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

5407

2011-2012 Regular Sessions

I N A S S E M B L Y

February 18, 2011

Introduced by M. of A. TOWNS -- read once and referred 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 590-b of the banking law is amended by adding a new subdivision 3-a to read as follows:

3-A. IN CONNECTION WITH THE MAKING OR BROKERING OF A HOME LOAN, NO PERSON MAY PROVIDE, AND NO MORTGAGE BROKER OR MORTGAGE LENDER MAY RECEIVE, DIRECTLY OR INDIRECTLY, ANY COMPENSATION THAT IS BASED ON, OR VARIES WITH, THE TERMS OF ANY HOME LOAN. THIS SUBDIVISION SHALL NOT PROHIBIT COMPENSATION BASED ON THE PRINCIPAL BALANCE OF THE LOAN.

S 2. Paragraph (s) of subdivision 2 of section 6-l of the banking law, as amended by chapter 507 of the laws of 2009, is amended to read as follows:

(s) No [abusive] yield spread premiums. [In arranging a high-cost home loan, the mortgage broker shall, within three days after receipt of an application, disclose the exact amount and methodology of total compensation that the broker will receive. Such amount may be paid as direct compensation from the lender, direct compensation from the borrower, or a combination of the two if permitted by applicable law. The provisions of this paragraph shall not restrict the ability of a borrower to utilize a yield spread premium in order to offset any up front costs by accepting a higher interest rate if permitted by applicable law. If the borrower chooses this option, any compensation from the lender that exceeds the amount of total compensation owed to the broker must be credited to the borrower. The superintendent shall prescribe the form that such disclosure shall take. This provision shall not restrict a broker from accepting a lesser amount of compensation.] IN CONNECTION

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

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WITH THE MAKING OR BROKERING OF A HOME LOAN, NO PERSON MAY PROVIDE, AND NO MORTGAGE BROKER OR MORTGAGE LENDER MAY RECEIVE, DIRECTLY OR INDIRECTLY, ANY COMPENSATION THAT IS BASED ON, OR VARIES WITH, THE TERMS OF ANY HOME LOAN. THIS PARAGRAPH SHALL NOT PROHIBIT COMPENSATION BASED ON THE PRINCIPAL BALANCE OF THE LOAN.

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

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

S 4. This act shall take effect immediately.