

7399

I N   S E N A T E

April 7, 2010

---

Introduced by Sen. PERALTA -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT to amend the banking law, in relation to directing licensed mortgage bankers and authorized mortgage loan originators to provide mortgage applicants with a mortgage bill of rights pamphlet on residential mortgages

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The banking law is amended by adding a new section 35 to  
2 read as follows:

3     S 35. INFORMATION PAMPHLET FOR RESIDENTIAL MORTGAGE APPLICANTS.     1.  
4 THE SUPERINTENDENT OF BANKS SHALL DEVELOP A PAMPHLET KNOWN AS "THE MORT-  
5 GAGE APPLICANT'S BILL OF RIGHTS" AND POST SUCH PAMPHLET ON THE BANKING  
6 DEPARTMENT'S INTERNET WEBSITE. COPIES OF SUCH PAMPHLET SHALL BE PROVIDED  
7 TO ALL LICENSED LENDERS AND BANKING ORGANIZATIONS OFFERING RESIDENTIAL  
8 MORTGAGE SERVICES. A COPY OF SUCH PAMPHLET SHALL BE PROVIDED BY  
9 LICENSED LENDERS AND BANKING ORGANIZATIONS TO EACH PERSON BEFORE SUCH  
10 PERSON ENTERS INTO AN APPLICATION FOR A LOAN SECURED BY A MORTGAGE UPON  
11 RESIDENTIAL REAL PROPERTY. FURTHERMORE, SUCH LICENSED LENDER AND BANKING  
12 ORGANIZATION SHALL NOT ACCEPT AN APPLICATION FOR A RESIDENTIAL MORTGAGE  
13 UNTIL THE PERSON OR PERSONS APPLYING FOR A MORTGAGE HAVE BEEN PROVIDED A  
14 COPY OF THE BOOKLET AND ACKNOWLEDGED RECEIPT OF IT IN WRITING. EVERY  
15 LICENSED LENDER AND BANKING ORGANIZATION SHALL MAINTAIN SUCH ACKNOWLEDGEMENT  
16 ALONG WITH THE APPLICANT'S MORTGAGE LOAN DOCUMENTS.

17     2. THE PAMPHLET AND WEBSITE NOTICE DEVELOPED PURSUANT TO THIS SECTION  
18 SHALL INCLUDE THE FOLLOWING, ALONG WITH OTHER INFORMATION ADDED AT THE  
19 DISCRETION OF THE SUPERINTENDENT NOT OTHERWISE INCONSISTENT WITH THE  
20 INFORMATION SET FORTH IN THE PAMPHLET:

21     "BILL OF RIGHTS FOR RESIDENTIAL MORTGAGE APPLICANTS  
22 AS AN APPLICANT FOR A RESIDENTIAL MORTGAGE YOU HAVE THE RIGHT TO:

23     1. COMPARE THE CHARGES OF DIFFERENT MORTGAGE BROKERS AND LENDERS TO  
24 OBTAIN THE BEST LOAN POSSIBLE.

25     2. ASK YOUR MORTGAGE BROKER TO EXPLAIN HIS OR HER RESPONSIBILITIES  
26 WITHIN THE MORTGAGE LENDING PROCESS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD00046-11-0

1 3. KNOW HOW MUCH THE MORTGAGE BROKER IS COMPENSATED BY YOU AND THE  
2 LENDER FOR YOUR LOAN.

3 4. A CLEAR AND TRUTHFUL EXPLANATION OF THE TERMS AND CONDITIONS OF THE  
4 LOAN.

5 5. KNOW IF THE LOAN BEING OFFERED IS A FIXED OR ADJUSTABLE RATE MORT-  
6 GAGE LOAN, KNOW THE EXACT AMOUNT OF YOUR MONTHLY LOAN PAYMENTS, INCLUD-  
7 ING ANY PROJECTED ESCROW PAYMENTS, KNOW THE FINAL ANNUAL PERCENTAGE RATE  
8 (APR) AND THE AMOUNT OF REGULAR PAYMENTS AT THE LOAN'S CLOSING.

9 6. ASK FOR A GOOD FAITH ESTIMATE OF ALL LOAN AND SETTLEMENT CHARGES  
10 BEFORE YOU AGREE TO THE LOAN AND PAY ANY FEES, SUCH AS LOAN APPLICATION  
11 FEES, TITLE SEARCH AND INSURANCE FEES, LENDER'S ATTORNEY FEES, PROPERTY  
12 APPRAISAL CHARGES, INSPECTIONS, RECORDING FEES, TRANSFER TAXES, POINT  
13 AND ORIGATION FEES, AND ESCROW ACCOUNT BALANCES.

14 7. OBTAIN CREDIT COUNSELING BEFORE CLOSING A LOAN.

15 8. DECIDE WHETHER OR NOT TO FINANCE ANY PORTION OF THE POINTS OR FEES.

16 9. REFUSE TO PURCHASE CREDIT INSURANCE FOR ANY MORTGAGE LOAN.

17 10. HAVE YOUR PROPERTY APPRAISED BY AN INDEPENDENT LICENSED PROFES-  
18 SIONAL AND TO RECEIVE A COPY OF THE APPRAISAL.

19 11. NOT BE SUBJECT TO DECEPTIVE MARKETING PRACTICES.

20 12. ASK FOR THE HUD SETTLEMENT COSTS BOOKLET, "BUYING YOUR HOME".

21 13. RECEIVE THE FOLLOWING DOCUMENTS, AND EVERY DOCUMENT OTHERWISE  
22 REQUIRED TO BE GIVEN TO YOU AT CLOSING UNDER FEDERAL AND NEW YORK STATE  
23 LAW:

24 A. GOOD FAITH ESTIMATE

25 B. TRUTH IN LENDING

26 C. HUD-1 STATEMENT

27 14. KNOW WHAT FEES ARE NOT REFUNDABLE IF YOU DECIDE TO CANCEL THE LOAN  
28 AGREEMENT.

29 15. RECEIVE IN WRITING THE REASON FOR THE DENIAL OR CONDITIONAL  
30 APPROVAL OF YOUR LOAN APPLICATION.

31 16. IF REFINANCING, YOU MAY CANCEL A LOAN WITHIN THREE DAYS OF THE  
32 CLOSING BY PROVIDING WRITTEN NOTIFICATION OF CANCELLATION TO THE  
33 LICENSED LENDER OR BANKING INSTITUTION.

34 17. RECEIVE THE HUD-1 DOCUMENT ONE DAY BEFORE THE CLOSING TAKES PLACE.

35 18. HAVE ANY LENDING DISPUTES RESOLVED IN A FAIR AND EQUITABLE MANNER.

36 19. A CREDIT DECISION THAT IS NOT BASED UPON YOUR RACE, COLOR,  
37 NATIONAL ORIGIN, RELIGION, SEX, FAMILY STATUS, SEXUAL ORIENTATION, DISA-  
38 BILITY OR WHETHER ANY INCOME IS FROM PUBLIC ASSISTANCE.

39 20. FILE A COMPLAINT WITH THE NEW YORK STATE BANKING DEPARTMENT IF YOU  
40 BELIEVE THAT A MORTGAGE BROKER OR ANY OTHER ENTITY LICENSED BY THE BANK-  
41 ING DEPARTMENT HAS VIOLATED ANY RULES, REGULATIONS OR LAWS WHICH GOVERN  
42 HIS OR HER CONDUCT IN WORKING WITH YOU TO GET OR PROCESS A MORTGAGE  
43 LOAN.

44 21. FILE A COMPLAINT WITH THE NEW YORK STATE DEPARTMENT OF STATE IF  
45 YOU BELIEVE THAT A REAL ESTATE BROKER HAS VIOLATED ANY RULES, REGU-  
46 LATIONS OR LAW WHICH GOVERNS HIS OR HER CONDUCT IN WORKING WITH YOU TO  
47 PURCHASE A HOME."

48 S 2. This act shall take effect on the one hundred twentieth day after  
49 it shall have become a law; provided that, effective immediately, any  
50 and all actions necessary to implement the provisions of this act on its  
51 effective date are authorized and directed to be completed on or before  
52 such date.