

# RULE REVIEW

## BANKING DEPARTMENT

Review of existing rules pursuant to State Administrative Procedure Act Section 207.

Section 207 of the State Administrative Procedure Act (SAPA) requires that each agency review, after five years and thereafter at five year intervals, each of its rules which is adopted on or after January 1, 1997 to determine whether such rules should be modified or continued without modification.

Pursuant to SAPA Section 207, the New York State Department of Banking submits the following rules that were adopted during calendar year 1998 that the Department has reviewed and determined should be continued without modification. All Section and Part references are to Title 3 of the New York Code of Rules and Regulations.

- 3 NYCRR Part 6.1

- a. Description of rule: The rule sets forth the purpose of Banking Law Section 14-g as being the assurance of parity between state-chartered and national banks, and the preservation and enhancement of the state charter.

- b. Legal basis for the rule: Banking Law Section 14-g.

- c. Analysis of Need for the Rule: Part 6 is needed to allow state-chartered banks to remain competitive with their federal counterparts and to maintain the appeal of the state charter by providing parity between state banking law and regulations and those of the federal regulatory agencies.

- d. Assessment of Public Comment: No Comments were received.

- 3 NYCRR Part 6.2

- a. Description of rule: The rule pertains to the application procedure for any bank, trust company or other person to make a request to the Banking Board to promulgate a rule or regulation pursuant to section 14-g.

- b. Legal basis for the rule: Banking Law Section 14-g.

- c. Analysis of Need for the Rule: The rule sets forth the application procedure for any bank, trust company or other person to make a request to the Banking Board to promulgate a rule or regulation pursuant to section 14-g.

- d. Assessment of Public Comment: No Comments were received.

- 3 NYCRR Part 6.3

- a. Description of rule: The rule pertains to the additional insurance powers of banks and trust companies.

- b. Legal basis for the rule: Banking Law Section 14-g.

- c. Analysis of Need for the Rule: The rule implements Part 6 by permitting state-chartered banks and trust companies to sell insurance directly from a place of 5,000 or fewer inhabitants, even though the principal office is not located in such a place.

- d. Assessment of Public Comment: No Comments were received.

- 3 NYCRR Part 6.4

- a. Description of rule: The rule pertains to the additional insurance powers of savings banks and savings and loan associations.

- b. Legal basis for the rule: Banking Law Section 14-h.

- c. Analysis of Need for the Rule: The rule implements Part 6 by permitting state-chartered savings banks and savings and loan associations to engage in the insurance business to the same extent and under the same conditions as State-chartered banks and trust companies and national banks and thus remain competitive.

- d. Assessment of Public Comment: No Comments were received.

- 3 NYCRR Part 8.3

- a. Description of rule: The rule pertains to criteria for approval for the establishment of banking development districts.

- b. Legal basis for the rule: Banking Law Section 96-d.

- c. Analysis of Need for the Rule: The rule sets forth criteria for approval for the establishment of banking development districts which creates a program that offers positive economic incentives to encourage the establishment of commercial bank branches in areas where the establishment of such branches might otherwise not be economically feasible.

- d. Assessment of Public Comment: No Comments were received.

- 3 NYCRR Part 8.4

- a. Description of rule: The rule pertains to required information that must be included in an application to the superintendent for designation of a proposed banking development district.

- b. Legal basis for the rule: Banking Law Section 96-d.

- c. Analysis of Need for the Rule: This rule sets forth the information needed on an application for designation of a proposed banking development district.

- d. Assessment of Public Comment: No Comments were received.

- 3 NYCRR Part 8.5

- a. Description of rule: The rule pertains to optional information that may be included in an application to the superintendent for designation of a proposed banking development district.

- b. Legal basis for the rule: Banking Law Section 96-d.

- c. Analysis of Need for the Rule: The rule sets forth the optional information on an application for designation of a proposed banking development district.

- d. Assessment of Public Comment: No Comments were received.

- 3 NYCRR Part 38.4

- a. Description of rule: This rule pertains to disclosure requirements for mortgage loans used to acquire a dwelling for which a commitment fee and points are paid to the lender, for mortgage loan transactions in which the proceeds of the mortgage loan will not be used to finance the acquisition of the dwelling and no commitment fee or points are paid to the lender prior to closing. It also pertains to procedures for mortgage loans for the acquisition of a dwelling and for all other mortgage loans for which a commitment fee or points are paid to the lender.

- b. Legal Basis for the rule: Banking Law Section 590.5-a.

- c. Analysis of Need for the Rule: This rule sets forth the disclosure requirements and procedures to be used by mortgage bankers and exempt organizations concerning mortgage loans.

- d. Assessment of Public Comment: No Comments were received.

- 3 NYCRR Part 38.5

a. Description of rule: This rule pertains to the required disclosure and procedures for the issuance of a prevailing rate commitment by a licensee or exempt organization.

b. Legal Basis for the rule: Banking Law Section 590.5-a.

c. Analysis of Need for the Rule: The rule sets forth the required disclosure and procedures for the issuance of a prevailing rate commitment by a licensee or exempt organization.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 38.6

a. Description of rule: This rule pertains to the required disclosures and notices along with the procedures that a mortgage banker or exempt organization must use when offering a lock-in agreement to its customers.

b. Legal Basis for the rule: Banking Law Section 590.5-a.

c. Analysis of Need for the Rule: This rule sets forth the required disclosures and notices along with the procedures that a mortgage banker or exempt organization must use when offering a lock-in agreement to its customers.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 38.7

a. Description of rule: This rule pertains to the prohibited conduct of a mortgage broker, mortgage banker, or exempt organization.

b. Legal Basis for the rule: Banking Law Section 590.5-a.

c. Analysis of Need for the Rule: This rule lists specific conduct of a mortgage broker, mortgage banker, or exempt organization that is prohibited by the Banking Department.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 38.8

a. Description of rule: This rule pertains to the grounds for disciplinary actions and penalties that may be imposed on a mortgage broker, mortgage banker or exempt organization for violations of Banking Law article 12-D.

b. Legal Basis for the rule: Banking Law Section 590.5-a.

c. Analysis of Need for the Rule: This rule sets forth the grounds for disciplinary actions and penalties that may be imposed on a mortgage broker, mortgage banker or exempt organization for violations of Banking Law article 12-D.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 38.9

a. Description of rule: This rule pertains to the limitation on excess insurance that a mortgage banker or exempt organization may require of a borrower and the required disclosures that must be made if hazard insurance is required.

b. Legal Basis for the rule: Banking Law Section 590.5-a.

c. Analysis of Need for the Rule: This rule sets forth the limitation on excess insurance that a mortgage banker or exempt organization may require of a borrower and the required disclosures that must be made to the borrower if hazard insurance is required.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 38.10

a. Description of rule: This rule pertains to required notification in writing to the Banking Department by every mortgage banker, mortgage broker and exempt organization regarding any administrative, civil or criminal proceeding pertaining to residential mortgage lending.

b. Legal Basis for the rule: Banking Law Section 590.5-a.

c. Analysis of Need for the Rule: This rule makes it a requirement that every mortgage banker, mortgage broker and exempt organization, notify the Banking Department in writing of any administrative, civil or criminal proceeding initiated by any domestic governmental department or agency, the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Agency, with 20 days of its commencement, provided such proceeding pertains to residential mortgage lending.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 38.12

a. Description of rule: This rule pertains to dual agency transaction disclosures.

b. Legal Basis for the rule: Banking Law Section 590.5-a.

c. Analysis of Need for the Rule: This rule sets forth the required disclosure where there is a dual role performed by a mortgage broker, mortgage banker or an exempt entity in those instances when the mortgage broker is also the real estate broker in the same residential real estate transaction.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 80.9

a. Description of rule: This rule pertains to the prohibited clauses in a contract, note or instrument evidencing or securing a junior mortgage loan.

b. Legal Basis for the rule: Banking Law Sections 14.1, 103.4-a, 235.6-a, 380.4-a, 454.11 and 590-a.

c. Analysis of Need for the Rule: This rule sets forth the prohibited clauses in a contract, note or instrument evidencing or securing a junior mortgage loan.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 80.10

a. Description of rule: This rule pertains to revolving credit accounts secured by a junior mortgage.

Legal Basis for the rule: Banking Law Sections 14.1, 103.4-a, 235.6-a, 380.4-a, 454.11 and 590-a.

Analysis of Need for the Rule: This sets forth the disclosure requirements for revolving credit accounts secured by a junior mortgage.

Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 82.7

a. Description of rule: This rule pertains to prepayment penalties on mortgage loans.

b. Legal Basis for the rule: Banking Law Sections 14.1, 103.4-a, 235.6-a, 380.4-a, 454.11 and 590-a.

c. Analysis of Need for the Rule: This rule sets forth the conditions for the imposition of prepayment penalties on mortgage loans.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 86.4(h)

a. Description of rule: This rule pertains to the general provisions relating to the conversion (other than a conversion effected pursuant to any contrary provisions of Part 86.12) of a thrift institution from mutual to stock-form of organization.

b. Legal Basis for the rule: Banking Law Section 14-e.

c. Analysis of Need for the Rule: Part 86 is needed to facilitate the conversion of mutual institutions to stock-form and to ensure that State-chartered mutual thrift institutions are not forced to convert to Federal charter to exist in stock-form.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 86.5

a. Description of rule: This rule pertains to the public offering of capital stock in connection with the conversion of mutual thrift institutions to stock-form.

b. Legal Basis for the rule: Banking Law Section 14-e.

c. Analysis of Need for the Rule: This rule sets forth the procedure for a public offering of capital stock in connection with the conversion of mutual thrift institutions to stock-form.

d. Assessment of Public Comment: No Comments were received.

• 3 NYCRR Part 86.14(8)(d)

a. Description of rule: This rule pertains to the required contents of proxy statement when mutual thrift converts to stock-form.

b. Legal basis for the rule: Banking Law Section 14-e.

c. Analysis of Need for the Rule: This rule sets forth the information required in a conversion proxy statement.

d. Assessment of Public Comment: No Comments were received.