

RULE REVIEW

Banking Department

Pursuant to Section 207 of the State Administrative Procedure Act, Review of Existing Rules, the Banking Department has previously given notice that it will be reviewing rules adopted in 2003 and 1998 to determine whether they should be continued or modified.

Notice is hereby given of the following additional rule which the Banking Department will be reviewing this year to determine whether they should be continued or modified. This rule was adopted in 1998.

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

a. Description of rule: Permits electronic transmission of documents and/or disclosures and the use of digital signatures; permits lenders to charge a processing fee in certain circumstances; clarifies the rules regarding lock-in agreements; clarifies the legends required in advertising by mortgage brokers and mortgage bankers; adds new disclosure requirements regarding pre-payment penalties, the assignment of commitments, private mortgage insurance and yield spread premiums; and makes certain clarifying amendments.

b. Legal basis for rule: Banking Law Sections 6-l, 9-o, 14(1), 590-a and 595-a.

c. Need for rule: Allows the mortgage lending industry to take full advantage of technologies such as the Internet in residential mortgage transactions; permits lenders to charge a processing fee as long as the application fee does not include the cost of processing, removes confusion and requires disclosure as to when a lock in agreements become binding, when the lock in fee must be paid and when the lock in period commences; provides regulatory relief concerning the required legends that must be used by mortgage bankers and mortgage brokers in their advertising; modifies presentation requirements with respect to disclosure; enhances disclosure requirements with regard to prepayment penalties, closes a loophole in the disclosure requirements regarding assignments of mortgage commitments; requires lenders to provide disclosure as to when private mortgage insurance will no longer be required; expands disclosure required for yield spread premiums to add a requirement that the basis for the premium be set forth in the commitment; adds a requirement that regulated entities notify the Superintendent within 10 days after the termination of any independent contractor; makes additional clarifying changes in the regulation.

Public comment on the continuation or modification of the above rule is invited. Comments must be received within 45 days of the date of publication of this notice. Comments should be submitted to:

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