

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1121

Short Title: Mortgage Ins. Consolidations.

(Public)

Sponsors: Representative Beard.

Referred to: Commerce.

April 10, 1989

A BILL TO BE ENTITLED
AN ACT TO REGULATE MORTGAGE INSURANCE CONSOLIDATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 24B.

“MORTGAGE INSURANCE CONSOLIDATIONS.

“§ 58-241.35. Purpose.

The purpose of this Article is to protect the interests of North Carolina insureds by:

- (1) Establishing disclosure requirements specific to consolidations and requiring insurers to make such disclosures on a timely basis;
- (2) Clarifying the applicability of the unfair rate discrimination statutes to consolidations;
- (3) To the extent reasonably possible, to prevent premium increases for consumers resulting from mandatory premium recalculation; and
- (4) Requiring that group mortgage life insurance certificates issued in connection with consolidations contain certain conversion rights.

“§ 58-241.36. Application.

This Article applies to:

- (1) All consolidations, whether the old coverage is provided under an individual or group policy; and
- (2) All mortgage insurance offered, issued, or delivered in this State, by mail or otherwise, in connection with consolidations.

1 **"§ 58-241.37. Definitions.**

2 In this Article, unless the context clearly indicates otherwise:

- 3 (1) 'Consolidation' means any transaction in which a financial institution
4 or servicer makes its premium collection services available to its
5 mortgage debtors in connection with a particular insurer's offer of
6 mortgage insurance, which offer is made to debtors who, immediately
7 prior to the offer, had mortgage insurance with another insurer and
8 were paying premiums for that insurance with their monthly mortgage
9 payments.
- 10 (2) 'Financial institution' or 'servicer' means any entity or organization
11 that services mortgage loans by collecting and accounting for monthly
12 mortgage payments.
- 13 (3) 'Loan Transfer' means a transaction in which the servicing of a block
14 of mortgage loans is transferred from one servicer to another.
- 15 (4) 'Loan Transfer Consolidation' means a consolidation involving debtors
16 whose mortgage loans have been transferred from one servicer to
17 another.
- 18 (5) 'Mortgage' or 'mortgage loan' means an indebtedness which is secured
19 by real estate and which is not subject to North Carolina Insurance
20 Code, Article 32.
- 21 (6) 'Mortgage insurance' means life, accidental death, or disability
22 insurance, or any combination thereof, designed to pay off all or a part
23 of a mortgage loan in the event of the insured's death or disability.
- 24 (7) 'New coverage' or 'new plan' means the mortgage insurance coverage
25 or mortgage insurance plan sponsored by the financial institution in
26 connection with a consolidation.
- 27 (8) 'Old coverage' or 'old plan' means the mortgage insurance coverage or
28 mortgage insurance plan the insured debtor had or participated in
29 immediately prior to the consolidation.

30 **"§ 58-241.38. Consolidations.**

31 (a) No insurer shall participate in any consolidation, other than a loan transfer
32 consolidation, unless it complies with the following requirements:

- 33 (1) The offer of new coverage shall be made to the mortgage debtors not
34 less than 30 days prior to the proposed effective date of the new
35 coverage.
- 36 (2) In conjunction with the offer of new coverage, the new insurer shall
37 disclose in writing to each debtor the following:
- 38 a. That the insured debtor may have the right to continue or
39 convert his old coverage by paying premiums directly to the old
40 insurer;
- 41 b. That the offer of new coverage is not conditioned upon either
42 the termination or replacement of the old coverage;
- 43 c. The name and address of the old and the new insurer;
- 44 d. The effective date of the new coverage;

- e. The beneficiary of the new coverage;
- f. Whether premium rates under the new plan are guaranteed;
- g. Material differences between the new plan and the old plan;
- h. If the debtor is not required to sign an application, that payment of the required premium shall constitute acceptance of the new coverage.

(b) An insurer which fails to comply with subsection (a)(1) of this section shall notify the debtor, in writing, that he has the right to an unconditional refund of all premiums paid for the new coverage provided he exercises that right, in writing, within 30 days from the notification.

(c) Disclosures required under this section may be made on behalf of the new insurer by the financial institution.

"§ 58-241.39. Loan transfer consolidations.

The following provisions apply to loan transfer consolidations:

(a) An offer of new coverage shall be made as soon as reasonably possible after the loan transfer. If an offer of new coverage is not made within 30 days after the loan transfer, or 30 days prior to the proposed effective date of the new coverage, whichever is later, the insurer shall notify the debtor, in writing, that he has the right to an unconditional refund of all premiums paid for the new coverage provided he exercises that right, in writing, within 30 days from the date of the notification.

(b) In conjunction with the offer of new coverage, the new insurer shall disclose in writing to each debtor the following:

- (1) That the insured debtor may have the right to continue or convert his old coverage by paying premiums directly to the old insurer;
- (2) That the offer of new coverage is not conditioned upon either the termination or replacement of the old coverage;
- (3) The name and address of the new insurer;
- (4) The effective date of the new coverage;
- (5) The beneficiary of the new coverage;
- (6) Whether premium rates under the new plan are guaranteed;
- (7) A description of the benefits provided under the new plan;
- (8) If the debtor is not required to sign an application, that payment of the required premium shall constitute acceptance of the new coverage.

(c) Disclosures required under this section may be made on behalf of the new insurer by the new servicer.

"§ 58-241.40. Insurer participation in consolidations.

No insurer shall participate in any consolidation, including loan transfer consolidations, unless it complies with the following requirements:

- (1) A group certificate or individual policy shall be delivered to each debtor insured under the new plan. In addition to all other requirements of this Chapter applicable thereto, the group certificate or individual policy shall include the following information:
 - a. The name or names of the single or joint insureds;
 - b. Identification of the insured mortgage;

- 1 c. The amount of insurance under the new plan;
2 d. The premium for the new coverage;
3 e. The effective date of the new coverage; and
4 f. The beneficiary for the new coverage.
5 (2) No group certificate or individual policy evidencing the new coverage
6 shall include a contestability clause or, in the case of mortgage life
7 insurance, a provision excluding suicide.
8 (3) The new coverage offered to the debtor shall be the same type of
9 coverage as the old coverage.
10 (4) Notwithstanding the provisions of G.S. 58-211(9) all group mortgage
11 life insurance certificates shall include a conversion privilege
12 permitting an insured debtor to convert, without evidence of
13 insurability, to an individual policy of decreasing term insurance
14 within 30 days of the date the insured debtor's group coverage is
15 terminated for any reason other than the nonpayment of premiums.
16 The initial amount of coverage under the individual policy shall be an
17 amount equal to the amount of coverage terminated under the group
18 policy and shall decrease over a term that corresponds with the
19 scheduled term of the insured debtor's mortgage loan. The premium
20 for the individual policy shall be the same premium the insured debtor
21 was paying under the group policy.
22 (5) Whenever the offer of coverage under the new plan is based on the
23 same premium as charged under the old plan, all supplemental benefits
24 provided by the old plan shall be provided by the new plan.
25 (6) Whenever the old coverage is mortgage life insurance which is
26 provided under individual policies, the new coverage shall be
27 effectuated for prospective insureds only after the new insurer receives
28 an application which has been signed by the prospective insured.

29 **"§ 58-241.41. Insurer premium charges.**

30 If an insurer charges debtors the same premium for the new coverage that they
31 were paying for the old coverage, and, as a result, insured debtors of a financial
32 institution are charged different premium rates for the same coverage, such rate
33 differences shall not constitute unfair discrimination under G.S. 58-198 and G.S. 58-
34 54.4(7) of this Chapter, provided all the applicable requirements of this Article are met.

35 **"§ 58-241.42. Policy forms to be approved by the Commissioner.**

36 No policy or group certificate of mortgage insurance used in connection with a
37 consolidation, nor any application, endorsement, or rider which becomes a part of any
38 such policy or certificate, shall be issued or delivered in this State until a copy of the
39 form has been filed with and approved by the Commissioner.

40 **"§ 58-241.43. Commissioner regulatory authority.**

41 The Commissioner shall have the authority to issue regulations to implement this
42 Article in accordance with G.S. 58-9."

43 Sec. 2. This act shall become effective October 1, 1989.