

6124

I N S E N A T E

(PREFILED)

January 4, 2012

Introduced by Sen. SAVINO -- 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 the dealings of mortgage brokers and home improvement contractors

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

1 Section 1. Subdivision 2 of section 595-c of the banking law, as added
2 by chapter 593 of the laws of 2011, is amended to read as follows:

3 2. Where a mortgage broker has solicited, processed, placed or negoti-
4 ated a mortgage loan, a home improvement contractor shall not be paid
5 directly but instead may receive payment from the proceeds of a home
6 improvement loan payable solely to the borrower or, at the election of
7 the borrower, through an independent third party escrow agent in accord-
8 ance with the terms established in a written agreement signed by the
9 borrower, the lender and the contractor prior to disbursement. A mort-
10 gage broker shall not offer a homeowner different loan terms contingent
11 on the homeowner executing an agreement for payment through an independ-
12 ent third party as described in the preceding sentence. Any such agree-
13 ment shall contain a clear and conspicuous disclosure: YOU ARE NOT
14 REQUIRED TO EXECUTE THIS AGREEMENT. YOU MAY INSTEAD RECEIVE PAYMENT
15 DIRECTLY. (NAME OF MORTGAGE BROKER) MAY NOT OFFER YOU DIFFERENT TERMS
16 ON YOUR LOAN TO SIGN THIS AGREEMENT. THE PROVISIONS OF THIS SUBDIVISION
17 SHALL NOT APPLY TO A HOME IMPROVEMENT LOAN INSURED BY THE FEDERAL HOUS-
18 ING ADMINISTRATION UNDER SECTION 203(K) OF THE NATIONAL HOUSING ACT, 12
19 U.S.C. 1709(K), OR TO AMOUNTS ADDED TO A FEDERAL HOUSING ADMINISTRATION
20 INSURED MORTGAGE UNDER THE ENERGY EFFICIENCY MORTGAGE PROGRAM ORIGINALLY
21 ESTABLISHED UNDER SECTION 106 OF THE ENERGY POLICY ACT OF 1992, AS FROM
22 TIME TO TIME AMENDED.

23 S 2. This act shall take effect on the same date and in the same
24 manner as section 1 of chapter 593 of the laws of 2011, takes effect.

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

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