

# STATE OF NEW YORK

5246--A

2021-2022 Regular Sessions

## IN SENATE

February 26, 2021

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to the assessment of the record of performance of mortgage bankers in helping to meet the credit needs of local communities

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 28-bb  
2 to read as follows:

3 § 28-bb. Credit needs of local communities; mortgage bankers. 1. When  
4 taking any action on an application made by a mortgage banker licensed  
5 pursuant to section five hundred ninety-one of this chapter for a change  
6 in control under section five hundred ninety-four-b of this chapter, or  
7 on any other application or notice to which the superintendent of finan-  
8 cial services shall by rule or regulation make applicable the provisions  
9 of this section, the superintendent shall take into account, among other  
10 factors, an assessment, in writing, of the record of performance of the  
11 mortgage banker in helping to meet the credit needs of its entire commu-  
12 nity, including low and moderate income neighborhoods, and consistent  
13 with safe and sound operation of the mortgage banker. Such assessment  
14 and any written communications from the department of financial services  
15 to a mortgage banker relating to such assessment shall be made available  
16 to the public upon request, provided that nothing contained in this  
17 subdivision shall be deemed to alter, amend or affect the provisions of  
18 subdivision ten of section thirty-six of this article. In making such  
19 assessment of a mortgage banker, the superintendent shall review all  
20 reports and documents filed by the mortgage banker pursuant to section  
21 five hundred ninety-seven of this chapter. In addition, the superinten-  
22 dent shall consider the following factors in assessing a mortgage bank-

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

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1 er's record of performance, and include in its written assessment  
2 required by this section the record of performance of such mortgage  
3 banker as to each of the following factors:

4 (a) Activities conducted by the mortgage banker to ascertain credit  
5 needs of its community, including the extent of the mortgage banker's  
6 efforts to communicate with members of its community regarding the  
7 services being provided by the mortgage banker;

8 (b) The extent of the mortgage banker's marketing and special programs  
9 to make members of the community aware of the services offered by the  
10 mortgage banker;

11 (c) The extent of the mortgage banker's participation in community  
12 outreach, community development or redevelopment, and educational  
13 programs;

14 (d) The extent of participation by the mortgage banker's board of  
15 directors, advisory committee, managing members or executive management  
16 or equivalent body or person, in formulating the mortgage banker's poli-  
17 cies and reviewing its performance with respect to the purposes of this  
18 section;

19 (e) Any practices intended to discourage application for types of  
20 credit offered by the mortgage banker;

21 (f) The geographic distribution of the mortgage banker's credit exten-  
22 sions, credit applications, and credit denials;

23 (g) Evidence of prohibited discriminatory or other illegal credit  
24 practices;

25 (h) The mortgage banker's record of opening and closing offices and  
26 providing services at offices;

27 (i) The mortgage banker's participation in governmentally-insured,  
28 guaranteed or subsidized loan programs for housing;

29 (j) The mortgage banker's ability to meet various community credit  
30 needs based on its financial condition, size, legal impediments, local  
31 economic condition and other factors; and

32 (k) Other factors that, in the judgment of the superintendent, reason-  
33 ably bear upon the extent to which a mortgage banker is helping to meet  
34 the credit needs of its entire community.

35 2. In assessing the record of performance of a mortgage banker pursu-  
36 ant to the provisions of subdivision one of this section, the super-  
37 intendent may, where he or she deems it appropriate, provide for public  
38 hearings when an objection to the mortgage banker's application or  
39 notice has been submitted.

40 3. An assessment of a mortgage banker's record of performance under  
41 subdivision one of this section may be the basis for denying an applica-  
42 tion under the provisions of this section.

43 4. Notwithstanding any other provision of this chapter or other law to  
44 the contrary, the term mortgage banker when used in this section shall  
45 mean and include mortgage bankers licensed pursuant to section five  
46 hundred ninety-one of this chapter that originate a minimum number of  
47 loans annually, such number to be set by regulation promulgated by the  
48 superintendent.

49 5. The superintendent is hereby authorized and empowered to promulgate  
50 rules and regulations effectuating the provisions of this section,  
51 including any rules and regulations providing that the assessment of  
52 mortgage bankers shall be made on a graduated numerical basis.

53 6. If any clause, sentence, paragraph, subdivision or part of this  
54 section or the application thereof to any person, firm, or corporation,  
55 or circumstance shall be adjudged by any court of competent jurisdiction  
56 to be invalid or unconstitutional, such judgment shall not affect,

1 impair or invalidate the remainder thereof, but shall be confined (i) in  
2 its operation to the clause, sentence, paragraph, subdivision, or part  
3 of this section or (ii) in its application to the person, firm or corpo-  
4 ration, or circumstance, directly involved in the controversy in which  
5 such judgment shall have been rendered.

6 § 2. This act shall take effect one year after it shall have become a  
7 law. Effective immediately, the addition, amendment and/or repeal of any  
8 rule or regulation necessary for the implementation of this act on its  
9 effective date are authorized to be made and completed on or before such  
10 effective date.