

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 2 of section 592 of the banking law, as amended
2 by chapter 472 of the laws of 2008, is amended to read as follows:
3 2. [The] NOTWITHSTANDING ANY OTHER LAW, THE superintendent [may refuse
4 to] SHALL NOT issue a license pursuant to this article if he or she
5 shall find that the applicant, or any person who is a director, officer,
6 partner, agent, employee, substantial stockholder of the applicant,
7 consultant or person having a relationship with the applicant similar to
8 a consultant, (a) has been convicted of [a crime involving an activity
9 which is a felony under this chapter or under article one hundred
10 fifty-five, one hundred seventy, one hundred seventy-five, one hundred
11 seventy-six, one hundred eighty, one hundred eighty-five, one hundred
12 eighty-seven, one hundred ninety, two hundred, two hundred ten or four
13 hundred seventy of the penal law or any comparable felony under the laws
14 of any other state or the United States, provided that such crime would
15 be a felony if committed and prosecuted under the laws of this state] OR
16 PLED NOLO CONTENDERE TO, A FELONY IN A DOMESTIC, FOREIGN, OR MILITARY
17 COURT DURING THE SEVEN-YEAR PERIOD PRECEDING THE DATE OF THE APPLICATION
18 FOR LICENSING OR AT ANY TIME PRECEDING SUCH DATE OF APPLICATION, IF SUCH
19 FELONY INVOLVED AN ACT OF FRAUD, DISHONESTY, OR A BREACH OF TRUST, OR
20 MONEY LAUNDERING or (b) has had a MORTGAGE BANKER license [or], MORTGAGE
21 BROKER registration OR MORTGAGE LOAN ORIGINATOR AUTHORIZATION, LICENSE
22 OR LICENSE EQUIVALENT revoked [by the superintendent] IN ANY GOVERN-
23 MENTAL JURISDICTION, EXCEPT THAT A SUBSEQUENT FORMAL VACATION OF SUCH
24 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.

LBD11183-01-1

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

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

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

45 S 3. This act shall take effect immediately.