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

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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

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

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

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

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

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

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

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

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

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

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