

3956

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

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

AN ACT to amend the banking law and the real property law, in relation
to alternative mortgage instruments and graduated payment mortgages

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

1 Section 1. Legislative intent. The legislature finds that the banking
2 law does not adequately protect homeowners and lending institutions from
3 the delinquency and foreclosure problems associated with adjustable rate
4 mortgages. It is the intent of this act to create stricter requirements
5 for lending institutions offering adjustable rate mortgages. The legis-
6 lature further declares that such lending institutions shall be required
7 to limit initial interest rate discounts and interest rate increases,
8 provide lifetime and annual caps on interest rate increases, limit nega-
9 tive amortization and prohibit the marketing of graduated payment
10 adjustable rate mortgages for one to six family residences. These
11 requirements are the same as protections already required by the Federal
12 National Mortgage Association.

13 S 2. Subdivision 1 of section 6-f of the banking law, as amended by
14 chapter 1 of the laws of 1983, is amended to read as follows:

15 1. Notwithstanding any inconsistent provision of this chapter or any
16 other law of this state, the banking board is authorized to adopt such
17 rules or regulations as shall permit banks, trust companies, foreign
18 banking corporations licensed to maintain a branch or agency in this
19 state, savings banks, savings and loan associations, credit unions and
20 persons and entities engaging in the business described in section five
21 hundred ninety [of article twelve-d] of this chapter to make residential
22 mortgage loans and cooperative apartment unit loans which provide for
23 (a) periodic readjustments of the rate of interest charged for the loan
24 or successive terms of the loan or (b) terms of loan which are shorter
25 than the term of the mortgage or (c) repayment of the principal amount

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

LBD09202-01-9

1 of the loan by regular payments which are not equal in amount throughout
2 the term of the mortgage or (d) any combination of paragraphs (a), (b)
3 and (c) [above] OF THIS SUBDIVISION, subject to the provisions of subdivi-
4 sion two of this section, PROVIDED THAT SUCH LOANS COMPLY WITH THE
5 FOLLOWING REQUIREMENTS:

6 (I) INITIAL INTEREST RATE DISCOUNTS SHALL BE LIMITED TO NOT MORE THAN
7 TWO AND ONE-HALF PERCENT BELOW AN INDEX THAT MEASURES THE RATE OF
8 INFLATION WHICH IS READILY AVAILABLE TO AND VERIFIABLE BY THE BORROWER
9 AND IS BEYOND THE CONTROL OF THE LENDING INSTITUTION;

10 (II) INTEREST RATE INCREASES SHALL BE LIMITED TO NOT MORE THAN THREE
11 PERCENT ABOVE AN INDEX THAT MEASURES THE RATE OF INFLATION WHICH IS
12 READILY AVAILABLE TO AND VERIFIABLE BY THE BORROWER AND IS BEYOND THE
13 CONTROL OF THE LENDING INSTITUTION;

14 (III) LIFETIME AND ANNUAL CAPS ON INTEREST RATE INCREASES SHALL BE
15 INCLUDED; AND

16 (IV) NEGATIVE AMORTIZATION SHALL BE LIMITED TO ONE HUNDRED TEN PERCENT
17 OF THE AMOUNT OF THE LOAN.

18 S 3. Subdivision 5 of section 279 of the real property law, as added
19 by chapter 15 of the laws of 1980, is amended to read as follows:

20 5. The provisions of this section shall be applicable only [to a
21 mortgage on real property improved by a one to six family residence
22 given by a natural person to secure a loan or] to any agreement or note
23 made by a natural person in pursuance of any loan for the purpose of
24 financing the purchase of or refinancing an existing ownership interest
25 in certificates of stock or other evidence of an ownership interest in,
26 and a proprietary lease from, a corporation or partnership formed for
27 the purpose of the cooperative ownership of real estate, unsecured
28 except to the extent of an assignment or transfer of the stock certif-
29 icates or other evidence of ownership interest of the borrower and the
30 proprietary lease within ninety days from the making of the loan which
31 would otherwise conform to the provisions of this section but is not
32 otherwise entitled to be recorded as a mortgage.

33 S 4. This act shall take effect on the thirtieth day after it shall
34 have become a law and shall apply with respect to any residential mort-
35 gage loan or cooperative apartment unit loans commitment for which is
36 extended or made on or after such effective date.