

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 rule that was adopted during calendar year 2002 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.

Amendments to Part 41 of the General Regulations of the Banking Board, 3 NYCRR (Restrictions and Limitations on High Cost Home Loans)

a. Description of rule: Prohibits the financing of single premium credit insurance in connection with high cost home loans and responds to requests from the residential mortgage lending industry for clarification of certain provisions of the regulation.

b. Legal basis for the rule: Banking Law Sections 6-I, 590-a, 590(3) and Article 12-D

c. Need for the rule: The Department has adopted further amendments to this regulation since 2002.

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

Amendments to parts 80 and 82 of the General Regulations of the Banking Board, 3 NYCRR (Investment in Junior Lien Mortgage Loans by Commercial Banks, Savings Banks, Credit Unions, Mortgage Bankers and Savings and Loan Associations; Alternative Mortgage Instruments)

a. Description of rule: Amends Parts 80 and 82 to conform to Part 38 of the General Regulations of the Banking Board with respect to the use of electronic media for disclosure and notification requirements for junior lien and alternative mortgage loans and the description of certain permissible loan fees.

b. Legal basis for the rule: Banking Law Sections 6, 14, 103, 235, 380, 454 and 590-d

c. Need for the rule: The amendments are necessary to permit banks, mortgage bankers and mortgage brokers to comply with certain disclosure and notification requirements through the use of electronic media and to clarify their ability to collect certain fees.

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

Amendments to Part 322 of the Superintendent's Regulations, 3 NYCRR (Pledge of Assets and Maintenance of Assets by Licensed Foreign Banking Corporations in New York)

a. Description of rule: Reduces asset pledge requirement for foreign banking corporations operating a state-licensed branch or agency in New York from 5% of total third party liabilities to 1%.

b. Legal basis for the rule: Banking Law Section 202-b(1)

c. Need for the rule: Requiring foreign banking corporations with only a branch or agency office in New York to maintain some funds

here gives the Superintendent the ability to utilize the funds in a liquidation scenario to pay liquidation expenses and protect creditors. The Department has adopted further amendments to these regulations since 2002.

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

Department of Taxation and Finance Regulations Continued Without Modification

Pursuant to section 207.4 of the State Administrative Procedure Act, the Department of Taxation and Finance hereby gives notice of the following:

As part of the Department's 2007 review of regulations that were adopted during 1997 and 2002, it has reviewed amendments to 20 NYCRR Article 1 that were adopted in 1997. These amendments to the Personal Income Tax Regulations repealed certain provisions that were unnecessary because the provisions repeated statutory material which did not require additional interpretation by regulation. Approximately 30 pages of unnecessary regulations were eliminated while necessary provisions were retained and recodified. The statutory authority for the rule is contained in sections 171, subdivision First, and 697(a) of the Tax Law. These regulations were previously reviewed as part of the Department's 2002 Rule Review published in the *State Register* on January 2, 2002, and were continued without modification. Notice of the 2002 continuance was published in the Rule Review section of the October 16, 2002, issue of the *State Register*.

These regulations are once again being continued without modification because the amendments repealed certain provisions that were unnecessary and made other amendments which provided taxpayers with clearer and more concise guidance. There have been no statutory amendments or changes in policy to warrant any modification of the regulation.

A summary of the regulations was published in the Rule Review section of the January 3, 2007, issue of the *State Register*. The 2007 Rule Review, including the summary, was also posted to the Department's Web site (<http://www.tax.state.ny.us/rulemaker/regulations/fiveyearrev.htm>) on January 2, 2007. The Department did not receive any public comment regarding this regulation.

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