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

3903--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. BENJAMIN -- read once and referred to the Committee on Banks -- recommitted to the Committee on Banks in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to requiring all mortgage brokers to be licensed, establishes certain educational requirements through rules and regulations promulgated by the banking board, and directs and authorizes the superintendent to establish a mortgage broker licensing exam

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

Section 1. Paragraph (a) of subdivision 2 and subdivision 3 of section 590 of the banking law, as amended by chapter 472 of the laws of 2008, paragraph (c) of subdivision 3 as added and paragraphs (d) and (e) of subdivision 3 as relettered by chapter 507 of the laws of 2009, are amended to read as follows:

(a) No person, partnership, association, corporation or other entity shall engage in the business of making [five or more] mortgage loans in any one calendar year without first obtaining a license from the superintendent in accordance with the licensing procedure provided in this article and such regulations as may be promulgated by the banking board or prescribed by the superintendent. The licensing provisions of this subdivision shall not apply to any exempt organization nor to any entity or entities which shall be exempted in accordance with regulations promulgated by the banking board hereunder.

3. Rules and regulations. In addition to such powers as may otherwise be prescribed by this chapter, the banking board is hereby authorized and empowered to promulgate such rules and regulations as may in the judgement of the banking board be consistent with the purposes of this article, or appropriate for the effective administration of this article, including, but not limited to:

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

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(a) Such rules and regulations in connection with the activities of mortgage brokers, mortgage bankers, mortgage loan servicers and exempt organizations as may be necessary and appropriate for the protection of consumers in this state;

(b) Such rules and regulations as may be necessary and appropriate to define improper or fraudulent business practices in connection with the activities of mortgage brokers, mortgage bankers, mortgage loan servicers and exempt organizations in making mortgage loans;

(c) Such rules and regulations under this article regarding the origination, sale or servicing of manufactured home loans as may be necessary and appropriate for the protection of consumers;

(d) Such rules and regulations [as may define the terms used in this article and as may be necessary and appropriate to interpret and implement the provisions of this article] ESTABLISHING MINIMUM EDUCATIONAL REQUIREMENTS FOR ALL MORTGAGE BROKERS; and

(e) Such rules and regulations as may be necessary for the enforcement of this article.

The banking board is hereby authorized and empowered to make such specific rulings, demands and findings as it may deem necessary for the proper conduct of the mortgage lending industry.

S 2. Subdivision 1 of section 592-a of the banking law, as amended by section 18 of part D1 of chapter 109 of the laws of 2006, is amended to read as follows:

1. Upon the filing of an application for registration, if the superintendent shall find that the APPLICANT HAS MET ALL EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE BANKING BOARD, HAS FURNISHED PROOF THAT THE APPLICANT HAS PASSED THE LICENSING EXAMINATION FOR MORTGAGE BROKERS ESTABLISHED BY THIS ARTICLE, AND THAT THE financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant is a co-partnership or association, and of the officers and directors thereof if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article, the superintendent shall thereupon register the applicant as a mortgage broker on a roll maintained for that purpose at the banking department, and issue a certificate attesting to such registration in duplicate. If the superintendent shall not so find, the superintendent shall not register such applicant, and shall notify the applicant of the denial. The superintendent shall transmit one copy of such certificate to the applicant and file another in the office of the banking department. Upon receipt of such certificate a mortgage broker shall be authorized to engage in the business of placing, processing and negotiating mortgage loans. Such registration shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as hereinafter provided, except that such registration, notwithstanding any provisions of subdivision five of section seventeen of this chapter to the contrary, shall expire upon the registrant's failure to pay the required assessment charged pursuant to such section seventeen thirty days after the date or dates such payment or payments are due. If the registrant fails to pay such charged assessment by the date or dates such payment or payments are due, then the registrant shall be required to pay, in addition, a late fee in the amount of one hundred dollars. Such registration shall be reinstated if the registrant pays such assessment charged and any applicable late fees and/or interest within sixty days of such expiration. The superintendent shall approve or deny every application for registration hereunder with-

in ninety days from the filing of a complete application provided, however, that failure to act within the prescribed period shall not be deemed approval of any such application.

S 3. The banking law is amended by adding a new section 592-b to read as follows:

S 592-B. MORTGAGE BROKER LICENSING EXAMINATION. THE SUPERINTENDENT IS HEREBY DIRECTED AND AUTHORIZED TO ESTABLISH A MORTGAGE BROKER LICENSING EXAMINATION AND SHALL PROMULGATE RULES AND REGULATIONS REGARDING SUCH EXAMINATION, INCLUDING BUT NOT LIMITED TO THE TIME, DATE AND MANNER IN WHICH SUCH EXAMINATION SHALL BE GIVEN.

S 4. This act shall take effect immediately.