

132

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

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 OF BANKS SHALL DEVELOP A PAMPHLET KNOWN AS "THE MORT-
5 GAGE APPLICANT'S BILL OF RIGHTS" AND POST SUCH PAMPHLET ON THE BANKING
6 DEPARTMENT'S INTERNET WEBSITE. COPIES OF SUCH PAMPHLET SHALL BE PROVIDED
7 TO ALL LICENSED LENDERS AND BANKING ORGANIZATIONS OFFERING RESIDENTIAL
8 MORTGAGE SERVICES. A COPY OF SUCH PAMPHLET SHALL BE PROVIDED BY
9 LICENSED LENDERS AND BANKING ORGANIZATIONS TO EACH PERSON BEFORE SUCH
10 PERSON ENTERS INTO AN APPLICATION FOR A LOAN SECURED BY A MORTGAGE UPON
11 RESIDENTIAL REAL PROPERTY. FURTHERMORE, SUCH LICENSED LENDER AND BANKING
12 ORGANIZATION SHALL NOT ACCEPT AN APPLICATION FOR A RESIDENTIAL MORTGAGE
13 UNTIL THE PERSON OR PERSONS APPLYING FOR A MORTGAGE HAVE BEEN PROVIDED A
14 COPY OF THE BOOKLET AND ACKNOWLEDGED RECEIPT OF IT IN WRITING. EVERY
15 LICENSED LENDER AND BANKING ORGANIZATION SHALL MAINTAIN SUCH ACKNOWLEDGEMENT
16 ALONG WITH THE 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:

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

LBD03298-01-1

1 1. COMPARE THE CHARGES OF DIFFERENT MORTGAGE BROKERS AND LENDERS TO
2 OBTAIN THE BEST LOAN POSSIBLE.
3 2. ASK YOUR MORTGAGE BROKER TO EXPLAIN HIS OR HER RESPONSIBILITIES
4 WITHIN THE MORTGAGE LENDING PROCESS.
5 3. KNOW HOW MUCH THE MORTGAGE BROKER IS COMPENSATED BY YOU AND THE
6 LENDER FOR YOUR LOAN.
7 4. A CLEAR AND TRUTHFUL EXPLANATION OF THE TERMS AND CONDITIONS OF THE
8 LOAN.
9 5. KNOW IF THE LOAN BEING OFFERED IS A FIXED OR ADJUSTABLE RATE MORT-
10 GAGE LOAN, KNOW THE EXACT AMOUNT OF YOUR MONTHLY LOAN PAYMENTS, INCLUD-
11 ING ANY PROJECTED ESCROW PAYMENTS, KNOW THE FINAL ANNUAL PERCENTAGE RATE
12 (APR) AND THE AMOUNT OF REGULAR PAYMENTS AT THE LOAN'S CLOSING.
13 6. ASK FOR A GOOD FAITH ESTIMATE OF ALL LOAN AND SETTLEMENT CHARGES
14 BEFORE YOU AGREE TO THE LOAN AND PAY ANY FEES, SUCH AS LOAN APPLICATION
15 FEES, TITLE SEARCH AND INSURANCE FEES, LENDER'S ATTORNEY FEES, PROPERTY
16 APPRAISAL CHARGES, INSPECTIONS, RECORDING FEES, TRANSFER TAXES, POINT
17 AND ORIGATION FEES, AND ESCROW ACCOUNT BALANCES.
18 7. OBTAIN CREDIT COUNSELING BEFORE CLOSING A LOAN.
19 8. DECIDE WHETHER OR NOT TO FINANCE ANY PORTION OF THE POINTS OR FEES.
20 9. REFUSE TO PURCHASE CREDIT INSURANCE FOR ANY MORTGAGE LOAN.
21 10. HAVE YOUR PROPERTY APPRAISED BY AN INDEPENDENT LICENSED PROFES-
22 SIONAL AND TO RECEIVE A COPY OF THE APPRAISAL.
23 11. NOT BE SUBJECT TO DECEPTIVE MARKETING PRACTICES.
24 12. ASK FOR THE HUD SETTLEMENT COSTS BOOKLET, "BUYING YOUR HOME".
25 13. RECEIVE THE FOLLOWING DOCUMENTS, AND EVERY DOCUMENT OTHERWISE
26 REQUIRED TO BE GIVEN TO YOU AT CLOSING UNDER FEDERAL AND NEW YORK STATE
27 LAW:
28 A. GOOD FAITH ESTIMATE
29 B. TRUTH IN LENDING
30 C. HUD-1 STATEMENT
31 14. KNOW WHAT FEES ARE NOT REFUNDABLE IF YOU DECIDE TO CANCEL THE LOAN
32 AGREEMENT.
33 15. RECEIVE IN WRITING THE REASON FOR THE DENIAL OR CONDITIONAL
34 APPROVAL OF YOUR LOAN APPLICATION.
35 16. IF REFINANCING, YOU MAY CANCEL A LOAN WITHIN THREE DAYS OF THE
36 CLOSING BY PROVIDING WRITTEN NOTIFICATION OF CANCELLATION TO THE
37 LICENSED LENDER OR BANKING INSTITUTION.
38 17. RECEIVE THE HUD-1 DOCUMENT ONE DAY BEFORE THE CLOSING TAKES PLACE.
39 18. HAVE ANY LENDING DISPUTES RESOLVED IN A FAIR AND EQUITABLE MANNER.
40 19. A CREDIT DECISION THAT IS NOT BASED UPON YOUR RACE, COLOR,
41 NATIONAL ORIGIN, RELIGION, SEX, FAMILY STATUS, SEXUAL ORIENTATION, DISA-
42 BILITY OR WHETHER ANY INCOME IS FROM PUBLIC ASSISTANCE.
43 20. FILE A COMPLAINT WITH THE NEW YORK STATE BANKING DEPARTMENT IF YOU
44 BELIEVE THAT A MORTGAGE BROKER OR ANY OTHER ENTITY LICENSED BY THE BANK-
45 ING DEPARTMENT HAS VIOLATED ANY RULES, REGULATIONS OR LAWS WHICH GOVERN
46 HIS OR HER CONDUCT IN WORKING WITH YOU TO GET OR PROCESS A MORTGAGE
47 LOAN.
48 21. FILE A COMPLAINT WITH THE NEW YORK STATE DEPARTMENT OF STATE IF
49 YOU BELIEVE THAT A REAL ESTATE BROKER HAS VIOLATED ANY RULES, REGU-
50 LATIONS OR LAW WHICH GOVERNS HIS OR HER CONDUCT IN WORKING WITH YOU TO
51 PURCHASE A HOME."
52 S 2. This act shall take effect on the one hundred twentieth day after
53 it shall have become a law; provided that, effective immediately, any
54 and all actions necessary to implement the provisions of this act on its
55 effective date are authorized and directed to be completed on or before
56 such date.