

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. SAMPSON -- 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 mortgage bill of  
rights pamphlet on residential mortgages

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, 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 SHALL DEVELOP A PAMPHLET KNOWN AS "THE MORTGAGE  
5     APPLICANT'S BILL OF RIGHTS" AND POST SUCH PAMPHLET ON THE DEPARTMENT'S  
6     WEB SITE. SUCH PAMPHLET SHALL BE POSTED AND PRINTED IN THE EIGHT  
7     LANGUAGES WHICH ARE MOST SPOKEN IN THIS STATE. COPIES OF SUCH PAMPHLET  
8     SHALL BE PROVIDED TO ALL LICENSED LENDERS AND BANKING ORGANIZATIONS  
9     OFFERING RESIDENTIAL MORTGAGE SERVICES. A COPY OF SUCH PAMPHLET SHALL BE  
10    PROVIDED BY LICENSED LENDERS AND BANKING ORGANIZATIONS TO EACH PERSON  
11    BEFORE SUCH PERSON ENTERS INTO AN APPLICATION FOR A LOAN SECURED BY A  
12    MORTGAGE UPON RESIDENTIAL REAL ESTATE. THE PAMPHLET PROVIDED TO EACH  
13    SUCH PERSON SHALL BE PRINTED IN A LANGUAGE WHICH THE PERSON IS CAPABLE  
14    OF READING AND UNDERSTANDING. FURTHERMORE, SUCH LICENSED LENDER AND  
15    BANKING ORGANIZATION SHALL NOT ACCEPT AN APPLICATION FOR A RESIDENTIAL  
16    MORTGAGE UNTIL THE PERSON OR PERSONS APPLYING FOR A MORTGAGE HAVE BEEN  
17    PROVIDED A COPY OF THE BOOKLET AND ACKNOWLEDGED RECEIPT OF IT IN WRIT-  
18    ING. EVERY LICENSED LENDER AND BANKING ORGANIZATION SHALL MAINTAIN SUCH  
19    ACKNOWLEDGEMENT ALONG WITH THE APPLICANT'S MORTGAGE LOAN DOCUMENTS.  
20    2. THE PAMPHLET AND WEB SITE NOTICE DEVELOPED PURSUANT TO THIS SECTION  
21    SHALL INCLUDE THE FOLLOWING, ALONG WITH OTHER INFORMATION ADDED AT THE  
22    DISCRETION OF THE SUPERINTENDENT NOT OTHERWISE INCONSISTENT WITH THE  
23    INFORMATION SET FORTH IN THE PAMPHLET:  
24    "BILL OF RIGHTS FOR RESIDENTIAL MORTGAGE APPLICANTS

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

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1 AS AN APPLICANT FOR A RESIDENTIAL MORTGAGE YOU HAVE THE RIGHT TO:

2 1. COMPARE THE CHARGES OF DIFFERENT MORTGAGE BROKERS AND LENDERS TO  
3 OBTAIN THE BEST LOAN POSSIBLE.

4 2. ASK YOUR MORTGAGE BROKER TO EXPLAIN HIS OR HER RESPONSIBILITIES  
5 WITHIN THE MORTGAGE LENDING PROCESS.

6 3. KNOW HOW MUCH THE MORTGAGE BROKER IS COMPENSATED BY YOU AND THE  
7 LENDER FOR YOUR LOAN.

8 4. A CLEAR AND TRUTHFUL EXPLANATION OF THE TERMS AND CONDITIONS OF THE  
9 LOAN.

10 5. KNOW IF THE LOAN BEING OFFERED IS A FIXED OR ADJUSTABLE RATE MORT-  
11 GAGE LOAN, KNOW THE EXACT AMOUNT OF YOUR MONTHLY LOAN PAYMENTS, INCLUD-  
12 ING ANY PROJECTED ESCROW PAYMENTS, KNOW THE FINAL ANNUAL PERCENTAGE RATE  
13 (APR) AND THE AMOUNT OF REGULAR PAYMENTS AT THE LOAN'S CLOSING.

14 6. ASK FOR A GOOD FAITH ESTIMATE OF ALL LOAN AND SETTLEMENT CHARGES  
15 BEFORE YOU AGREE TO THE LOAN AND PAY ANY FEES, SUCH AS LOAN APPLICATION  
16 FEES, TITLE SEARCH AND INSURANCE FEES, LENDER'S ATTORNEY FEES, PROPERTY  
17 APPRAISAL CHARGES, INSPECTIONS, RECORDING FEES, TRANSFER TAXES, POINT  
18 AND ORIGATION FEES, AND ESCROW ACCOUNT BALANCES.

19 7. OBTAIN CREDIT COUNSELING BEFORE CLOSING A LOAN.

20 8. DECIDE WHETHER OR NOT TO FINANCE ANY PORTION OF THE POINTS OR FEES.

21 9. REFUSE TO PURCHASE CREDIT INSURANCE FOR ANY MORTGAGE LOAN.

22 10. HAVE YOUR PROPERTY APPRAISED BY AN INDEPENDENT LICENSED PROFES-  
23 SIONAL AND TO RECEIVE A COPY OF THE APPRAISAL.

24 11. NOT BE SUBJECT TO DECEPTIVE MARKETING PRACTICES.

25 12. ASK FOR THE HUD SETTLEMENT COSTS BOOKLET, "BUYING YOUR HOME".

26 13. RECEIVE THE FOLLOWING DOCUMENTS, AND EVERY DOCUMENT OTHERWISE  
27 REQUIRED TO BE GIVEN TO YOU AT CLOSING UNDER FEDERAL AND NEW YORK STATE  
28 LAW:

29 A. GOOD FAITH ESTIMATE

30 B. TRUTH IN LENDING

31 C. HUD-1 STATEMENT.

32 14. KNOW WHAT FEES ARE NOT REFUNDABLE IF YOU DECIDE TO CANCEL THE LOAN  
33 AGREEMENT.

34 15. RECEIVE IN WRITING THE REASON FOR THE DENIAL OR CONDITIONAL  
35 APPROVAL OF YOUR LOAN APPLICATION.

36 16. IF REFINANCING, YOU MAY CANCEL A LOAN WITHIN THREE DAYS OF THE  
37 CLOSING BY PROVIDING WRITTEN NOTIFICATION OF CANCELLATION TO THE  
38 LICENSED LENDER OR BANKING INSTITUTION.

39 17. RECEIVE THE HUD-1 DOCUMENT ONE DAY BEFORE THE CLOSING TAKES PLACE.

40 18. HAVE ANY LENDING DISPUTES RESOLVED IN A FAIR AND EQUITABLE MANNER.

41 19. A CREDIT DECISION THAT IS NOT BASED UPON YOUR RACE, COLOR,  
42 NATIONAL ORIGIN, RELIGION, SEX, FAMILY STATUS, SEXUAL ORIENTATION, DISA-  
43 BILITY OR WHETHER ANY INCOME IS FROM PUBLIC ASSISTANCE.

44 20. FILE A COMPLAINT WITH THE DEPARTMENT IF YOU BELIEVE THAT A MORT-  
45 GAGE BROKER OR ANY OTHER ENTITY LICENSED BY THE DEPARTMENT HAS VIOLATED  
46 ANY RULES, REGULATIONS OR LAWS WHICH GOVERN HIS OR HER CONDUCT IN WORK-  
47 ING WITH YOU TO GET OR PROCESS A MORTGAGE 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 LAWS WHICH GOVERN 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 eightieth 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.