

HOUSE BILL No. 2639

AN ACT concerning mortgage guaranty insurance companies; relating to the requirements on authorized real estate security; amending K.S.A. 40-3502 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 40-3502 is hereby amended to read as follows: 40-3502. As used in this act the following terms shall have the meanings respectively ascribed to them herein:

(a) “Mortgage guaranty insurance company” means any corporation, company, association, reciprocal exchange, persons or partnerships writing contracts of mortgage guaranty insurance and shall be governed by the provisions of this act and the other provisions of chapter 40 of the Kansas Statutes Annotated applicable to companies organized or operating under the provisions of K.S.A. 40-1101 *et seq.*, and amendments thereto, to the extent such other provisions are not inconsistent with the requirements of this act.

(b) “Mortgage guaranty insurance” means and includes: (1) Insurance against financial loss by reason of nonpayment of principal, interest or other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, when the improvement on such real estate is a residential building or a condominium or townhouse unit or buildings designed for occupancy by not more than four families;

(2) insurance against financial loss by reason of nonpayment of principal, interest or other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on real estate, when the improvement on such real estate is a building or buildings designed for occupancy by five or more families or designed to be occupied for industrial or commercial purposes; or

(3) insurance against financial loss by reason of nonpayment of rent or other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real estate, when the improvement on such real estate is a building or buildings designed to be occupied for industrial or commercial purposes.

(c) “Authorized real estate security” means an amortized note, bond or other evidence of indebtedness, not exceeding ~~(100%)~~ 105% of the fair market value of the real estate, secured by a mortgage, deed of trust, or other instrument which constitutes, or is equivalent to, a first lien or charge on real estate, when: (1) The real estate loan secured in such manner is one of a type which a bank, savings and loan association, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make, or would be authorized to make, disregarding any requirement applicable to such an institution that the amount of the loan not exceed a certain percentage of the value of the real estate;

(2) the improvement on such real estate is a building or buildings designed for occupancy as specified by paragraphs (1) or (2) of subsection (b); and

(3) the lien on such real estate may be subject to and subordinate to the following:

(i) The lien of any public bond, assessment or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent; and

(ii) outstanding mineral, oil, water or timber rights, rights-of-way, easements or rights-of-way of support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

(d) “Contingency reserve” means an additional premium reserve established to protect policyholders against the effect of adverse economic cycles.

(e) “Single risk” means the insurance provided with respect to each separate loan or lease covered by an individual policy of mortgage guaranty insurance or an individual certificate issued pursuant to K.S.A. 40-3511, and amendments thereto.

Sec. 2. K.S.A. 40-3502 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.