STATE OF NEW YORK

1144--A

Cal. No. 83

2023-2024 Regular Sessions

IN SENATE

January 10, 2023

Introduced by Sens. SANDERS, MANNION -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- reported favorably from said committee and committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the banking law, in relation to unregistered and unlicensed mortgage brokers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (e) of subdivision 5 of section 590 of the banking law is relettered paragraph (f) and a new paragraph (e) is added to read as follows:

(e) No mortgage banker, mortgage broker or exempt organization shall conduct business with any person, partnership, association, corporation or other entity which it knows or should have known is acting as a mortgage banker or a mortgage broker without being licensed or registered as required by this article. A person, partnership, association, corporation or other entity who provides non-residential subordinate loans shall be exempt from this paragraph. A mortgage banker, mortgage broker or exempt organization shall promptly notify the department of any such unlicensed or unregistered operations.

§ 2. Subdivision 5 of section 598 of the banking law, as added by chapter 571 of the laws of 1986, is amended to read as follows:

5. Civil penalties assessable against unlicensed or unregistered persons or entities. If any non-exempt unlicensed or unregistered person or entity engages in activities encompassed by this article, he shall be liable to any person or entity affected by such activities for a sum of money of not less than the amount of money paid to an affected person or entity in connection with such activities, nor more than four times such

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

LBD03777-03-3

sum**; provided however that where a non-exempt unlicensed or unregistered person has continued to engage in such unauthorized activities after receiving a cease and desist notice from the superintendent, the maximum amount of liability shall be up to the amount of actual damages**. Such sum may be sued for and recovered by any person or entity for his use and benefit in any court of competent jurisdiction.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.