STATE OF NEW YORK

5597

2023-2024 Regular Sessions

IN SENATE

March 8, 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 what mortgage applicant's need to know 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 "what mortgage applicant's need to know" and post such pamphlet on the department's web site. Such pamphlet shall be posted and printed in the six most common non-English languages spoken by individuals with limited-English proficiency in New York state as based on the most recent census. 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, mortgage bankers and other banking organizations to each person before such person enters into an application for a loan secured by a mortgage upon residential real estate. Should such applicant apply for a mortgage online, the licensed lender, mortgage banker or other banking organization shall provide the applicant with the pamphlet via electronic communications, including but not limited to, electronic mail or a hyperlink to the pamphlet posted on the department's web site.

2. The pamphlet and web site 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:

"WHAT MORTGAGE APPLICANTS NEED TO KNOW

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.

LBD04048-01-3

1. Compare the charges of different mortgage brokers and lenders to obtain the best loan possible.

2. Ask your mortgage broker to explain his or her responsibilities within the mortgage lending process.

3. Know how much the mortgage broker is compensated by you and the lender for your loan.

4. A clear and truthful explanation of the terms and conditions of the loan.

5. Know if the loan being offered is a fixed or adjustable rate mortgage loan, know the exact amount of your monthly loan payments, including any projected escrow payments, know the final annual percentage rate (APR) and the amount of regular payments at the loan's closing.

6. Ask for a good faith estimate of all loan and settlement charges before you agree to the loan and pay any fees, such as loan application fees, title search and insurance fees, lender's attorney fees, property appraisal charges, inspections, recording fees, transfer taxes, point and origination fees, and escrow account balances.

7. Obtain credit counseling before closing a loan.

8. Decide whether or not to finance any portion of the points or fees.

9. Refuse to purchase credit insurance for any mortgage loan.

10. Have your property appraised by an independent licensed professional and to receive a copy of the appraisal.

11. Not be subject to deceptive marketing practices.

12. Ask for the HUD settlement costs booklet, "buying your home".

13. Receive the following documents, and every document otherwise required to be given to you at closing under federal and New York state law:

a. Good faith estimate

b. Truth in lending

c. HUD-1 statement.

14. Know what fees are not refundable if you decide to cancel the loan agreement.

15. Receive in writing the reason for the denial or conditional approval of your loan application.

16. If refinancing, you may cancel a loan within three days of the closing by providing written notification of cancellation to the licensed lender or banking institution.

17. Receive the HUD-1 document one day before the closing takes place.

18. Have any lending disputes resolved in a fair and equitable manner.

19. A credit decision that is not based upon your race, color, national origin, religion, sex, family status, sexual orientation, disability or whether any income is from public assistance.

20. File a complaint with the department if you believe that a mortgage broker or any other entity licensed by the department has violated any rules, regulations or laws which govern his or her conduct in working with you to get or process a mortgage loan.

21. File a complaint with the New York state department of state if you believe that a real estate broker has violated any rules, regulations or laws which govern his or her conduct in working with you to purchase a home."

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