

STATE OF NEW YORK

2665

2023-2024 Regular Sessions

IN SENATE

January 24, 2023

Introduced by Sen. COMRIE -- 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:

Section 1. The banking law is amended by adding a new section 35 to read as follows:

§ 35. Information pamphlet for residential mortgage applicants. 1. The superintendent shall develop a pamphlet known as "the mortgage applicant's bill of rights" and post such pamphlet on the department's internet website. Copies of such pamphlet shall be provided to all licensed lenders and banking organizations offering residential mortgage services. A copy of such pamphlet shall be provided by licensed lenders and banking organizations to each person before such person enters into an application for a loan secured by a mortgage upon residential real property. Furthermore, such licensed lender and banking organization shall not accept an application for a residential mortgage until the person or persons applying for a mortgage have been provided a copy of the booklet and acknowledged receipt of it in writing. Every licensed lender and banking organization shall maintain such acknowledgement along with the applicant's mortgage loan documents.

2. The pamphlet and website notice developed pursuant to this section shall include the following, along with other information added at the discretion of the superintendent not otherwise inconsistent with the information set forth in the pamphlet:

"BILL OF RIGHTS FOR RESIDENTIAL MORTGAGE APPLICANTS

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.

LBD04418-01-3

- 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 such department has violated any rules, regulations or laws
46 which govern his or her conduct in working with you to get or process a
47 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. Effective immediately, the addition, amend-
54 ment and/or repeal of any rule or regulation necessary for the implemen-
55 tation of this act on its effective date are authorized to be made and
56 completed on or before such effective date.