S T A T E O F N E W Y O R K

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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

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:

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

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

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

"BILL OF RIGHTS FOR RESIDENTIAL MORTGAGE APPLICANTS

AS AN APPLICANT FOR A RESIDENTIAL MORTGAGE YOU HAVE THE RIGHT TO:

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

LBD03298-01-1

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

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

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

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

5. KNOW IF THE LOAN BEING OFFERED IS A FIXED OR ADJUSTABLE RATE MORTGAGE LOAN, KNOW THE EXACT AMOUNT OF YOUR MONTHLY LOAN PAYMENTS, INCLUDING ANY PROJECTED ESCROW PAYMENTS, KNOW THE FINAL ANNUAL PERCENTAGE RATE (APR) AND THE AMOUNT OF REGULAR PAYMENTS AT THE LOAN'S CLOSING.

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

7. OBTAIN CREDIT COUNSELING BEFORE CLOSING A LOAN.

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

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

10. HAVE YOUR PROPERTY APPRAISED BY AN INDEPENDENT LICENSED PROFESSIONAL AND TO RECEIVE A COPY OF THE APPRAISAL.

11. NOT BE SUBJECT TO DECEPTIVE MARKETING PRACTICES.

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

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

A. GOOD FAITH ESTIMATE

B. TRUTH IN LENDING

C. HUD-1 STATEMENT

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

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

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

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

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

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

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

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

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