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

5144

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sens. FARLEY, GRIFFO -- 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 applications for a license to engage in the business of mortgage banking and to register as a mortgage broker

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

Section 1. Subdivision 2 of section 592 of the banking law, as amended by chapter 472 of the laws of 2008, is amended to read as follows:

2. [The] NOTWITHSTANDING ANY OTHER LAW, THE superintendent [may refuse to] SHALL NOT issue a license pursuant to this article if he or she shall find that the applicant, or any person who is a director, officer, partner, agent, employee, substantial stockholder of the applicant, consultant or person having a relationship with the applicant similar to a consultant, (a) has been convicted of [a crime involving an activity which is a felony under this chapter or under article one hundred fifty-five, one hundred seventy, one hundred seventy-five, one hundred seventy-six, one hundred eighty, one hundred eighty-five, one hundred eighty-seven, one hundred ninety, two hundred, two hundred ten or four hundred seventy of the penal law or any comparable felony under the laws of any other state or the United States, provided that such crime would be a felony if committed and prosecuted under the laws of this state] OR PLED NOLO CONTENDERE TO, A FELONY IN A DOMESTIC, FOREIGN, OR MILITARY COURT DURING THE SEVEN-YEAR PERIOD PRECEDING THE DATE OF THE APPLICATION FOR LICENSING OR AT ANY TIME PRECEDING SUCH DATE OF APPLICATION, IF SUCH FELONY INVOLVED AN ACT OF FRAUD, DISHONESTY, OR A BREACH OF TRUST, OR MONEY LAUNDERING or (b) has had a MORTGAGE BANKER license [or], MORTGAGE BROKER registration OR MORTGAGE LOAN ORIGINATOR AUTHORIZATION, LICENSE OR LICENSE EQUIVALENT revoked [by the superintendent] IN ANY GOVERNMENTAL JURISDICTION, EXCEPT THAT A SUBSEQUENT FORMAL VACATION OF SUCH REVOCATION SHALL NOT BE DEEMED TO BE A REVOCATION or (c) has been a

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

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director, partner, or substantial stockholder of an entity which has had a license or registration revoked by the superintendent or (d) has been an agent, employee or officer of an entity, or a consultant to, or person having had a similar relationship with, any entity which has had a license or registration revoked by the superintendent where such person shall have been found by the superintendent to bear responsibility in connection with the revocation. The term "substantial stockholder", as used in this subdivision, shall be deemed to refer to a person owning or controlling directly or indirectly ten [per centum] PERCENT or more of the total outstanding stock of a corporation.

S 2. Subdivision 2 of section 592-a of the banking law, as amended by chapter 472 of the laws of 2008, is amended to read as follows:

2. [The] NOTWITHSTANDING ANY OTHER LAW, THE superintendent [may refuse to] SHALL NOT issue a certificate pursuant to this article if he or she shall find that the applicant, or any person who is a director, officer, partner, agent, employee, substantial stockholder of the applicant, consultant or person having a relationship with the applicant similar to a consultant, (a) has been convicted of [a crime involving an activity which is a felony under this chapter or under article one hundred fifty-five, one hundred seventy, one hundred seventy-five, one hundred seventy-six, one hundred eighty, one hundred eighty-five, one hundred eighty-seven, one hundred ninety, two hundred, two hundred ten or four hundred seventy of the penal law or any comparable felony under the laws of any other state or the United States, provided that such crime would be a felony if committed and prosecuted under the laws of this state] IN A DOMESTIC, FOREIGN, OR MILITARY COURT OR PLED NOLO CONTENDERE TO, A FELONY DURING THE SEVEN-YEAR PERIOD PRECEDING THE DATE OF THE APPLICATION FOR LICENSING OR AT ANY TIME PRECEDING SUCH DATE OF APPLICATION, IF SUCH FELONY INVOLVED AN ACT OF FRAUD, DISHONESTY, OR A BREACH OF TRUST, OR MONEY LAUNDERING or (b) has had a MORTGAGE BANKER license [or], MORTGAGE BROKER registration OR MORTGAGE LOAN ORIGINATOR AUTHORIZATION, LICENSE OR LICENSE EQUIVALENT revoked [by the superintendent] IN ANY GOVERNMENTAL JURISDICTION, EXCEPT THAT A SUBSEQUENT FORMAL VACATION OF SUCH REVOCATION SHALL NOT BE DEEMED TO BE A REVOCATION or (c) has been a director, partner, or substantial stockholder of an entity which has had a license or registration revoked by the superintendent or (d) has been an agent, employee or officer of an entity, or a consultant to, or person having had a similar relationship with, any entity which has had a license or registration revoked by the superintendent where such person shall have been found by the superintendent to bear responsibility in connection with the revocation. The term "substantial stockholder", as used in this subdivision, shall be deemed to refer to a person owning or controlling directly or indirectly ten [per centum] PERCENT or more of the total outstanding stock of a corporation.

S 3. This act shall take effect immediately.