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I N S E N A T E

March 29, 2010

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:

1 Section 1. The banking law is amended by adding a new section 35 to
2 read as follows:
3 S 35. INFORMATION PAMPHLET FOR RESIDENTIAL MORTGAGE APPLICANTS. 1.
4 THE SUPERINTENDENT SHALL DEVELOP A PAMPHLET KNOWN AS "THE MORTGAGE
5 APPLICANT'S BILL OF RIGHTS" AND POST SUCH PAMPHLET ON THE BANKING
6 DEPARTMENT'S WEBSITE. COPIES OF SUCH PAMPHLET SHALL BE PROVIDED TO ALL
7 LICENSED LENDERS AND BANKING ORGANIZATIONS OFFERING RESIDENTIAL MORTGAGE
8 SERVICES. A COPY OF SUCH PAMPHLET SHALL BE PROVIDED BY LICENSED LENDERS
9 AND BANKING ORGANIZATIONS TO EACH PERSON BEFORE SUCH PERSON ENTERS INTO
10 AN APPLICATION FOR A LOAN SECURED BY A MORTGAGE UPON RESIDENTIAL REAL
11 ESTATE. FURTHERMORE, SUCH LICENSED LENDER AND BANKING ORGANIZATION SHALL
12 NOT ACCEPT AN APPLICATION FOR A RESIDENTIAL MORTGAGE UNTIL THE PERSON OR
13 PERSONS APPLYING FOR A MORTGAGE HAVE BEEN PROVIDED A COPY OF THE BOOKLET
14 AND ACKNOWLEDGED RECEIPT OF IT IN WRITING. EVERY LICENSED LENDER AND
15 BANKING ORGANIZATION SHALL MAINTAIN SUCH ACKNOWLEDGEMENT ALONG WITH THE
16 APPLICANT'S MORTGAGE LOAN DOCUMENTS.
17 2. THE PAMPHLET AND WEBSITE NOTICE DEVELOPED PURSUANT TO THIS SECTION
18 SHALL INCLUDE THE FOLLOWING, ALONG WITH OTHER INFORMATION ADDED AT THE
19 DISCRETION OF THE SUPERINTENDENT NOT OTHERWISE INCONSISTENT WITH THE
20 INFORMATION SET FORTH IN THE PAMPHLET:
21 "BILL OF RIGHTS FOR RESIDENTIAL MORTGAGE APPLICANTS
22 AS AN APPLICANT FOR A RESIDENTIAL MORTGAGE YOU HAVE THE RIGHT TO:
23 1. COMPARE THE CHARGES OF DIFFERENT MORTGAGE BROKERS AND LENDERS TO
24 OBTAIN THE BEST LOAN POSSIBLE.
25 2. ASK YOUR MORTGAGE BROKER TO EXPLAIN HIS OR HER RESPONSIBILITIES
26 WITHIN THE MORTGAGE LENDING PROCESS.

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

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

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

5 5. KNOW IF THE LOAN BEING OFFERED IS A FIXED OR ADJUSTABLE RATE MORT-
6 GAGE LOAN, KNOW THE EXACT AMOUNT OF YOUR MONTHLY LOAN PAYMENTS, INCLUD-
7 ING ANY PROJECTED ESCROW PAYMENTS, KNOW THE FINAL ANNUAL PERCENTAGE RATE
8 (APR) AND THE AMOUNT OF REGULAR PAYMENTS AT THE LOAN'S CLOSING.

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

14 7. OBTAIN CREDIT COUNSELING BEFORE CLOSING A LOAN.

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

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

17 10. HAVE YOUR PROPERTY APPRAISED BY AN INDEPENDENT LICENSED PROFES-
18 SIONAL AND TO RECEIVE A COPY OF THE APPRAISAL.

19 11. NOT BE SUBJECT TO DECEPTIVE MARKETING PRACTICES.

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

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

24 A. GOOD FAITH ESTIMATE

25 B. TRUTH IN LENDING

26 C. HUD-1 STATEMENT

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

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

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

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

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

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

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

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

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