of the measure and hope to see it signed into law by President Clinton.

Mr. Speaker, I rise in support of S. 318, the Homeowners Protection Act of 1998.

Over a year ago, this House passed a similar but better bill that was drafted on a bipartisan basis using the measure introduced by Mr. HANSEN, H.R. 607, as the vehicle.

We come before the House today having reconciled with the Senate a bill which will serve the needs of millions of American homeowners covered by private mortgage insurance.

Consumers spend hundreds of dollars a year extra in mortgage insurance even though they have paid down the mortgage by 20%, 25% or more, to a point where such insurance is not required or necessary. This bill will provide some equity for those homebuyers who make their payments faithfully for years.

The agreed upon bill prospectively (one year after enactment) provides for the automatic cancellation of private mortgage insurance when borrowers have 22% equity, or a 78% loan-to-value (LTV) ratio, in their homes (based on the original value of the home). Premiums paid past that date will be refunded.

The bill allows for cancellation of PMI at 80% LTV ratio based on the initial amortization schedules and would not preclude borrowers from seeking cancellation using home price appreciation if it is agreed upon between the lender and the borrower.

Importantly, the bill also provides for the disclosure of borrowers' rights and protections under this law. Existing loans will get annual statements that their PMI may be cancelable. Future borrowers will be informed of their rights at or before closing along with the annual disclosure.

There is, unfortunately, a provision about which I have great concern. It is because of this concern that changes to the S. 318 were sought and made. It has been part of the reason for the delay in considering this Senate-passed bill.

The bill as passed by the Senate would allow FNMA (Fannie Mae) and FHLMC (Freddie Mac) to set the standards for a whole class of loans to be called "high risk" that would be exempt from the automatic termination and cancellation rights. This exemption, undefined and unregulated, could be used to avoid this entire law or could be used to discriminate against certain borrowers. That indeed would frustrate the implementation and results that could be attained from this proposed new law.

While we could not sway the other body to define "high risk"; to have a regulator define it; OR, to simply modify the trigger level for all to accommodate riskier loans; we were successful in mandating in this measure a GAO report that will let us know how this exemption is being used and for whom it is being used or abused if that is the case in the future. We will be looking very carefully at the results of this report for possible future policy actions in the event of high risk misunderstandings.

Mortgage insurance helps provide an opportunity to people to purchase homes when they cannot come up with a 20% down payment. On a \$100,000 home, that would be a hefty \$20,000. Private mortgage insurance on a \$100,000 house ranges from \$28 to \$76 a month depending on down payment. That works out to \$336 to \$912 a year! And of course, in many cities in this nation, including Washington, D.C., you cannot buy most homes for \$100,000, so down payments are tougher to make and consumer premiums and costs also go up as does the size of the mortgage.

The consensus bill will not preempt state laws in the eight states that have passed laws on termination or disclosure of rights and rules to govern terminating private mortgage insurance. Since one of those innovative states is Minnesota, I wanted to be sure that our good and fairly simple law would not be unnecessarily preempted. Under the agreement, all of these states also have two years to further perfect their own law. While I would have liked to have seen more time and, in fact, no limitation on changes to those laws, two years is better than none and seven more states exempted from the initial Senate bill is better than only the state of New York.

Finally, although I do have some reservations about the complexity of the many trigger points for cancellation or termination of PMI generated by this bill's requirements, it is a step forward and a fairly good consensus bill to bring to our Colleagues in the House. I hope that should the four basic trigger points be found to be too complex for consumers or servicers that we can revisit this bill and perhaps find a more uniform and fair trigger point for automatic cancellation.

Mr. Speaker, I urge my Colleagues to support this very important consumer legislation. This bill will provide hundreds of dollars in relief to home buyers who have paid their way out of PMI, but have not yet found relief. More than phantom tax cut measures or phoney tax code revisions, this bill will produce real consumer savings in the purse of consumers paying PMI premiums today. Let's pass this pro-consumer legislation now and see it signed into law by President Clinton.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I thank the gentleman very much for yielding me the time.

Let me join the others who have congratulated the gentleman from Utah (Mr. HANSEN) who I think really spotted a problem. I am sort of embarrassed that I did not see it sooner. I actually did some of this work when I was a lawyer, not for the PMI people but for the consumers. I should have recognized the fact that there was a problem.

I often raised the question. We never could get exactly correct answers as to what happened after a period of time. The people did pay this for some time. I think by spotlighting it, he has brought forward all of the concerns of a lot of people of this country. This is not the most major thing that we are going to do in Congress this year, but in terms of being very black and white, this is that. This is something that is

absolutely correct to do. It is clear. I do not see how anybody could possibly oppose it. I think that the Homeowners Protection Act is just good common sense protection for homeowners across the United States of America to protect them when they have paid down their private mortgage insurance sufficiently so that there is enough equity in their home, and the various mortgages companies will be protected.

I think and I agree with those who have said that this is a valuable service. Without this, quite frankly, a lot of people would not have been able to buy homes. I am not up here to decry PMI or say that it was a bad service or whatever it may be. But the bottom line is that I think often by inattention as much as anything else, people continue to pay this for years and years after they should have stopped. And when you start to add up \$30 or \$40 a month over a period of time, indeed it becomes a significant sum of money.

This indeed is consumer protection. This is why we in Congress should be here, to protect our constituents from problems such as this. This is a problem that is a hidden problem, I think, by and large, but I think it is a problem which is very real nonetheless. For that reason, I think it should go forward.

I have often questioned, frankly, whether it should go down to 20 percent or, as we say in this case, perhaps as far as 22 percent before we cut it off, but that seems to be a number which is agreed to by the lending industry and even by those who watch over consumers. So indeed I judge that it is good enough for us.

The bottom line is that this is good legislation. I hope we would all support it and be proud of a good record. Congratulations again to the gentleman from Utah (Mr. HANSEN).

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I appreciate the gentleman yielding time to me.

I rise in support of this legislation, although I do so with some ambivalence.

The bill that we have to consider today in some respects is a better bill than the bill we passed out of the House originally, but in other respects it is not as good a bill as we passed out of the House originally. But clearly it is a bill that is worthy of being supported because it is better than nothing and it moves us in the right direction.

I would like to spend a moment talking about some of the concerns I have about the bill that we are addressing though. First concern is that we are preempting State law, at least partially preempting State law, I should not say we are fully preempting it, but there are 8 States that have stronger laws in this area than we are passing here today. We protect those laws for a

period of 2 years but, after that, we do not give them the protection that they deserve to have going forward for States that have stronger laws.

Second, and a more important concern, is this high risk loan situation. If you get a loan that is categorized as a high risk loan, then you have got to pay 50 percent of the value of that loan before this law is of any benefit to you. For other people, you pay 22 percent of the loan or possibly 20 percent of the loan, if you have got an appraisal, 22 percent of the loan in some circumstances, 23 percent of the loan in other circumstances, but if you have a high risk loan, regardless of the value of your house going forward, if you have got a loan that starts off being categorized as a high risk loan, even if your area goes through an urban renewal, the value of your home continues to appreciate, you can not get the benefit of the 80 percent provision in this bill or the 78 percent provision in this bill or the 77 percent provision in this bill.

So you are kind of stuck with that henceforth now and forever. That is a concern that we need to pay particular attention to in the future.

On balance, support the bill. It is better than nothing.

Mr. LEACH. Mr. Speaker, I yield myself 1 minute simply to offer a clarification. On the two-year provision, let me just clarify that States that have laws can further modify these laws during a two-year period, but the laws will stay in effect as long as the State wants to keep those laws in effect. So it is not a cancellation of the law itself.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I think that the House bill was much more clear with regard to some of these bend points. I think the gentleman from North Carolina raises a good point in terms of the complexity that is added to this and hopefully we will not see the type of frustration of the intent of this measure. But I think we did the best we could with the sponsors in the Senate.

Mr. LEACH. In that regard, I share some of the concerns of both the gentleman from Minnesota and the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I think it was my inartful articulation of what I was trying to say. I understood that these 8 States have their laws protected going forward, but I appreciate the gentleman clarifying that. I was not trying to mislead anyone on that point.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. LAZIO).

Mr. LAZIO of New York. Mr. Speaker, I want to begin by commending the

gentleman from Iowa (Mr. LEACH) for his hard work in improving this bill and his dedication in bringing it to the floor today and our colleague, the gentleman from Utah (Mr. HANSEN), whose diligence on this issue has raised consumer awareness of private mortgage insurance. And I think it is not too strong to say that he is really a consumer hero today to homeowners around America.

The mortgage financial markets have experienced dramatic change over the last few decades, allowing more low and moderate income families to attain the American dream of homeownership.

One important change is the emergence of private mortgage insurance. Before PMI, as it is known, families were typically required to make a 20 percent down payment for a new home. Now families who are creditworthy but are cash strapped can buy a house with down payments as low as 3 percent or 5 percent. And this private mortgage insurance also lowers the lender's risk of loss from mortgage defaults.

Private mortgage insurance is a crucial element in achieving our goals of helping all Americans buy homes so they can give their families a better quality of life. We should celebrate that our Nation now has the highest homeownership rate in our history. This is because of the new tools of the mortgage market, such as PMI, and our hard-earned Balanced Budget Agreement which lowered interest rates and created a strong economy.

While we provide a tool for the lenders to provide their investments, we also need to ensure that home buyers are safeguarded. If we can prevent homeowners from being exploited, American families can have peace of mind in buying a home. It is already a right of most homeowners to cancel their mortgage insurance when the equity in their homes reaches 20 percent. But many Americans are unaware of these rights and so they continue to pay the insurance premiums even after reaching the 20 percent level.

The average rate of private mortgage insurance is between \$20 and \$100 per month. That is an annual rate of \$1,200. This is \$1,200 that could instead be more money in the pocket of an average American family. It is food money, school costs, doctor bills and much more. How can we allow consumers to pay for private mortgage insurance long after they are considered good borrowers with little risk of default just because they are not aware of the applicable rules and laws?

I look forward to passage of this bill.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, I rise in strong support of S. 318. I congratulate our colleague from Utah for his work on this bill.

I came to this body from the banking industry where I looked at a great number of mortgage portfolios. The standard by which one is required to attain PMI insurance is when you are putting down less money than what would require you to get to an 80 percent loan-to-value ratio.

Like the previous speaker, the gentleman from New York, PMI is a good tool because it does allow millions of Americans to be able to purchase a home by only having to put down a small percentage. So it does open the mortgage market to those Americans. But what is not a good deal is when you have paid down on your mortgage to a level below the 80 percent loan-to-value ratio and you are still paying for something that the market says you do not need anymore. That is the problem that the gentleman from Utah found and that millions of Americans have found and why this bill is necessary today.

I understand the gentleman from North Carolina's concerns. I appreciate those concerns. But this is a step in the right direction. This will help 5 million Americans, it is estimated, immediately who are paying for PMI insurance, in some cases \$30, \$60, \$90 a month, for which they really are receiving nothing, because what would happen in a default is that the PMI company would never have to shell out anything but they would gain the benefits of all the premiums.

So this is a good piece of consumer legislation. This may well be the most important piece of consumer legislation that this Congress adopts.

I appreciate the efforts on the part of the chairman of the committee, the subcommittee and the ranking member on our side of the full committee and the ranking member of the subcommittee.

□ 1545

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time. I wish to say "hats off" to the gentleman from Utah (Mr. HANSEN). This is an excellent, excellent response to the needs for housing in America, particularly in districts like mine.

Just a few weeks ago we participated in the Habitat for Humanity. That is one form of housing. But there is another form of housing where the working Americans are at a certain level and they are looking forward to having the opportunity to have and purchase homes. This bill allows homeowners to voluntarily cancel their private mortgage insurance when the loan-to-value ratio of the mortgage reaches 80 percent of the original value of the property, but only for loans originating 1 year after the enactment. It moves us forward.

I appreciate very much the story that the gentleman from Utah recounted for us because so many others have not caught that. And so we look forward to the fact that in America we encourage home ownership, we encourage people to pay down on their loans, and then we reward them by taking away the private mortgage insurance when it is not needed.

This is good legislation. I hope we pass it quickly.

Mr. Speaker, I strongly support this bill. Given the prosperity of our current economic climate, I believe that we should create mechanisms that make home buying easier and more practical. Such acts will protect these consumers who are so vital to the American economy.

It seems to me that automatic cancellation of private mortgage insurance (PMI) would create a buyer-friendly environment in the residential housing industry by ending the current problems associated with PMI.

Under the status quo, lenders usually require borrowers to purchase PMI if the borrower makes a downpayment on a home of less than 20 percent (i.e., if the mortgage loan will account for more than 80 percent of the home's purchase price). It is intended to offset the risk to lenders of making low downpayment loans.

However, many homeowners have reported difficulty in canceling PMI after paying down their loan to a level where it constitutes less than 80 percent of the home's value, and other homeowners have been unaware that they can cancel their policies at a certain point—often continuing to pay up to \$100 a month for PMI.

By establishing three levels at which PMI must be automatically terminated by a mortgage service firm, the difficulties associated with PMI, and homebuying in general, would be alleviated to a limited extent.

The bill generally establishes three levels at which PMI paid for by a borrower must be canceled automatically by a mortgage servicing firm. Such automatic termination occurs when (1) the loan-to-value ratio of the mortgage reaches 78 percent of the original value of the property, (2) the loan-to-value ratio reaches 77 percent for larger "non-conforming" loans, or (3) the mid-point or "half-life" of the mortgage payment schedule for "high risk" loans (loans with higher risks of default).

The bill also allows homeowners to voluntarily cancel their PMI when the loan-to-value ratio of the mortgage reaches 80 percent of the original value of the property—but only for loans originated beginning one year after enactment, and only if the homeowner meets three requirements.

It appears that this bill adequately solves the problem before us. I do maintain some reservations about the involvement of Fannie Mae and Freddie Mac because the definition of "high risk" loans would be determined by these two entities. I would have preferred the use of a Federal regulator, instead of a private body acting as a government entity, but Fannie Mae and Freddie Mac have served us well in the past, and I believe that they are up to the task at hand.

With this measure, we can simultaneously create an incentive for homebuyers and protection for homeowners allow homebuyers to more easily terminate private mortgage insur-

ance (PMI) once they have paid a requisite portion of their loan.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

I support this legislation strongly for a good many reasons, most of which I have already articulated. Let me make three points, however.

One of the primary reasons I am supporting this legislation is because we are now going to provide for automatic termination for homeowners in each of the 50 States, whereas today there are only three states that provide for automatic termination. That makes this probably the most important consumer bill that will have passed the Congress in this session.

There are some difficulties, however. With the exception of a limited exemption for eight states, we preempt States from enacting stronger consumer protection legislation. This is offensive, especially because it involves the insurance industry. The Federal Government has had little role regarding, or knowledge or experience with the insurance industry, certainly not so much that we should go in and say we know so much more than all the other States that we are going to preempt them. We should not be doing that if the states think they can pass even stronger consumer protection laws. The Senate insisted upon that. We could have done better.

Third, I do not like the process of avoiding conferences between the House and the Senate. We have been ping-ponging this bill back and forth. That is a permissible process, but it is not as good as a direct dialogue with the Members of the United States Senate. I do not want the Senate to think that it is going to be able to do this in other legislation, whether it is credit union legislation, financial services modernization, et cetera, virtually saying to the House take it or leave it. That is not an appropriate approach.

I support this bill and I go along with this approach because we are providing for automatic termination for homeowners in 50 States, whereas it now only exists in three states. But I have great difficulties with high-risk mortgages, the general state preemption and the process itself.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume and simply say, in conclusion, that I would like to stress that, as has been uttered by others, this is extraordinarily important consumer legislation, it is extraordinarily important home ownership legislation, it is common sense, and I would hope this body would adopt it unanimously.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume to point out that the chairman of the committee, the gentleman from Iowa (Mr. LEACH), has been a champion on

this issue. He has been totally cooperative, and we have been in lockstep on virtually each and every issue that we have discussed today. I thank him and his staff.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of S. 318 and want to commend my colleague from Utah, Congressman HANSEN, for his perseverance on this important legislation. This legislation evolved out of Congressman HANSEN's personal trials and tribulations of trying to cancel his own Private Mortgage Banking Insurance. And Representative HANSEN's testimony before the committee defined the problem and the solution. Think of this as a "Consumer Bill of Rights."

Private Mortgage Insurance is both an important but little understood instrument in the current mortgage industry. PMI enables families to purchase homes with as little as a 3–5 percent downpayment by insuring the mortgage lender against default. In 1996, more than 1 million people bought or refinanced a home with PMI. It made homeowners out of more than 16 million families.

PMI is normally required whenever a borrower does not have a 20-percent downpayment. PMI costs homeowners between \$20 to \$100 per month and protects the lender against the risk of loss on low-downpayment loans. PMI can be canceled under certain conditions, when a good payment history is met and 30 percent or more is achieved on the cost of the home.

The problem arises when homeowners are not informed of what PMI is and when and how they can stop paying it. Overpayment of PMI is potentially costing hundreds of thousands of homeowners millions of dollars per year.

Passage of this bill will ensure that homeowners will be better equipped to understand what PMI is, who it insures, and what rights the homeowner has to cancel it. This legislation requires automatic termination of private mortgage insurance after the homeowner attains a certain equity level in his or her home. In addition, the bill would require the mortgage companies and financial institutions that originate and service mortgages provide homeowners with information on the terms and conditions of PMI and how it can be canceled, both voluntarily and by law.

It is time to correct this problem and to stop overcharging the consumer. This is good public policy and I urge my colleagues to support it.

Mr. LAFALCE. Mr. Speaker, it has been a very bipartisan and collegial process that has brought us to the floor today, and I thank the Chairman of the Committee on Banking and Financial Services.

All in all, I believe this is probably one of the most important consumer bills that will have passed the Congress this session. One of the primary reasons I am supporting it is that we are now going to provide for automatic termination of private mortgage insurance (PMI), and therefore the considerable reduction of the costs associated with homeownership, for homeowners in each of the 50 states. Today there are only three states that provide for automatic termination. Extending that right to homeowners in all of the fifty states is an enormous step forward for consumers.

The fact is, if you are a homeowner today, or are thinking of becoming one, you do not want to spend any more money than you have

to, especially on unnecessary payments. But, unfortunately, between 250,000 to 400,000 families nationwide are now doing exactly that. They are paying up to \$100 each month and thousands of dollars over the life of their mortgages for unnecessary private mortgage insurance.

There is nothing inherently wrong with private mortgage insurance, or PMI. It can be a valuable and essential tool used by many families who want to buy a home but are unable to finance a full 20 percent down payment. Fully 54 percent of mortgages offered last year did require PMI.

That means the lender requires the borrowers to buy and pay for insurance to protect the lender in case of a borrower's default. As a result, lenders have then been able to issue mortgages to families with smaller down payments, who otherwise could not afford homes. That is of benefit to the consumer. So far, so good.

The problem with PMI arises once you have established approximately 20 percent equity in your home. This is the figure generally accepted by the mortgage industry as a benchmark of the risk they take in financing your home. At that point, PMI should no longer be necessary, since there is minimal risk to the lender. After all, the lender holds title to the home if you should default, and can always sell the property.

But many homeowners are never even notified that they can discontinue their private mortgage insurance, and just keep on paying and paying. It adds up to thousands of dollars. Continuing to pay insurance to protect the lender after a borrower no longer represents a serious risk is an unjustified windfall to insurance companies, and an unfair burden on homeowners. That practice must stop, and our action today will insure that it does stop.

Mr. Speaker, I give special credit to the gentleman from Utah (Mr. HANSEN) for bringing this issue to the attention of our Committee on Banking and Financial Services and for bringing it to the attention of the full House of Representatives.

The bill Congressman HANSEN introduced initially would have required disclosure to homebuyers, both at the mortgage signing and in annual statements, of the precise conditions that might enable them to cancel payments of private mortgage insurance. But after Committee Members had time to reflect upon it, we believed that that would be helpful but not helpful enough. Some argued we should move beyond disclosure and also create a right to terminate, at least after certain conditions were met.

Many thought that even that was insufficient and we should go further still. This was my position. Simple disclosure and creation of a right to cancel is not enough. Unnecessary insurance payments should be terminated as a matter of law. Certainly, no sensible borrower would choose to pay for insurance to protect a lender against the borrower's own default unless forced to do so.

Therefore, rather than create a right to reject and cancel insurance, which any reasonable person would always exercise, we argued we should legislate instead the actual termination of the insurance once certain conditions were met. That is an essential element of the bill we have before us today.

The bill protects the consumer's right to initiate cancellation of the private mortgage insur-

ance once 20 percent of the mortgage is satisfied, and requires servicers to cancel a consumer's mortgage insurance once 22 percent of the mortgage is satisfied.

Nonetheless, I am convinced we could have and should have gone even further. For instance, the bill does not afford the same automatic cancellation rights to so-called high-risk consumers, whose PMI will be canceled at the half-life of the mortgage. The bill does direct the housing enterprises, FNMA and Freddie Mac, to establish industry guidelines defining what constitutes a risky borrower.

I assume and hope, and will watch to see, that the GSEs use their authority prudently. But I want to be clear that this provision was not included to enable lenders or investors to circumvent the intent of this legislation or to discriminate against certain types of borrowers. We will be watching implementation of this provision very closely.

With that in mind, I have asked that the bill require the GAO to evaluate how the high-risk exception is being applied, and report the findings to the Congress after enactment.

With regard to state preemption, again, I much preferred the House version. At least in this case, the bill we have before us does protect state PMI cancellation and consumer laws in effect prior to January 2, 1998, and provides those states, eight of them, two years to revise and amend their laws: California, Minnesota, New York, Colorado, Connecticut, Maryland, Massachusetts and Missouri.

I would have strongly preferred that the bill simply respect the rights of all states to enact stronger cancellation and disclosure laws, or had allowed the eight states with laws on the books to amend their laws without limitation. But the Senate would not agree to this approach. Nonetheless, I am pleased that we are now protecting stronger state consumer laws in states like New York, where they already do exist.

All in all, this is a strong consumer bill. It could have been stronger in some regards, and we might make it even stronger in future years. But it represents real and significant progress for consumers. I urge my colleagues now to join me in supporting S. 318.

Mr. LAFALCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the Senate bill, S. 318, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 318, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

#### ENFORCEMENT OF CHILD CUSTODY AND VISITATION ORDERS

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4164) to amend title 28, United States Code, with respect to the enforcement of child custody and visitation orders.

The Clerk read as follows:

H.R. 4164

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CHILD CUSTODY AND VISITATION DETERMINATIONS.

Section 1738A of title 28, United States Code is amended as follows:

(1) Subsection (a) is amended by striking "subsection (f) of this section, any child custody determination" and inserting "subsections (f) and (g) of this section, any custody determination or visitation determination".

(2) Subsection (b)(2) is amended by striking "a parent" and inserting "; but not limited to, a parent or grandparent or, in cases involving a contested adoption, a person acting as a parent".

(3) Subsection (b)(3) is amended—

(A) by striking "or visitation";

(B) by striking "and" before "initial orders"; and

(C) by inserting before the semicolon at the end the following: "; and includes decrees, judgments, orders of adoption, and orders dismissing or denying petitions for adoption".

(4) Subsection (b)(4) is amended to read as follows:

"(4)(A) except as provided in subparagraph (B), 'home State' means—

"(i) the State in which, immediately preceding the time involved, the child lived with his or her parents, a parent, or a person acting as a parent, with whom the child has been living for at least six consecutive months, a prospective adoptive parent, or an agency with legal custody during a proceeding for adoption, and

"(ii) in the case of a child less than six months old, the State in which the child lived from birth, or from soon after birth,

and periods of temporary absence of any such persons are counted as part of such 6-month or other period; and

"(B) in cases involving a proceeding for adoption, 'home State' means the State in which—

"(i) immediately preceding commencement of the proceeding, not including periods of temporary absence, the child is in the custody of the prospective adoptive parent or parents;

"(ii) the child and the prospective adoptive parent or parents are physically present and the prospective adoptive parent or parents have lived for at least six months; and

"(iii) there is substantial evidence available concerning the child's present or future care;".

(5) Subsection (b)(5) is amended by inserting "or visitation determination" after "custody determination" each place it appears.

(6) Subsection (b) is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "; and", and by adding after paragraph (8) the following:

"(9) 'visitation determination' means a judgment, decree, or other order of a court providing for the visitation of a child and includes permanent and temporary orders and initial orders and modifications.".

(7) Subsection (c) is amended by striking "child custody determination" in the matter