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886

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011
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Introduced by Sen. KRUEGER -- 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 prohibiting compensation
   based on the terms of a home loan by mortgage brokers and mortgage
   lenders

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

 1   Section 1. Section 590-b of the banking law is amended by adding a new
 2 subdivision 3-a to read as follows:
 3   3-A. IN CONNECTION WITH THE MAKING OR BROKERING OF A HOME LOAN, NO
 4 PERSON MAY PROVIDE, AND NO MORTGAGE BROKER OR MORTGAGE LENDER MAY
 5 RECEIVE, DIRECTLY OR INDIRECTLY, ANY COMPENSATION THAT IS BASED ON, OR
 6 VARIES WITH, THE TERMS OF ANY HOME LOAN. THIS SUBDIVISION SHALL NOT
 7 PROHIBIT COMPENSATION BASED ON THE PRINCIPAL BALANCE OF THE LOAN.
 8   S 2. Paragraph (s) of subdivision 2 of section 6-l of the banking law,
 9 as amended by chapter 507 of the laws of 2009, is amended to read as
10 follows:
11   (s) No [abusive] yield spread premiums. [In arranging a high-cost home
12 loan, the mortgage broker shall, within three days after receipt of an
13 application, disclose the exact amount and methodology of total compen-
14 sation that the broker will receive. Such amount may be paid as direct
15 compensation from the lender, direct compensation from the borrower, or
16 a combination of the two if permitted by applicable law. The provisions
17 of this paragraph shall not restrict the ability of a borrower to
18 utilize a yield spread premium in order to offset any up front costs by
19 accepting a higher interest rate if permitted by applicable law. If the
20 borrower chooses this option, any compensation from the lender that
21 exceeds the amount of total compensation owed to the broker must be
22 credited to the borrower. The superintendent shall prescribe the form
23 that such disclosure shall take. This provision shall not restrict a

         EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
                      [ ] is old law to be omitted.
                                                          LBD03866-01-1

 1 broker from accepting a lesser amount of compensation.] IN CONNECTION
 2 WITH THE MAKING OR BROKERING OF A HOME LOAN, NO PERSON MAY PROVIDE, AND
 3 NO MORTGAGE BROKER OR MORTGAGE LENDER MAY RECEIVE, DIRECTLY OR INDIRECT-
 4 LY, ANY COMPENSATION THAT IS BASED ON, OR VARIES WITH, THE TERMS OF ANY
 5 HOME LOAN. THIS PARAGRAPH SHALL NOT PROHIBIT COMPENSATION BASED ON THE
 6 PRINCIPAL BALANCE OF THE LOAN.
 7   S 3. Paragraph (n) of subdivision 2 of section 6-m of the banking law,
 8 as amended by chapter 507 of the laws of 2009, is amended to read as
 9 follows:
10   (n) No [abusive] yield spread premiums. [In arranging a subprime home
11 loan, the mortgage broker shall, within three days after receipt of an
12 application, disclose the exact amount and methodology for determining
13 the total compensation that the broker will receive. Such amount may be
14 paid as direct compensation from the lender, direct compensation from
15 the borrower, or a combination of the two if permitted by applicable
16 law. The provisions of this paragraph shall not restrict the ability of
17 a borrower to utilize a yield spread premium in order to offset any
18 upfront costs by accepting a higher interest rate if permitted by appli-
19 cable law. If the borrower chooses this option, any compensation from
20 the lender that exceeds the exact amount of total compensation owed to
21 the broker must be credited to the borrower. The superintendent shall
22 prescribe the form that such disclosure shall take. This paragraph shall
23 not restrict a broker from accepting a lesser amount of compensation.]
24 IN CONNECTION WITH THE MAKING OR BROKERING OF A HOME LOAN, NO PERSON MAY
25 PROVIDE, AND NO MORTGAGE BROKER OR MORTGAGE LENDER MAY RECEIVE, DIRECTLY
26 OR INDIRECTLY, ANY COMPENSATION THAT IS BASED ON, OR VARIES WITH, THE
27 TERMS OF ANY HOME LOAN. THIS PARAGRAPH SHALL NOT PROHIBIT COMPENSATION
28 BASED ON THE PRINCIPAL BALANCE OF THE LOAN.
29   S 4. This act shall take effect immediately.