

2493

2015-2016 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. MOSLEY, COLTON, ZEBROWSKI, ROSENTHAL, JAFFEE, MARKEY, COOK, WEPRIN -- Multi-Sponsored by -- M. of A. FARRELL, GUNTHER, HEASTIE, SALADINO, SCARBOROUGH -- read once and referred 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 SHALL DEVELOP A PAMPHLET KNOWN AS "THE MORTGAGE
5 APPLICANT'S BILL OF RIGHTS" AND POST SUCH PAMPHLET ON THE DEPARTMENT'S
6 INTERNET WEBSITE. COPIES OF SUCH PAMPHLET SHALL BE PROVIDED TO ALL
7 LICENSED LENDERS AND BANKING ORGANIZATIONS OFFERING RESIDENTIAL MORTGAGE
8 SERVICES. A COPY OF SUCH PAMPHLET SHALL BE PROVIDED BY LICENSED LENDERS
9 AND BANKING ORGANIZATIONS TO EACH PERSON BEFORE SUCH PERSON ENTERS INTO
10 AN APPLICATION FOR A LOAN SECURED BY A MORTGAGE UPON RESIDENTIAL REAL
11 PROPERTY. FURTHERMORE, SUCH LICENSED LENDER AND BANKING ORGANIZATION
12 SHALL NOT ACCEPT AN APPLICATION FOR A RESIDENTIAL MORTGAGE UNTIL THE
13 PERSON OR PERSONS APPLYING FOR A MORTGAGE HAVE BEEN PROVIDED A COPY OF
14 THE BOOKLET AND ACKNOWLEDGED RECEIPT OF IT IN WRITING. EVERY LICENSED
15 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:

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

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

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

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

5 4. A CLEAR AND TRUTHFUL EXPLANATION OF THE TERMS AND CONDITIONS OF THE
6 LOAN.

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

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

16 7. OBTAIN CREDIT COUNSELING BEFORE CLOSING A LOAN.

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

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

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

21 11. NOT BE SUBJECT TO DECEPTIVE MARKETING PRACTICES.

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

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

26 A. GOOD FAITH ESTIMATE

27 B. TRUTH IN LENDING

28 C. HUD-1 STATEMENT

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

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

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

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

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

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

41 20. FILE A COMPLAINT WITH THE NEW YORK STATE DEPARTMENT OF FINANCIAL
42 SERVICES IF YOU BELIEVE THAT A MORTGAGE BROKER OR ANY OTHER ENTITY
43 LICENSED BY THE DEPARTMENT OF FINANCIAL SERVICES HAS VIOLATED ANY RULES,
44 REGULATIONS OR LAWS WHICH GOVERN HIS OR HER CONDUCT IN WORKING WITH YOU
45 TO GET OR PROCESS A MORTGAGE LOAN.

46 21. FILE A COMPLAINT WITH THE NEW YORK STATE DEPARTMENT OF STATE IF
47 YOU BELIEVE THAT A REAL ESTATE BROKER HAS VIOLATED ANY RULES, REGU-
48 LATIONS OR LAW WHICH GOVERNS HIS OR HER CONDUCT IN WORKING WITH YOU TO
49 PURCHASE A HOME."

50 S 2. This act shall take effect on the one hundred twentieth day after
51 it shall have become a law; provided that, effective immediately, any
52 and all actions necessary to implement the provisions of this act on its
53 effective date are authorized and directed to be completed on or before
54 such date.