

# State to require broker licensing



Exhibitors and attendees at the New York Association of Mortgage Brokers' 19th annual convention that met Thursday at the Melville Marriott

## ■ Fingerprint checks and training are part of nationwide crackdown on fraud in mortgage industry

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On an August day a year ago, Malinda Matus recalled, she was swept away by how fast she could close on her low-documentation home refinance — a 20-minute introduction to the loan terms and then the signing.

Swamped in bills from her brain-damaged son's hospital care, the Medford widow saw the broker, a friend's sister, as a trusted expert. But instead of the expected 30-year fixed rate with a \$1,700 monthly payment, Matus said, she didn't understand why her payments soon ballooned to \$2,049 monthly.

"I was railroaded — there's no two ways about it," said Matus, 61, sobbing about her layoff as a medical officer worker in June and the possibility of defaulting on her loan like a "low-life" for the first time ever next month. "She didn't tell me everything in detail. I was stupid. I should have taken more than 20 minutes, but that's all I was given."

With such complaints, founded or unfounded, piling up at the door of the mortgage industry, New York State will start requiring licenses for mortgage brokers and loan officers in January, a way for consumers and also potential employers to check up on workers in the lending world. Licensing is just a single piece in the intensifying push nationwide to stem the tide of mortgage fraud and cut down what may be seen as ethical lapses. Industry veterans and critics say more oversight could help stop the cascade of damages to Wall Street and raise the bar to entering a profession that has given it-

self a black eye.

"There's a problem in the industry, and that's who represents the consumer? No one does," said Bill Matthews, senior vice president at the Conference of State Bank Supervisors, which advocates for state banking systems. "If you ask the brokers, they say, 'We represent the lenders.' When you ask the lenders, they say, 'We represent the investors.'"

"When you're paid on commission, you have an incentive to produce, and the risk manager or quality control became the Rodney Dangerfield of the industry."

### Want now, worry later

Matus' loan officer, Holbrook-based Stacey Herrmann of the Apex Financial Group, headquartered in Florida, said she explained everything to Matus and noted that borrowers have to be responsible also. "I try to educate my borrowers, but I also feel a lot of them want what they want and do not worry about repercussions down the line," Herrmann said.

Still, she said, licensing is a good because there are a lot of unscrupulous and incompetent people in her field.

Next year, as many as 50,000 loan officers and brokers are expected to send in applications with fingerprints to the New York State Banking Department, which has beefed up its staff to handle the influx. Applicants will have criminal background checks on both federal and state levels, and they'll also have to attend 18 hours of classes, including three hours on ethics.

The licensing and discipline records will go online in January as part of a new database set up by the Conference of State Bank Supervisors. Consumers will be able to look up brokers and loan officers in the 36 states that have various licensing systems, an effort



Karl Eyester, left, of East End-based PAR East Mortgage Co., talks with Samuel Ingram, right, of myClosingSPACE.com, a title site, during the state convention of mortgage brokers.

## MONDAY FOCUS

Starting in January, New York State will begin licensing loan officers and brokers, who will be required to complete 18 hours of classes. Here are the hourly course study requirements for some licensed professions:

45 hours	Real estate sales agent
75 hours	Hair waxer
90 hours	Real estate broker
140 hours	Home inspector
1,000 hours	Massage therapist
1,300 hours	Shorthand reporter
4,050 hours	Acupuncturist

aimed at tracking employees who have been fired and try to go from company to company.

It's been an overwhelming task in New York because the banking department has had to figure out how many brokers and loan officers are actually out there and what their practices have been. The agency has been getting back requested answers to a long list of questions for mortgage firms,

including documents for company accounts to details on company training programs.

### On their own

"It was basically show up and fly by the seat of your pants," Albert Gabriel, assistant deputy banking superintendent, told the New York Association of Mortgage Brokers during its conference Thursday in Melville. "In many cases, there was no quality

control, no fact checking, no plan for tomorrow."

Right now, if fraud such as illegally high commissions by brokers or loan officers is suspected on loan applications, someone has to make a complaint to the banking department, which licenses broker firms and can hold companies liable for employees' actions.

But often, consumers have no idea they can do so. Some employers feel they don't have strong cases against their workers, only suspicion, and that, based on experience, banking officials are too swamped to do much anyway. (In April, the

# New rules on horizon for mortgage brokers

**BROKERS** from A26

state Banking Department hired extra people to investigate mortgage fraud.)

When questionable loan officers or brokers were fired, they could move on to jobs at another mortgage companies or banks or even start their own companies, without the new employers and borrowers knowing much about their backgrounds.

Often the reputable firms have to make spot checks on brokers' and loan officers' work by calling the borrowers.

"When you have a chef who's cooking down at Nathan's (hot dogs) and making \$250,000 a year, you figure this doesn't look right," said Sheldon Glatt, a mortgage specialist with SAS Consultants, a multistate mortgage brokerage firm in Rockville Centre.

But he said it's tough to figure out if the borrower or the employee lied. Glatt and others on the board of the New York Association of Mortgage Brokers have started to compile a list of suspected "bad apples," but attorneys must decide whether the list is legal because the people on it have not been convicted.

"It's very difficult to weed out the bad apples," Glatt said.

This huge field of workers has been the last major players in New York's real estate world to be licensed, way behind requirements for attorneys and real estate agents.

That's partly because the industry has changed so much. About 20 years ago, most loans were made at banks with loan officers. But then, especially during the real estate boom of the past few years, many mortgage



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**Mortgage brokers are the last major players in New York's real estate industry to be licensed. Above, the state association's convention.**

brokerages and non-bank lenders popped up. Most loans originate at such companies instead of the major banks, where controls are usually tighter.

Industry veterans said it was a sort of joke that anyone could get a loan officer or broker job and sometimes did — disbarred attorneys, criminals, people with bad credit, Wall Street bullpen guys who lost their jobs shouting "buy" and "sell" and then were hired as phone salespeople saying they could get this or that interest rate.

There have been complaints that income and other application answers have been whitened out, replaced by more favorable answers to seal loans. Other times, promised rates changed at signing, and borrowers didn't always know that.

Lindenhurst homeowner Antonia Fernandez said one loan of-

ficer convinced her to refinance last year when she couldn't pay county taxes because he had failed to roll in those costs and insurance as requested.

She said he called in May again to get her to refinance a third time in three years with him. "He'd said he was going to bring me an air conditioner for the summer as a gift," she said.

"He didn't bring anything. He just disappeared."

The loan officer could not be reached for comment.

For years, members of the profession led the campaign for change as regulatory, political and financial circles hesitated due to cost, complications with federally chartered banks and the overwhelming task of ramping up for licensing.

Lawmakers passed a licensing bill last year, a few years after the Empire State Mortgage Bank-

ers Association dropped its push for an anti-fraud bill going nowhere and joined the brokers' pro-licensing campaign. Federally chartered institutions are exempt; they'll be governed by federal rules, some of which are not as tough as New York's when it comes to limits on commissions and prepayment penalties.

"We all think this is a strong step in ensuring consumer protection and professionalism in the industry," said Greg Krauzza, president of the New York Association of Mortgage Brokers. "Between market conditions and the new requirements, we will see less mortgage officers. Anyone who can't

meet the standards isn't committed to the industry to pay the fees and take the education courses."

## Focus on fraud

New York's licensing system will begin as authorities crack down on fraud.

Mortgage fraud lawsuits filed by lenders have gone up about 30 to 40 percent in the past year or so at the Mineola law firm of Westerman Ball Ederer Miller and Sharfstein. In at least one case, a lender is suing a broker firm to get it to "buy back" a loan in which the borrower defaulted, an indication that the deal may have been pushed through without properly qualifying the homeowner.

"Lenders are looking at brokers," said Richard Harrison, an attorney there, "and lenders are defending their actions to investors."

According to the FBI, which recently created a mortgage fraud unit, its number of fraud cases has jumped from 436 five years ago to 1,036 now, a 237 percent increase. The numbers keep going up even though the FBI has begun to limit opening cases to those with at least \$500,000 at stake.

Supporters of licensing say the higher bar to become "mortgage loan originators" will help transform loan deals from a "sales transaction" akin to buying a car to something more like a doctor-patient relationship in which the loan expert advises consumers of their best options.

But Uriah Kin, a policy assistant with the nonprofit Center for Responsible Lending, said brakes on commissions are also needed because many brokers and loan officers don't care if a loan is right for a borrower.

"If the loan goes bad the next month, they still have made the money," Kin said.

Licensing brokers and loan officers won't solve everything, most industry veterans said. When loans go bad, they said, it's often because the borrowers insisted on bargains up front, such as low introductory interest rates just to get into a home of their own, and avoided warnings of future risks.

Or borrowers fail to read and understand what they were going to sign. The line between ethics and good salesmanship can be blurry when, for example, a broker steers a borrower to a high-commission risky loan.

"We supply mortgage options to consumers," Krauzza said, "and we help them process through the decisions. They select. We can't lie, cheat or steal to help them be stupid."