

**CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK**  
**TITLE 3. BANKING DEPARTMENT**  
**Chapter I — GENERAL REGULATIONS OF THE BANKING BOARD**  
**Part 38. Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct Under Article 12-D**

3 NYCRR 38.9 Limitation on excess insurance and required disclosures

(a) **Limitation on excess insurance.**

No mortgage banker or exempt organization shall require any mortgagor, in connection with the granting of a mortgage loan, to obtain a hazard insurance policy in excess of the replacement cost of the improvements on the property as a condition for the granting of such mortgage loan.

(b) **Required disclosures.**

Each mortgage banker and exempt organization that requires mortgagors to obtain and/or maintain hazard insurance as a condition to granting any mortgage loan shall at the time of commitment, or if no written commitment will be issued, then at the time of application, furnish in writing or by electronic transmission to each mortgagor:

(1) a statement that hazard insurance will be required;

(2) a statement that the mortgage banker or exempt organization cannot require the mortgagor to obtain or maintain a policy in excess of the replacement cost of the improvements on the property securing the loan.

The disclosures required by this section may be incorporated into the application or commitment or into one or more forms required by State or Federal law or in a separate form. Furthermore, the disclosures required by this section are in addition to any other disclosures required by this Part.

Within three business days of any electronic transmission of this disclosure, a hard-copy of such disclosure shall be mailed to each mortgagor who indicates that he or she does not have the computer capacity to down-load and print such disclosure. Furthermore, in those instances in which a hard copy of the disclosure is not mailed to the mortgagor, the mortgage banker or exempt organization must be able to demonstrate that information was obtained as to the mortgagor's computer capacity to download and print such disclosure.

Statutory Authority - Banking Law, §§ 6-i, 9-o, 14, 590-a, 590(3) and 595-a.

**History** Filed 12-7-88; 10-16-89; 6-13-91; 5-11-98, eff. 5-27-98.