

**STATE OF VERMONT  
DEPARTMENT OF FINANCIAL REGULATION**

IN RE: HIGH RATE MORTGAGE LOAN	)	
DISCLOSURE	)	Docket No. 22-12-B
	)	
	)	

**ORDER EXTENDING SUSPENSION**

WHEREAS, Title 9, Section 104 of the Vermont Statutes Annotated (“Section 104”) provides that the Commissioner of Financial Regulation (the “Commissioner”) may adopt disclosure rules for loans secured by a first lien on residential real estate in which the borrower is expected to be charged in excess of four points on the loan (a “High Point Mortgage Loan”) or interest on the loan in excess of three percent over the rate established by the Commissioner of Taxes pursuant to 32 V.S.A. § 3108 (a “High Rate Mortgage Loan”).

WHEREAS, Banking Division Regulation B-98-2 (“Regulation B-98-2”) specifies the form, content, and timing of the disclosures required by Section 104 (the “Disclosure”).

WHEREAS, Regulation B-98-2 requires the Disclosure for every High Point Mortgage Loan and every High Rate Mortgage Loan.

WHEREAS, the Disclosure notifies prospective borrowers that they may be eligible for a loan with either a lower interest rate, fewer points, or both, from another lender.

WHEREAS, Section 5 of Regulation B-98-2 grants the Commissioner power to “temporarily suspend or modify the disclosure requirements of [Regulation B-98-2]... if the Commissioner deems such temporary suspension or modification to be in the best interests of the public.”

WHEREAS, requiring the Disclosure for competitively priced, market rate, first lien mortgage loans (“Market Rate Mortgage Loans”) would be likely to confuse and mislead borrowers and would be inconsistent with the intent of Regulation B-98-2.

NOW THEREFORE, the Commissioner makes findings and ORDERS as follows:

### **FINDINGS**

1. On November 1, 2022, the Commissioner of Taxes established the rate pursuant to 32 V.S.A. § 3108 at 3.96% (the “2022 Declared Rate”), which is the average prime loan rate charged by banks (as determined by the Board of Governors of the Federal Reserve System) for the 12-month period beginning October 1, 2021 and ending September 30, 2022.
2. Based on the 2022 Declared Rate, the Disclosure requirements for High Rate Mortgage Loans are triggered by any first lien mortgage loan offered in 2022 having an interest rate in excess of 6.96% (the “2022 Disclosure Threshold”).
3. When the Commissioner of Taxes set the Declared Rate at 3.96% on November 1, 2022, the 30-Year Fixed Rate Conforming Mortgage Index rate was 7.053%<sup>1</sup>, a rate far in excess of the Declared Rate.
4. As of December 1, 2022 the 30-Year Fixed Rate Conforming Mortgage Index rate was 6.390%<sup>2</sup>, a rate that remained far higher than the Declared Rate.
5. Based on the prevailing mortgage rates, it is highly probable that during the next six months the interest rates on Market Rate Mortgage Loans will exceed the 2023 Disclosure Threshold.

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<sup>1</sup> Optimal Blue, 30-Year Fixed Rate Conforming Mortgage Index [OBMMIC30YF], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/OBMMIC30YF>, December 6, 2022.

<sup>2</sup> *Id.*

6. The Disclosure is not intended for prospective borrowers of Market Rate Mortgage Loans.
7. Providing prospective borrowers of Market Rate Mortgage Loans with the Disclosure, notifying them that they may be eligible for a loan with a lower interest rate from another lender, may confuse and mislead such borrowers.
8. The Commission previously ordered the suspension of disclosure requirements of Regulation B-98-2 for High Rate Mortgage Loans from May 5, 2022 through December 31, 2022.
9. The Commissioner finds that extending the temporary suspension of the disclosure requirements of Regulation B-98-2 for High Rate Mortgage Loans until July 1, 2023 to be in the best interests of the public.

**ORDER**

NOW, THEREFORE, based on the above findings, the Commissioner ORDERS as follows:

1. Pursuant to Section 5 of Regulation B-98-2, which allows such suspension, the Commissioner hereby suspends the disclosure requirements of Regulation B-98-2 for High Rate Mortgage Loans from January 1, 2023 through June 30, 2023.
2. Nothing herein shall modify or suspend the disclosure requirements of Regulation B-98-2 for High Point Mortgage Loans.
3. This Order shall remain in effect until July 1, 2023, or until rescinded or superseded by the Commissioner, whichever is earlier.
4. This Order shall be governed by and construed under the laws of the State of Vermont.

[Signature page follows]

ENTERED at Montpelier, Vermont, this 15th day of December 2022

A handwritten signature in black ink, appearing to read "Kevin J. Gaffney". The signature is fluid and cursive, with a prominent initial "K".

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Kevin J. Gaffney  
Commissioner of Financial Regulation  
Vermont Department of Financial Regulation