

7669

I N   S E N A T E

April 29, 2010

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Introduced by Sen. SCHNEIDERMAN -- 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 6-1 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  
24    broker from accepting a lesser amount of compensation.] IN CONNECTION  
25    WITH THE MAKING OR BROKERING OF A HOME LOAN, NO PERSON MAY PROVIDE, AND  
26    NO MORTGAGE BROKER OR MORTGAGE LENDER MAY RECEIVE, DIRECTLY OR INDIRECT-  
27    LY, ANY COMPENSATION THAT IS BASED ON, OR VARIES WITH, THE TERMS OF ANY

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

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1 HOME LOAN. THIS PARAGRAPH SHALL NOT PROHIBIT COMPENSATION BASED ON THE  
2 PRINCIPAL BALANCE OF THE LOAN.

3 S 3. Paragraph (n) of subdivision 2 of section 6-m of the banking law,  
4 as amended by chapter 507 of the laws of 2009, is amended to read as  
5 follows:

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

25 S 4. This act shall take effect immediately.