

March 19, 2014

TO THE INDIVIDUAL OR INSTITUTION ADDRESSED

Re: Adoption of New Part 43 of the General Regulations of the Superintendent (Subprime Home Loans – Meaning of Terms)

The Superintendent has adopted new Part 43 of the General Regulations of the Superintendent. The regulation becomes effective upon publication in the State Register, which is expected to occur on March 19, 2014.

Section 6-m of the Banking Law provides for the regulation of subprime home loans as defined in the statute. Pursuant to the authority provided by Section 302(2) of the Financial Services Law and Section 14 of the Banking Law, the Superintendent of Financial Services is authorized to adopt regulations interpreting the provisions of the Banking Law, including Section 6-m.

Pursuant to this authority, the Superintendent is adopting Part 43 to interpret terms appearing in Banking Law Section 6-m. Part 43 benefits the industry and consumers alike by providing interpretations that can be uniformly applied when determining underwriting standards for subprime home loans. The interpretations are as follows:

- (a) The term “Week” referred to in the phrase the “week prior to the week in which the lender provides the ‘good faith estimate’” used in Section 6-m(1)(c) shall in all cases mean the seven-day period from Friday through Thursday, the day on which the Federal Home Loan Mortgage Corporation publishes its Primary Mortgage Market Survey (“PMMS”). Therefore, the relevant PMMS for purposes of Section 6-m(1)(c) is the one published on the Thursday prior to receiving the good faith estimate. For example, if a lender provides a good faith estimate on any day including Friday, June 14 through Thursday, June 20, the relevant PMMS is the one published on Thursday, June 13. For a good faith estimate issued on Friday, June 21 through Thursday, June 27, the relevant PMMS is the one published on Thursday, June 20.
- (b) The term “Good Faith Estimate” referred to in the phrase “‘good faith estimate’ required under 12 USC §2601 et seq.” used in Section 6-m(1)(c) shall in all cases mean the good faith estimate used to establish the terms of the mortgage loan. If a revised good faith estimate is required under section 1024.7(f) of Regulation X (12 CFR Part 1024), the term “Good Faith Estimate” shall mean such revised good faith estimate.
- (c) The term “Commitment” referred to in the phrase “the time the lender issues its commitment” used in Section 6-m(1)(b) shall in all cases where a commitment is not issued by the lender mean the “Good Faith Estimate.”

The Notice of Proposed Rule Making was published in the October 16, 2013 issue of the State Register. The comment period ended November 30, 2013.

Very truly yours,

Daniel M. Burstein
Executive Deputy Superintendent
Real Estate Finance Division