

STATE OF NEW YORK

334

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

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 § 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:

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

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- 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 origination 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 department of financial
- 44 services if you believe that a mortgage broker or any other entity
- 45 licensed by the department of financial services has violated any rules,
- 46 regulations or laws which govern his or her conduct in working with you
- 47 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 law which governs his or her conduct in working with you to
- 51 purchase a home."

52 § 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.