

The following alert was sent to our association from the Pennsylvania Banking Department

## **BANKING DEPARTMENT ISSUES NEW REGULATION TO PROTECT HOMEBUYERS**

Defines Proper Conduct for Mortgage Lenders, Brokers

HARRISBURG - Secretary of Banking Steve Kaplan today announced that new rules for the mortgage industry will help to ensure that Pennsylvania borrowers receive affordable loans with clear, up-front terms. The regulation was published in the Pennsylvania Bulletin on Dec. 20.

"The major thrust of the regulation is two-fold: to restore sound underwriting practices to the licensed mortgage industry and improve disclosures," said Kaplan. "The lax lending standards and increasingly complex loans that were commonplace during the housing boom helped to create the wave of foreclosures we are facing today."

Under the new regulation, mortgage lenders and brokers must document and verify a borrower's income, fixed expenses and other relevant factors in order to reasonably determine whether the borrower will be able to pay back an offered loan. This requirement will restrict low- and no-documentation mortgages in which applicants do not have to provide proof of income, employment and other information.

The regulation also requires mortgage companies to clearly disclose in a one- page summary whether a loan has any of the following features:

Variable interest rate,

Prepayment penalty or balloon payment,

Property taxes and hazard insurance included in the monthly payment, or Negative amortization feature in which the payments are set so low they do not cover the interest, let alone principal, of the loan.

The new disclosure form will also note whether the lender has the ability to directly lock-in an interest rate. The form will be available to mortgage companies early next year.

The ability to repay and disclosure requirements will go into effect March 20. The regulation also contains new rules regarding loan funding, payoff statements, advertising and advice to borrowers, all of which take effect immediately.

"There is ample evidence that many borrowers do not understand the disclosures currently provided to them under federal law and that these disclosures have failed to keep up with product innovation in the marketplace," said Kaplan. "The form developed by the department for use in Pennsylvania will go a long way towards bridging these gaps."

The regulation is based on recommendations from the Department of Banking's 2005 study, "Losing the American Dream: A Report on Residential Mortgage Foreclosures and Abusive Lending Practices," which documented foreclosure trends and lending practices that are abusive to consumers.

The study also provided the blueprint for the five-bill mortgage reform package Governor Edward G. Rendell signed into law in July. The new laws require loan salespeople working for mortgage companies to be licensed by the Department of Banking and allow the department to share information on enforcement actions against licensees with the public sooner. The laws also prohibit prepayment

penalties on loans of \$217,823 or less, require lenders to notify the state when they intend to foreclose on homeowners, and increase penalties for misconduct by real estate appraisers.