

RULE REVIEW

Banking Department

Review of Existing Rules -- 2008

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.

Adoption of new Part 6 of the General Regulations of the Banking Board, 3 NYCRR

- a. Description of rule: Establishes an application procedure for entities to make a request to the Banking Board to promulgate a rule or regulation pursuant to Banking Law Section 14-g to achieve parity in investments and activities between state and national banks. Specifically permits state-chartered banks and trust companies to sell insurance directly from places with 5,000 or fewer inhabitants.
- b. Legal basis for rule: Banking Law Section 14-g
- c. Need for rule: Implements Banking Law Section 14-g, the so-called "wild card" legislation authorizing the Banking Board to adopt regulations permitting banks to exercise powers engage in activities and make investments that national banks may lawfully exercise or in which they may lawfully engage. Also authorizes banks located in any place with a population of less than 5,000 to engage in insurance agent activities to the same extent as national banks similarly located. Although Section 14-g has been superseded by a new wild card statute, Banking Law Section 12-a, which is not implemented through Banking Board regulations, the regulations adopted under that section granting wild card powers remain in effect

Amendment to Part 6 of the General Regulations of the Banking Board, 3 NYCRR

- a. Description of rule: Amends Section 6.3 and adds Section 6.4, granting state chartered banks and thrift institutions an exemption from the restrictions on the activities of bank and thrift-owned insurance agents contained in Section 2501 of the Insurance Law comparable to that granted by court decision to national banks.
- b. Legal basis for rule: Banking Law Sections 13.4; 14; 14-g; 14-h
- c. Need for rule: Although Sections 14-g and 14-h have been superseded by a new wild card statute, Banking Law Section 12-a, which is not implemented through Banking Board regulations, the Part 6 regulations adopted under those sections granting wild card powers remain in effect

Adoption of new Part 8 of the General Regulations of the Banking Board, 3 NYCRR

- a. Description of rule: Sets forth criteria for the establishment of banking development districts
- b. Legal basis for rule: Banking Law Section 96-d
- c. Need for rule: Implements legislation encouraging the establishment of bank branches in specially designated geographic locations known as "banking development districts"

Amendment to Part 80 of the General Regulations of the Banking Board, 3 NYCRR

- a. Description of rule: Amends Section 80.10 to reduce the minimum permissible revolving credit secured by a junior mortgage lien from \$7,500.00 to \$2,500.00.
- b. Legal basis for rule: Banking Law Sections 14(1), 103(4-a), 235(6-a), 380(4-a), 454(11) and 590-a.
- c. Need for rule: Conforms the regulation to an amendment to Banking Law Section 590-a(5)

Amendments to Part 38 of the General Regulations of the Banking Board, 3 NYCRR

- a. Description of rule: Accommodates use of electronic media in residential mortgage transactions; provides regulatory relief, including relief relating to processing fees and lock-in agreements; imposes new disclosure requirements, particularly regarding pre-payment penalties, the assignment of commitments, private mortgage insurance and yield spread premiums; and clarifies existing regulatory requirements.
- b. Legal basis for rule: Banking Law Sections 6-I, 9-o, 14(1), 590-a, 590(3) and 595-a.
- c. Need for rule: Allows the mortgage banking industry to take advantage of technologies such as the internet and provides regulatory relief without sacrificing necessary consumer protections.

Amendments to Part 80 of the General Regulations of the Banking Board, 3 NYCRR

- a. Description of rule: Requires certain disclosures with respect to pre-payment penalties on junior lien mortgage loans on owner-occupied residential property.
- b. Legal basis for rule: Banking Law Sections 14(1), 103(4-a), 235(6-a), 380(4-a), 454(11) and 590-a.
- c. Need for rule: Requires that disclosures with respect to pre-payment penalties on junior lien mortgage loans on owner-occupied residential property conform to the disclosure requirements for first lien mortgages contained in the contemporaneous amendments to Part 38 of the General Regulations of the Banking Board.

Amendments to Part 82 of the General Regulations of the Banking Board, 3 NYCRR

- a. Description of rule: Requires certain disclosures with respect to pre-payment penalties on alternative mortgage loans on owner-occupied residential property.
- b. Legal basis for rule: Banking Law Sections 6-f and 14(1)

- c. Need for rule: Requires that disclosures with respect to pre-payment penalties on alternative mortgage loans on owner-occupied residential property conform to the mortgage loan disclosure requirements contained in the contemporaneous amendments to Part 38 of the General Regulations of the Banking Board.

Amendments to Part 86 of the General Regulations of the Banking Board, 3 NYCRR

- a. Description of rule: Limits the disclosure required under Section 86.14(d)(1) to workable definitive offers.
- b. Legal basis for rule: Banking Law Section 14-e
- c. Need for rule: Clarifies that the proxy disclosure requirements regarding prior contracts, negotiations or related transactions in connection with conversion of a mutual thrift to stock form apply only to potentially viable consolidation options.

Amendment to Part 86 of the General Regulations of the Banking Board, 3 NYCRR

- a. Description of rule: Authorizes the Superintendent to approve stock repurchases by a thrift holding company under the same criteria applicable to repurchases by a stock form thrift institution
- b. Legal basis for rule: Banking Law Section 14-e
- c. Need for rule: Eliminates former regulatory disparity between a stock form thrift institution, which could, with the approval of the Superintendent, repurchase its stock during the first year after conversion, and a holding company formed in connection with such a conversion, which could not repurchase its stock during that period.