MORTGAGE BROKERING
IN ONTARIO

13th Edition

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This publication is intended to provide accurate information at the time of publication regarding the mortgage industry in Ontario. Legal and other decisions related to financial transactions should be completed only after seeking advice from a competent professional person and should not be based on information contained herein. Neither the publisher nor the author is engaged in rendering legal or other professional advice. The events and characters in this book are fictitious. Any resemblance to persons, living or dead is purely coincidental.

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About the Author

Joseph J. White is the founder and President of the Real Estate and Mortgage Institute of Canada (REMIC), and co-founder and President of Conversational Artificial Intelligence Technologies (CaiT).

Mr. White has been a staunch supporter of the mortgage industry since 1988. He began his career as a mortgage agent, and in the mortgage lending sector of the industry he has held positions as National Sales Manager and VP of Sales with two national mortgage lenders.

In the industry's mortgage brokering sector he is a licensed mortgage broker and has been a partner at a successful mortgage brokerage, manager at two national brokerages, principal broker at a commercial brokerage, founder of a mortgage investment corporation, and is owner and principal broker of his own boutique brokerage.

As an educator, Mr. White has personally instructed over fifteen thousand students since 1996, many of whom are now leaders in the industry. During his 14 years at Seneca College he was a professor, program coordinator, subject matter expert and winner of the Excellence Award for exceptional leadership. In addition to having developed several courses for Seneca College, including the first mortgage broker education program in Ontario's history, he designed the mortgage agent course currently used by REMIC and Ontario's colleges. Mr. White has written two textbooks used in the mortgage industry and by over 20 Ontario colleges, with over thirty thousand copies in print, as well as several business focused books and e-books.

Mr. White has made significant contributions to the growth of the mortgage industry. When he began his career in teaching, 120 students per year were taking the mortgage agent course. Because of his passion and dedication to helping those who want to make mortgage brokering their career, REMIC has become the largest mortgage educator in Canada, teaching over 6,000 students per year.

As a thought leader, Mr. White is leading the development of AI, through hiCait.com, for use in assisting mortgage brokers to capture market share and expand mortgage brokerage's influence in the mortgage market.

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Introduction

Welcome to the exciting world of mortgage brokering!

This book, the updated edition of the last publication of Mortgage Brokering in Ontario – Agent Edition, has been written to assist you in meeting the educational requirements to become licensed as a mortgage agent in Ontario. Since the publication of the First Edition, the new *Mortgage Brokerages, Lenders and Administrators Act, 2006* (while 2006 is part of the legislation's title, it actually didn't come into effect until 2008) also referred to as the *MBLAA* has been fully enacted, with the last piece of legislation coming into effect as of January 1, 2009. There have been several significant changes, all reflected in this book, to brokering in this province, such as changes to disclosure requirements for borrowers and Investors, marketing and the use of specific titles by brokers and agents, to name but a few. The *MBLAA* also raises the bar for both consumer protection and professionalism in the industry by promoting appropriate training as well as the licensing of mortgage agents to meet both the regulator's and the industry's demand for quality professionals to service the mortgage market. In addition, the industry has undergone significant changes. It has survived the mortgage crisis, experienced regulatory changes that have impacted how Ontarians borrow, and have seen market participants leave the industry while new ones have entered it.

The one constant in our industry, as in life, is change. Change can have a positive or negative impact, depending on how we respond to it. To be successful you will have to surpass the minimum requirements for licensing and learn how to respond to the industry's changes, and that's where additional, practical, real life information in this book will be of great interest to you!

I have organized this book in a way that prepares you to complete a mortgage transaction to a professional standard. To assist you further, I've added "Success Tips" throughout. These are designed to provide you practical success strategies that I have gathered from my own years of experience as well as those of my friends and colleagues in the industry. When new terms are introduced, I've added "Pause for clarification," designed to quickly define the new term.

The opportunities in this industry are endless – the mortgage brokerage industry has many diverse participants and offers those involved incredible opportunities for long, rewarding careers. My own career has spanned over two decades, including positions on both the brokering and lending sides, with both brokerages and lenders. Having begun as a mortgage agent, I went on to manage mortgage agents for two large brokerages. I've been a partner in a brokerage and held the positions of Vice President of Sales and National Sales Manager for two national lenders. I've owned a Mortgage Investment Corporation (MIC) and an Administration company and am now President of the Real Estate and Mortgage Institute of Canada Inc. In addition, I spent twelve years at Seneca College as an Instructor, Part-time Program Coordinator and developed both the mortgage agent and mortgage broker courses for licensing purposes in Ontario.

The need for mortgage agents has never been greater! There are more lenders than ever before, even with the recent economic crisis, but the public has little or no knowledge of them. To illustrate this point, take a moment to list the names of all of the lenders that you know or have heard about. How many can you think of? In fact, there are dozens of lenders in the Canadian mortgage market. This incredible number of lenders provides consumers with an overwhelming array of choice for their mortgage financing, and yet the majority of consumers are unaware of them. The typical consumer needs the assistance of a knowledgeable and skilled advisor to find a suitable product from among the various options available. In many cases consumers require "non-conventional" lending - unique, innovative products that serve their particular needs. Again, the consumer needs a professional mortgage agent with knowledge of and access to these products.

Fraud is a growing concern. The professional mortgage agent must be trained to be alert to "red flags" – indicators of potential fraud. Fraud has no place in an industry with professional standards. By acquiring and maintaining clear personal standards and ethical values, professionals ensure that the industry continues to be held in high regard by consumers. The professional mortgage agent plays a key role in ensuring a healthy future for the whole industry.

It is my hope that this text will provide you valuable insights into the mortgage brokerage industry and will continue to serve as a practical reference guide which will be of benefit on an ongoing basis.

I firmly believe that every consumer, not just those who have been declined by their institution, should use a *qualified* mortgage broker or agent. I have had the honour and pleasure of working with and managing some of the most professional and ethical agents in our industry. They have acted and continue to act as ambassadors on our behalf, increasing the public's awareness and respect of our industry. While the regulatory requirements discussed throughout this text will help raise the standards of professionalism for our industry as a whole, regulation is not the sole answer.

In my opinion, to increase market penetration from the current level of approximately 30% requires a change in the public's attitude about our industry. Every broker and agent who acts with the highest levels of integrity, ethics and professionalism is an ambassador for our industry, increasing consumer confidence in our abilities and reinforcing the belief that we are here to serve *them*, not ourselves. Unfortunately, every broker and agent who acts unethically or unprofessionally tarnishes the reputation of the industry as a whole. Simply stated, there is no place in our industry for those who would tarnish our reputation by taking advantage of the public. Brokerages and lenders must continue to have and expand upon top down philosophies that reward ethical and professional behaviour and raise the standard of professionalism above what the *MBLAA*, its *Regulations* and the regulator require. In so doing our industry will shatter that 30% ceiling, an event that is long overdue.

Joseph J. White

Chapter 1: Market Overview

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Explain the role of the mortgage agent/broker
- ❑ Describe the potential of a career as a mortgage agent
- ❑ List and describe the key participants in Ontario's mortgage market
- ❑ Discuss the history of the mortgage industry in Ontario
- ❑ List legislative changes designed to manage the mortgage industry
- ❑ Discuss the market demographics and trends that affect the Ontario mortgage market
- ❑ Define the commercial mortgage market and explain the differences between it and the residential mortgage market
- ❑ Explain the private lending market
- ❑ Discuss the benefits and challenges of investing in mortgages
- ❑ Explain the different methods of investing in mortgages
- ❑ Explain the role of the Real Estate and Mortgage Institute of Canada Inc.
- ❑ List and describe the different mortgage associations operating in Ontario
- ❑ List and describe the different professional designations awarded by the mortgage associations in Ontario

Introduction

The Ontario mortgage market is a vast and diverse industry comprised of dozens of lenders and other key participants in the mortgage process. The following sections will break down the market into its different segments and attempt to provide context for the financing activities in the province. Of course, to understand the market, the main participants in the market must be discussed, which brings us to our first section.

1.1 What is a Mortgage Agent/Broker?

There are two licenses that allow individuals to broker a mortgage: mortgage agent and mortgage broker. The difference between these two licenses is that a mortgage broker, in addition to being able to broker mortgages, can also be the Principal Broker of a mortgage brokerage, a role that is required to provide effective supervision of the brokerage's mortgage agents, among other duties. Each mortgage brokerage must have one Principal Broker to ensure that the brokerage, its agents and brokers comply with the appropriate legislation and regulations.

The regulator of mortgage brokering in Ontario, the Financial Services Regulatory Authority of Ontario (FSRA), formerly referred to as the Financial Services Commission of Ontario (FSCO) until June 8, 2019, states, "The Principal Broker is responsible for the conduct of the Mortgage Brokerage and its Brokers and Agents. "Effective supervision" means that the Principal Broker can show that he/she has taken reasonable steps to ensure every requirement under the

Mortgage Brokerages, Lenders and Administrators Act, 2006 and regulations are met, and that contraventions are handled appropriately.[1] In addition the legislation states that all mortgage agents must be supervised by a mortgage broker.[2]

In practice this means that while a brokerage can only have one Principal Broker, it may have additional mortgage brokers providing direct supervision to their mortgage agents, all under the supervision of the Principal Broker. It's up to the brokerage to decide how it implements effective supervision. If the brokerage has 10 agents, it may feel that the Principal Broker can effectively manage those agents. If the brokerage has 100 agents, it may feel it necessary to have additional mortgage brokers in a supervisory role.

Therefore, it's necessary that mortgage agents know who their direct supervisor is so that help can be obtained in situations where the agent needs it. While these types of situations may be related to lender product and rate information, mortgage agents can also obtain this information directly from lenders.

A mortgage agent must, however, obtain help from his or her Principal Broker (or whomever the brokerage has deemed that support person to be) in regards to compliance related issues, or anything pertaining to legislation that regulates the conduct of the mortgage agent. Furthermore, the brokerage's policies and procedures manual will clearly indicate all circumstances in which the mortgage agent must seek the help of a mortgage broker.

For our purposes we will use the term mortgage agent and mortgage broker interchangeably throughout this text, as both terms refer to a licensed individual authorized to broker mortgages in Ontario.

A mortgage agent/broker can be defined as a practicing professional, licensed by FSRA, who assesses a borrower's financial goals with respect to real estate financing and, after detailed analysis, provides solutions to meet those goals by acting as an intermediary with the appropriate lending source.

The typical activities, among others, of a mortgage agent/broker, all of which will be discussed in detail throughout this book, include brokering both residential and commercial mortgages, including:

- Brokering a new mortgage, collateral mortgage, line of credit, or other type of loan secured by real property (which is land and whatever is affixed to it)
- Refinancing of an existing mortgage
- Arranging investing in a mortgage by one or more individuals
- Providing mortgage advice and counsel, including about renewal options

[1] FSCO, https://www.fsco.gov.on.ca/en/mortgage/Pages/reqforsup.aspx
[2] *MBLAA*, Licenses, Mortgage agent's license, 9.(5)

Pause for clarification – Mortgage
Explained in detail in chapter 2. The word mortgage is defined as, "any charge on any property for securing money or money's worth." However, the more common definition of a mortgage states that: a mortgage is defined as a loan secured by real property.

Pause for clarification – Collateral mortgage
Explained in detail in chapter 2. Unlike a standard mortgage that places a charge on title, a collateral mortgage, which has been around for years but typically only used for secured lines of credit, is a promissory note with a lien on the property for the total amount registered. You can register more debt against the property than the property is worth since normal regulatory limitations on loan to values do not apply.

Pause for clarification – Line of credit
Explained in detail in chapter 3. A Line of Credit (LOC) is an amount of credit made available to a borrower but not advanced on closing. For example, if a borrower had a $200,000 LOC he or she would be able to use these funds whenever he or she wished.

Pause for clarification – Refinance
Explained in detail in chapter 2. When a borrower already has an existing mortgage refinancing means to increase the size of that mortgage, or renegotiate it in some fashion.

Pause for clarification – Renewal
This is an option when a borrower has an existing mortgage. At the end of the term of the mortgage the lender may offer to renew it. This means that the lender is offering to give the borrower new terms and conditions for a another term while not changing the mortgage amount (unlike in a refinance).

If the lender offers to renew but the borrower does not respond, nor pay the mortgage off, the lender may choose to renew the mortgage at terms listed in the standard charge terms (often a one-year term at posted rates) OR consider the borrower in default .

In a brokered transaction, mortgage agents have two clients: the borrower (the individual receiving the mortgage) and the lender (the provider of the mortgage). In order to maintain a healthy market, it is imperative that the broker "marry" the borrower to the lender best suited for both.

In Ontario, the legal distinction between a mortgage broker and a mortgage agent is determined by licensing. Until July 2008, mortgage brokers had to be licensed in Ontario while mortgage agents were registered (not licensed) by their broker with the FSRA. As a matter of interest, the term mortgage agent did not even exist in Ontario legislation until the *Mortgage Brokers Act* was replaced by the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (2006 makes up part of the title and is not when it was enacted).

As of July 2008, under the *Mortgage Brokerages, Lenders and Administrators Act, 2006,* there are three distinct licensing categories with regards to brokering (there is also a mortgage administrator's license, but that doesn't affect brokering activities). For individuals there are the mortgage agent and mortgage broker licenses. For an organization there is the mortgage brokerage license.

This legislation takes into account that the industry has changed from the "Mom and Pop" type brokerage where a mortgage agent was typically an individual, to the era of the "Super Broker" where brokerages typically employ from several to several hundred mortgage agents.
The role of the mortgage agent/broker revolves around his or her ability to obtain a client and fulfill the financing needs of that client. In essence, the role of the mortgage agent involves recommending the right product to the client and recommending the client to the right lender.

1.2 A Career as a Mortgage Agent

A career as a mortgage agent can be both financially and personally rewarding. As the individual responsible for bringing borrowers and lenders together, you will typically be compensated by the lender in the form of a finder's fee or commission based on a number of basis points (bps) multiplied by the amount of the mortgage. In other cases, where you are dealing with a borrower who doesn't qualify with a traditional lender, you may arrange the mortgage with a private lender. In this case you would charge the borrower a brokerage fee that would be deducted directly from the mortgage proceeds.

Pause for clarification – Mortgage proceeds
The term mortgage proceeds refers to the mortgage advance, in other words the money that is being lent to the borrower. In certain circumstances amounts will be deducted from these proceeds and paid to others, such as the lawyer, municipalities, creditors, etc. These are referred to as disbursements.

First, it is important to be mindful of the fact that your role is to always do what is in the best interests of your clients, while being concerned with your own income last. In this way you will always be conducting yourself in a professional and ethical manner.

With this in mind we can take a look at a typical transaction. The typical finder's fee or commission paid by lenders in today's marketplace is approximately (this figure will change based on the lender, product and other factors) 85 basis points (.85%), which is referred to as 85 bps. If you have arranged a mortgage in the amount of $300,000, then your brokerage would be paid a finder's fee of 85bps x $300,000, or .0085 x 300,000 which equals $2,550.

Mortgage agents work on a commission split with their brokerage. For experienced mortgage agents the split can be up to 100%, but on average is 85/15 (the agent receives 85% of the commission). This would equate to a commission payable to you of $2,167.50. For new mortgage agents the split will typically be less until the brokerage has determined that the agent has gained an appropriate level of experience.

The average transaction will take approximately 6 hours to complete (this is an average; some will be longer while others shorter and this amount of time is typically spread over several days).

By dividing the commission by the number of hours ($2,167.50 / 6) we can determine that you would have earned $361.25 per hour for this transaction. If an agent were to average 1 transaction per day, his or her income would be approximately $520,200 per year ($2,167.50 x 20 business days per month x 12 months).

Now that we've discussed the upper end of an agent's income potential, let's discuss the reality for new agents.

A new agent will typically not have an income for the first three months of his or her career. It takes time to find clients, and then it takes time to close or fund the transaction. After that it takes more time to receive your commission. A new agent should expect to see an income after the first three months, and should be, given industry averages, aiming for 3 funded transactions per month at the end of his or her first year. An average of 3 fundings per month would equal an income of $78,030 per year.

Of course, these are only averages. A highly successful agent may earn substantially more than this amount in his or her first year, while another agent may earn substantially less.

As you continue on your new career path as a mortgage agent it is important to note that many agents earn six figure incomes while others do not; the potential is directly related to the time, effort and expertise, among other factors, of the agent.

As you can see, this can be an extremely rewarding career. Agents have the potential to earn significant incomes while helping borrowers find the product that best suits their needs and circumstances. In performing your duties professionally and ethically you will earn the respect of your industry peers, and develop a fulfilling life long career.

Our next step is to investigate the market in which you will be working.

1.3 Key Participants

The mortgage market in Ontario is comprised of several key industry participants. In addition to the mortgage agent, whose role will be discussed throughout this textbook, the following participants are vital to the industry and are part of the process of land ownership.

Mortgage Brokerage
The mortgage brokerage is the licensed mortgage brokering entity. Every mortgage agent must be licensed through and authorized by only one mortgage brokerage. If a licensed mortgage agent stops being authorized by his or her mortgage brokerage his or her mortgage agent license will be suspended. For example, if a mortgage agent resigns from a mortgage brokerage her license will be suspended until she is hired by another mortgage brokerage.

Principal Broker
The Principal Broker is a licensed mortgage broker who is designated by the brokerage to be its chief compliance officer. Under the *MBLAA*, the brokerage is licensed, and it must have one licensed mortgage broker designated as the Principal Broker. This person is responsible for activities as outlined in *Regulation 410/07*, which defines the role of the Principal Broker. Refer to Chapter 5 for more information on the Principal Broker.

Institutional lender
The lender is the cornerstone of the mortgage industry. Lenders are generally grouped into two main categories: institutional and private. Institutional lenders represent the majority of lenders in Ontario, but private lenders have always been and will most likely always be a necessary provider of funds for borrowers who don't qualify through institutional lenders. Institutional lenders consist of Schedule 1, 2 and 3 banks, credit unions, loan and trust companies, finance companies or other corporations constructed to lend money on real estate. Any lender may also be referred to as the mortgagee.

For your information…
Under the *Bank Act*, banks are defined as:

- Schedule 1 (banks that are Canadian owned)
- Schedule 2 (branches or subsidiaries of foreign banks)
- Schedule 3 (foreign owned banks operating in Canada)

A list of current Schedule 1, 2 and 3 banks is located in the Appendix

Private lender
A Private lender is typically an individual investor with funds who would like to invest in mortgages. This individual will usually invest through his or her lawyer who may have clients requiring mortgage financing or a mortgage agent. His or her purpose may vary but normally an investor will invest in 2^{nd} mortgages due to their higher rate of return when compared to 1^{st} mortgages and other potential types of investments such as GICs or bonds.

Any Private lender may also be referred to as the mortgagee.

Borrower
The borrower is called the mortgagor and is the individual or individuals who are taking the mortgage loan and pledging their property as security. In virtually every instance you will be meeting with the borrower(s) directly, however you may encounter circumstances where you are meeting with a borrower acting under a Power of Attorney for the homeowner. This requires significant due diligence on the part of the mortgage agent as these transactions are more susceptible to fraud.

Pause for clarification – Continuing Power of Attorney for Property
Also referred to as an "Enduring Power of Attorney," this is a legal document in which a person gives someone else the authority or right to make decisions about their finances. The person named as the attorney does not have to be a lawyer. The Power of Attorney is entitled "continuing" as it can be used after the person who gave it is no longer mentally capable to make the financial decisions on their own.

Institutional Mortgage Originator
Several financial institutions now have their own Mortgage Origination teams, often referred to as Road Warriors, who actively seek borrowers for them. These Originators are compensated by their institution and are not considered to be brokering a mortgage transaction since they are using only one lender. The major differentiating factor between an institutional mortgage

originator and a mortgage agent is that, while both are dedicated to providing the best solutions to their clients, institutional mortgage originators can only place their clients with the lender by whom they are employed and therefore do not have access to all of the different products available in the market.

Real Estate Salesperson

The Real Estate Salesperson is the individual who brokers the purchase and sale transaction between a vendor (seller) and the purchaser. This individual is employed by a licensed Real Estate Broker, has met licensing guidelines and is a member of a local Real Estate Board.

Real Estate Salespersons are a vital link in the process of purchasing and selling real estate and are therefore of considerable importance to the mortgage agent in regards to obtaining clients.

More information on Real Estate Salespersons can be found through Humber College at https://humber.ca/realestate/

Success Tip – Real estate salespeople

Although the number of real estate salespeople is significant in the Ontario market, before you attempt to obtain clients from them keep the 80-20 rule in mind: 80% of transactions are typically done by 20% of a sales force. You should focus on the successful real estate salespeople to get the most referral business possible.

Real Estate Appraiser

The Real Estate Appraiser also plays a vital role in the real estate process, especially from the standpoint of the mortgage agent. The Appraiser determines, in the case of financing, the market value of the property to be mortgaged. Real Estate Appraisers do not have to be licensed in Ontario, but unless they have a professional designation, no lender will accept their appraisal for financing purposes.

There are several methods used to determine the market value of a property, as well as several methods of completing an appraisal. These topics will be covered in the chapter, Application Analysis – The Property.

Home Inspector

Home Inspections began as a consumer service in the 1970s and have grown in popularity since then. A qualified Home Inspector will advise the home purchaser / homeowner in regards to the condition of the home and advise regarding issues surrounding its condition. The condition of the home naturally affects the market value.

More information on Home Inspectors in Ontario can be found through the Ontario Association of Home Inspectors (OAHI) at www.oahi.ca.

Mortgage Default Insurer

The Mortgage Default Insurer provides mortgage default insurance policies to lenders typically offering high ratio mortgages, although default insurance can be provided on a mortgage loan of any loan to value. The main insurers in the Ontario market include the government insurer, the

Canada Mortgage and Housing Corporation (CMHC) and the two private insurers, Genworth Financial Canada and Canada Guaranty Mortgage Insurance Company (Canada Guaranty).

> ***Pause for clarification – Loan to Value (also referred to as LTV)***
> A loan to value is the amount of the loan or mortgage to the value of the property. For example, if the mortgage is $200,000 and the value of the property is $400,000 then the loan to value is $200,000 divided by $400,000 which equals 50%. *This is explained in detail in chapter 13.*

Mortgage Default Insurance provides protection for the lender in the case of mortgage default by the borrower. Typically, the lender will pass the cost of this insurance policy on to the borrower, who benefits from the policy by being able to get a high loan to value mortgage at conventional rates.

Lawyer
A real estate lawyer is the professional involved in a real estate transaction who performs the following tasks:
- Negotiating and drafting Agreements of Purchase and Sale
- Acting for buyers or sellers on new or re-sale home, condominium, or commercial purchases or sales
- Acting for borrowers or lenders on mortgage transactions, including preparing documents and registering documents

Mortgage Creditor Insurer
A mortgage creditor insurer is an insurer that provides a policy to the mortgage borrower so that upon a claim (in the case of death; there are additional creditor insurance policies available) the mortgage loan is paid by a one-time lump sum payment to the lender. This insurance is specific to the mortgage loan.

Title Insurer
A Title Insurer is an insurer that provides a policy which provides coverage for the insured's title. It can compensate the insured for real losses associated with covered issues found in the terms of the policy. For example, if there is an old mortgage on title that was never discharged and this prevents the property from being conveyed to the purchasers, the title insurance policy will take steps to remedy this situation.

It also assists in streamlining the closing process (the process of the lawyer closing the mortgage transaction), protects against fraud and forgery and is available on purchases, refinances and to homeowners who did not obtain a title insurance policy on either of those occasions.

Mortgage Administrator
A Mortgage Administrator is a person or entity that services a mortgage loan on behalf of another. For example, a Mortgage Administrator may process payments, renewals and discharges, provide correspondence and act to collect mortgage arrears for a lender that has contracted them.

Under the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, Mortgage Administrators are licensed in Ontario. *Regulation 406/07* of this legislation defines a Mortgage Administrator as one who is "Taking steps, on behalf of another person or entity, to enforce payment by a borrower under a mortgage."

1.4 History of the Mortgage Industry in Ontario

Although it might not make a significant difference to a borrower, the fact is that William the Conqueror's victory over England's army at the Battle of Hastings in 1066 has had an influence on how land is owned and mortgaged in Canada today by resulting in the imposition of the French feudal system of land ownership.

This system was based on the principle that all land was ultimately owned by the Crown and individual citizens could only obtain rights to use this land based on agreement made with the Crown, usually for military service or for other feudal services.

In Canada, this system was incorporated into the *British North America Act, 1867* which was later renamed the *Constitution Act, 1867*. Under this legislation the Crown, being the ultimate landowner in Canada, granted rights, called patents, to Canadians to use land in exchange for clearing the land and building a shelter.

The Crown would usually grant up to 100-acre farm lots to settlers arriving in the latter part of the 18th century and retained timber and mineral rights to the land. This had the result of granting an interest in the land that was less than full ownership, which allowed the owner of these rights the use of the land but not the ultimate ownership.

In Ontario and the rest of Canada, where no initial patent was granted for a piece of land, no private ownership could result. This is the case, even to this day.

In today's Ontario, the Crown owns full residual interests in land which is what allows the Crown to expropriate land for its own use. Considering that the Crown is the residual owner of the land, expropriation or requiring the current owner of the land to sell the property back to the Crown makes sense. Examples of this can be seen on a regular basis, when the Crown, usually in the form of a municipality, expropriates a piece of land to build a new road. This can also be found to happen when a property owner fails to pay their property taxes. The municipality then has the right to take the property and sell it to recover those taxes.

> ***More information – Expropriation***
> Visit remic.ca/expropriation-explained *for more information*

The mortgage market in Ontario has undergone significant changes during the last few decades, beginning with the introduction of bank mortgage lending in the 1960s, followed by insured mortgages and the influx of sub-prime lenders more recently.

Originally mortgage lending in Ontario was provided by life insurance companies. They had significant deposits paid by the premiums of their policy holders which allowed them to lend these amounts to individuals wishing to purchase land. Up until a major change in the *Bank Act*, Banks were not permitted to lend on residential mortgages.

However, the writing was on the wall, so to speak, as banks were in a much greater competitive position to dominate the mortgage market due to their branch network. Banks, having branches in virtually all communities could service their customers much more efficiently than life insurance companies and had much greater direct access to potential borrowers.

In 1954 the *Bank Act* was changed to allow banks to lend on residential mortgages; however, there was a limit to the amount of interest that they could charge. This limit was set at 6%. Unfortunately, the market at the time saw interest rates at such a point that it was unprofitable for banks to lend based on that constraint, so the market remained dominated by life insurance companies until that cap was removed.

That occurred in 1967 when the *Bank Act* was once again amended. This amendment removed the 6% cap and virtually overnight the banks became the predominant source of mortgage funds in Ontario. Today banks account for approximately 61% of all mortgages held in Canada and have a virtual lock on mortgage lending.

In referring back to the 1970s, it can be seen why the mortgage brokerage community, in its infancy, was not necessarily a major benefit to consumers. The market was dominated by the main banks that offered standard mortgage products, namely 25-year amortizations, 5-year fixed rate terms with monthly payments and standard repayment options.

If a borrower wanted a mortgage with a low rate of interest, he or she would be obtaining it from his or her bank. If that bank declined their application they would basically be declined by the other banks, since all of their lending criteria were virtually identical.

The mortgage brokerage community rose from the need of borrowers to obtain financing if and when they were declined by the bank. Typically, mortgage agents offered the borrower a private mortgage at a higher interest rate and charged a fee to arrange this financing. In other scenarios, borrowers would finance their home purchase from friends or family if they didn’t qualify at their bank.

In essence mortgage agents offered a fringe service in the mortgage market that wouldn’t change for some time. In the United States, the mortgage market was traveling a different route. The mortgage lending market quickly became inundated with smaller, regional lenders which precipitated the need for mortgage agents to assist consumers in choosing the *right* lender and product that matched *their* needs.

The mortgage industry in Ontario can currently be said to still be in its infancy. In the late 1980s mortgage agents were still primarily being used as sources of private mortgage funds for those declined by the major institutional lenders, but that was due for a change.

As further legislative changes were being made that allowed an influx of mortgage funds into Canada, the number of lenders also began to increase. Non deposit taking institutions began to permeate the Ontario market, providing options that began to reflect the maturing real estate market. These options gave borrowers alternatives to a bank mortgage and began the competitive process of product innovation that is evident in today’s market.

Compared to the options available to today's consumer, the 1970s and 1980s were the Stone Age, while this can be compared to the Industrial or Golden Age of mortgage lending. Where there was only a handful of lenders then, there are dozens of institutional lenders in today's market in addition to private and non-institutional sources of mortgage financing. Unfortunately, there has also been a slight return to more conventional lending practices due to the market meltdown in the United States' sub-prime mortgage market.

While not directly impacted by the American mortgage market in recent decades, the problems faced by our neighbours to the south in 2007 have had a significant impact on our sub-prime mortgage market.

To begin with, it is necessary to understand what constitutes a sub-prime mortgage.

The Sub-Prime Mortgage Market

The Sub-Prime Mortgage Market, also referred to as the Alternative Mortgage Market, Non-Conforming Mortgage Market or "B" type lending has been with us since the early days of our industry when borrowers who were declined by their bank had to seek financing from private lenders. This was typically due to income or credit issues that disqualified them from traditional mortgage lending.

In recent years the Ontario market has seen significant changes in its workforce and demographics. For example, there has been over a 50% increase in self-employed individuals in the workforce since the late 1980s[3]. Since most traditional lenders did not have products for these borrowers, they were relegated to obtaining private or non-institutional financing.

As this trend increased and as new lenders entered the Canadian mortgage market, products that catered to the self-employed were introduced. Over time these products became more aggressive, allowing for programs that permitted borrowers to simply state their income without having to prove it. The concept behind these programs was that, if the borrower had good credit and other assets that would be evidence that they had sufficient income to meet these obligations, then they had the ability to repay a mortgage.

Simply put a borrower would be required to write a letter, often referred to as a self-declared income letter stating what their gross income was for the year. That amount would then be used to determine if they qualified for the mortgage based on ratios used to calculate loan amounts. There was not, and still isn't, income verification under this program.

These programs were introduced in the United States before they were picked up on in Canada. In addition, the American market was providing loans to borrowers that were far more aggressive than could be found in the Canadian market. While interest only loans were being introduced in Canada, they were amounting to nearly one third of all new mortgages in 2005 in the United States.

Our American counterparts were also offering negative loan to value mortgages. In other words, an American borrower could borrow in excess of 100% of the value of their home. Consider then that borrowers were being allowed to state their own incomes, and in

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[3] Statistics Canada, http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/labor64-eng.htm

conjunction with income fraud (borrowers using false income verification), many American lenders were providing mortgages to borrowers who in essence could not afford those loans. Just as crucial was the fact that lenders were offering teaser rates (over 90% of subprime mortgage in 2006 were adjustable rate mortgages with teaser rates) to these borrowers. A teaser rate was a rate that began low but that would increase over time. This resulted in a mortgage payment that was low for the first few years, but that would increase later. Although borrowers could afford these teaser rate payments, affordability became a problem when the rates increased.

You may wonder why anyone would get a mortgage that would become unaffordable. The answer was simple. Lenders and brokers told borrowers that before their rates went up, they would get refinanced into a new teaser rate mortgage, thereby avoiding the rate increase. Unfortunately, that wasn't the case, as the hot American housing market cooled, and prices began to dip. Because of this (and other reasons) lenders would not refinance, leaving borrowers with increased mortgage payments that many could not afford.

In 2007 the default ratios on these sub-prime mortgages began to rise. As they increased more borrowers began to walk away from their homes, basically telling their lender that they could no longer afford the payments. This caused American lenders to take over these properties and foreclose, meaning that they took title from the original homeowner and sold the property. The first major indicator of market trouble occurred in California, where this became an increasing trend. As the number of properties being foreclosed increased, the number of homes in the real estate market increased, and supply began to outpace demand. Basic economics dictates that when supply is greater than demand, prices tend to fall in an attempt by the market to restore equilibrium.

With falling prices, more homeowners found themselves with payments that they couldn't afford and properties where they owed more than the house was worth. This resulted in a downward spiral where lenders had to foreclose on an ever-increasing number of properties. The result was that many lenders had to write off billions of bad mortgage debt that was unrecoverable. In and of itself this might not have caused a major meltdown in the market. Lenders have had to write off bad debts before. However, the way many of these lenders obtained the funds that they used to lend to borrowers was based on a system that had *them borrowing* money to lend.

In other words, a non-bank lender would find a major institution that would provide them with a line of credit (referred to as a warehouse line of credit). This lender would then make loans to borrowers and eventually, once the line of credit was full, sell the mortgages in a pool to other investors, such as banks or pension funds. This process is referred most typically to as securitization.

The way a lender involved in this process would make their money would be from up front lender's fees that they charged in addition to servicing the loan, if applicable, on behalf of the investor or purchaser of the pool of mortgages.

However once the rates of default began to skyrocket on these mortgages the potentials buyers of these loan pools dried up. The market then had lenders with lines of credit that they couldn't repay since there was virtually no one to purchase these pools of mortgages.

The sub-prime mortgage meltdown of 2007 had begun.

While most Canadians looked on with interest in the early part of 2007, the impact on the Canadian market wasn't immediately foreseen. The sub-prime mortgage market in Canada was less aggressive than its counterpart in the United States and therefore less likely to see the same types of default rates.

By all accounts the Canadian sub-prime market wasn't exhibiting the same number of bad loans and therefore should not be subject to the same problems associated with the American sub-prime market. This outlook was soon proved to be erroneous.

The world-wide market for purchasing sub-prime pools of mortgages virtually shut down. Investors and lenders alike were so paranoid about sub-prime losses they were experiencing in the United States that there was a virtual moratorium on buying sub-prime pools of mortgages, including Canadian pools.

This has had a significant impact on the Canadian sub-prime market with a few sub-prime lenders exiting the market altogether, others adopting a more conservative approach to lending, while others still simply struggling to stay in business. Deposit taking institutions, on the other hand, have not seen the same types of volatility in the Canadian market due to their reliance on deposits from consumers as the source of their mortgage loans. This "old fashioned" way of lending has served them well and should allow them to weather this "sub-prime storm."

As long as Canadian consumers continue their strong record of repaying mortgage debt, Canada will continue to be a profitable market for lenders.

1.5 Legislative Changes to Programs[4]

The Canadian government sets the guidelines for default insured mortgages to, in part, manage the housing market, while provincial governments can use other tools, such as taxes. The following summarizes the changes made by governments since the financial crisis of 2008. Except for the B20 stress test, the majority of these rules apply to high ratio default insured mortgages, low ratio mortgages that are default insured and portfolio insurance. The bulk of low ratio mortgages are insured through portfolio insurance. This means that even though a lender may not be providing a high ratio, insured mortgage to a borrower, it must still follow these guidelines if they are insuring them through portfolio insurance.

January 1, 2018: Guideline B20 stress test for uninsured mortgages[5]
OSFI is setting a new minimum qualifying rate, or "stress test," for uninsured mortgages.

- Guideline B-20 now requires the minimum qualifying rate for uninsured mortgages to be the greater of the five-year benchmark rate published by the Bank of Canada or the contractual mortgage rate +2%.

OSFI is requiring lenders to enhance their loan-to-value (LTV) measurement and limits so they will be dynamic and responsive to risk.

[4] Department of Finance Canada, https://www.fin.gc.ca/n16/data/16-117_2-eng.asp
[5] OSFI, http://www.osfi-bsif.gc.ca/eng/osfi-bsif/med/Pages/b20_dft_nr.aspx

- Under the final Guideline, federally regulated financial institutions must establish and adhere to appropriate LTV ratio limits that are reflective of risk and are updated as housing markets and the economic environment evolve.

OSFI is placing restrictions on certain lending arrangements that are designed or appear designed to circumvent LTV limits.

- A federally regulated financial institution is prohibited from arranging with another lender a mortgage, or a combination of a mortgage and other lending products, in any form that circumvents the institution's maximum LTV ratio or other limits in its residential mortgage underwriting policy, or any requirements established by law.

April 21, 2017: Non-Resident Speculation Tax (NRST)[6]
The NRST is a 15 per cent tax on the purchase or acquisition of an interest in residential property located in the Greater Golden Horseshoe Region (GGH) by individuals who are not citizens or permanent residents of Canada or by foreign corporations (foreign entities) and taxable trustees.

November 30, 2016: Low ratio and portfolio insured mortgages
Mortgages insured using low ratio default insurance and portfolio insurance must meet the following criteria:

1. A loan whose purpose includes the purchase of a property or subsequent renewal of such a loan;
2. A maximum amortization length of 25 years;
3. A property value below $1,000,000;
4. For variable-rate loans that allow fluctuations in the amortization period, loan payments that are recalculated at least once every five years to conform to the established amortization schedule;
5. A minimum credit score of 600;
6. A maximum Gross Debt Service ratio of 39 per cent and a maximum Total Debt Service ratio of 44 per cent, calculated by applying the greater of the mortgage contract rate or the Bank of Canada conventional five-year fixed posted rate; and,
7. If the property is a single unit, it will be owner-occupied.

October 17, 2016: Stress Test – Interest Rate
Borrowers must qualify at the Bank of Canada's five-year fixed posted mortgage rate. This rate is an average of the posted rates of the big six banks. As of May 3, 2019 the rate was 5.34. This means that even though a lender may offer the borrower a much lower rate, the borrower must still qualify at the higher rate.

October 2, 2016: Foreign Ownership
This is not related to default insured mortgages, rather it is a change to the income tax system. An individual who was not resident in Canada in the year the individual acquired a residence will not—on a disposition of the property after October 2, 2016—be able to claim the capital gains exemption for that year. This measure ensures that permanent non-residents are not eligible for the exemption on any part of a gain from the disposition of a residence.
In addition, The Canada Revenue Agency (CRA) will require a taxpayer to report the disposition of a property for which the principal residence exemption is claimed. The CRA currently does

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[6] Ontario Ministry of Finance, http://www.fin.gov.on.ca/en/bulletins/nrst/nrst.html

not require this reporting where a property is eligible for the full principal residence exemption. The change means that, when a taxpayer disposes of a principal residence, the taxpayer will be required to provide basic information in the taxpayer's income tax return for that year in order to claim the exemption.

December, 2015: High Ratio Down payments
The government increased the minimum down payment for high ratio insured mortgages on homes valued over $500,000 from 5% to 10%.

June 2012: 4 new restrictions

- Stress Test – GDS/TDS: The government changed the maximum GDS to 39% and TDS to 44% for insured mortgages.
- Maximum Amortization: Reduced to 25 years from 30 years
- Maximum Refinance: Reduced to 80% loan to value from 85%
- Maximum Property Value: High ratio insurance limited to properties valued at less than $1 million

January, 2011: 2 new restrictions

- Maximum Amortization: Reduced to 30 years from 35 years
- Maximum Refinance: Reduced to 85% loan to value from 90%

February, 2010: 2 new restrictions

- Maximum Refinance: Reduced to 90% loan to value from 95%
- Non-owner-occupied insured mortgages: 20% down payment required

July, 2008: Maximum Amortization

- The maximum amortization was reduced to 35 years from 40 years

1.6 Market Demographics and Trends

The study of Ontario's demographics is required to develop an understanding of the makeup of the market and its potential from the standpoint of mortgage financing.

Population

The following figure illustrates the breakdown of the Canadian population by province and territory, as of September, 2016. With approximately 39% of Canada's population, the mortgage market in Ontario is the largest in Canada, representing approximately 40% of all mortgages approved in the country in 2010. Although Quebec ranks next in population, the next largest province for mortgage financing was Alberta, followed closely by British Columbia, then Quebec[7].

[7] Statistics Canada, Preliminary postcensal estimates

Figure 1[8] – Population and Age Distribution by Province and Territory

2016 Population by age group, by province and territory				
	All ages	0 to 14	15 to 64	65 and older
Canada	36,286.4	5,831.6	24,464.3	5,990.5
Newfoundland and Labrador	530.1	75.0	353.9	101.2
Prince Edward Island	148.6	23.3	97.2	28.1
Nova Scotia	949.5	133.6	631.3	184.6
New Brunswick	756.8	110.4	498.5	147.9
Quebec	8,326.1	1,295.5	5,526.6	1,503.9
Ontario	13,983.0	2,219.6	9,473.6	2,289.8
Manitoba	1,318.1	247.1	872.9	198.1
Saskatchewan	1,150.6	221.3	758.7	170.6
Alberta	4,252.9	786.9	2,959.2	506.8
British Columbia	4,751.6	691.5	3,209.7	850.4
Yukon	37.5	6.4	26.8	4.3
Northwest Territories	44.5	9.7	31.6	3.2
Nunavut	37.1	11.4	24.2	1.5

Note: Population on July 1.
Source: Statistics Canada, CANSIM, table 051-0001. Last modified: 2016-09-28.

Size of the Mortgage Market

As of May, 2014 the size of the Canadian mortgage market, in terms of the value of all outstanding mortgages in the county was estimated at $1.235 trillion[9]. The total residential mortgage credit outstanding in Canada has risen significantly since 1981, increasing by over 850% in 25 years.

As the following figure illustrates, the lending market is dominated by the chartered banks, who account for nearly half of all outstanding mortgages in any given year. Credit Unions are a distant second.

Characteristics of a Mortgage Agent's Client

Approximately 30% of Ontario consumers used a mortgage agent in 2014, a number that has remained consistent for the past several years, while 50% used a bank.

According to a recent Mortgage Consumer Survey by CMHC, the average mortgage agent's client had the following characteristics:

[8] Statistics Canada, http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo31a-eng.htm
[9] CMHC, Canadian Housing Observer, https://eppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/cmhc/pdfs/content/en/observer-compilation-2017-en.pdf

- 51% had a household income under $60,000 while 49% had an income over $60,000
- 44% were between 35 and 54 years old, while 34% were 18 to 34 years old and 22% were over 55 years old
- 19% were self employed
- 92% of *first-time* purchasers who used a mortgage agent were either rather or totally satisfied
- 87% of *repeat* purchasers who used a mortgage agent were either rather or totally satisfied
- 87% of *refinancers* who used a mortgage agent were either rather or totally satisfied
- 80% of *renewers* who used a mortgage agent were either rather or totally satisfied.

Of all consumers,
- 81% of renewers remained with their current lender indicating that service was their major reason for this loyalty
- 65% of repeat purchasers remained with their current lender indicating that service was their major reason for this loyalty
- 65% of refinancers remained with their current lender indicating that service was their major reason for this loyalty
- 58% of first-time purchasers remained with their current institution indicating that relationship was their major reason for this loyalty, followed closely by rate.

In addition, 68% of all consumers indicated that they wanted to pay off their mortgage as quickly as possible. However, only 27% of consumers actually used prepayment options in 2009. According to an RBC Survey, 34% of respondents said they didn't use prepayment options because they didn't have the money to take advantage of prepayment options, while 30% had other debts they wanted to pay off first and 20% wanted to invest before prepaying their mortgage. The following chart illustrates the number of families by income segment in Canada. 2012 is the latest date that data is available from Statistics Canada.

Figure 2 – Residential Mortgage Credit by Lender by Year[10]

Residential Mortgage Credit by Lender by Year					
	2011	**2012**	**2013**	**2014**	**2015**
Total outstanding balances	1,058,042	1,128,811	1,188,451	1,247,593	1,319,624
Chartered banks	580,789	840,337	888,765	931,830	978,037
Trust and mortgage loan companies	35,047	35,304	31,138	25,442	25,601
Life insurance company policy loans	14,730	14,958	14,680	15,092	15,768
Pension funds	13,360	12,703	13,099	13,210	14,159
National Housing Act mortgage-backed securities	231,831	35,538	36,371	41,917	51,453
Credit unions and caisses populaires	131,580	139,926	149,435	161,020	171,238
Special purpose corporations (securitization)	11,971	9,728	11,114	10,380	10,061

Note: Figures may not add to totals due to rounding.
Sources: Statistics Canada, CANSIM, table 176-0069; Bank of Canada.
Last modified: 2016-11-28.

[10] Statistics Canada, http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/fin21-eng.htm

Figure 3[11] – Family Income, by Family Type

Family income, by family type (Couple families)					
	2010	**2011**	**2012**	**2013**	**2014**
Total, all income groups	7,989,380	8,091,960	8,169,080	8,273,180	8,382,120
Under $10,000	189,700	182,900	181,120	179,380	172,010
$10,000 and over	7,799,670	7,909,060	7,987,950	8,093,800	8,210,110
$15,000 and over	7,695,970	7,811,680	7,896,460	8,004,150	8,124,620
$20,000 and over	7,552,050	7,676,700	7,768,900	7,880,740	8,007,770
$25,000 and over	7,355,530	7,497,090	7,604,140	7,720,980	7,855,390
$30,000 and over	7,045,540	7,199,220	7,334,630	7,461,500	7,610,770
$35,000 and over	6,708,710	6,864,160	7,006,160	7,139,610	7,293,970
$40,000 and over	6,383,220	6,540,470	6,685,630	6,823,130	6,982,850
$45,000 and over	6,052,150	6,217,470	6,368,450	6,510,700	6,677,900
$50,000 and over	5,719,630	5,893,430	6,050,800	6,199,170	6,369,750
$60,000 and over	5,059,180	5,246,310	5,414,280	5,572,210	5,752,950
$70,000 and over	4,420,250	4,617,280	4,793,640	4,958,460	5,144,920
$75,000 and over	4,111,920	4,313,490	4,492,200	4,660,240	4,847,420
$80,000 and over	3,815,020	4,018,690	4,198,650	4,368,840	4,555,480
$90,000 and over	3,258,520	3,462,890	3,642,000	3,811,560	3,994,910
$100,000 and over	2,761,360	2,960,190	3,135,540	3,301,080	3,478,310
$150,000 and over	1,148,440	1,276,150	1,395,820	1,513,010	1,631,320
$200,000 and over	510,820	576,700	641,950	705,530	766,720
$250,000 and over	274,930	309,200	341,540	375,120	406,680
Median total income	76,950	79,530	81,980	84,080	86,410

Note: Family income is the sum of the incomes of all members of the family.
1. A census couple family consists of a couple living together (married or common-law, including same-sex couples) living at the same address with or without children. Beginning in 2001, same-sex couples reporting as couples are counted as couple families.
Source: Statistics Canada, CANSIM, table 111-0012.
Last modified: 2016-07-14.

Figure 4[12] – Median Total Income, by Family Type, by Province and Territory

Median total income, by family type, by province and territory					
	2010	**2011**	**2012**	**2013**	**2014**
Canada	69,860	72,240	74,540	76,550	78,870
Newfoundland and Labrador	62,580	67,200	70,900	73,850	77,040
Prince Edward Island	63,610	66,500	69,010	70,270	72,380
Nova Scotia	64,100	66,030	67,910	70,020	72,270
New Brunswick	62,150	63,930	65,910	67,340	69,290
Quebec	65,900	68,170	70,480	72,240	73,870
Ontario	71,540	73,290	74,890	76,510	78,790

[11] Statistics Canada, http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/famil106a-eng.htm
[12] Statistics Canada, http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/famil108a-eng.htm

Manitoba	66,530	68,710	70,750	72,600	74,790
Saskatchewan	72,650	77,300	80,010	82,990	85,710
Alberta	85,380	89,830	94,460	97,390	100,750
British Columbia	66,970	69,150	71,660	74,150	76,770
Yukon	86,930	91,090	94,460	95,360	98,540
Northwest Territories	101,010	105,560	106,710	109,670	112,400
Nunavut	62,680	65,280	65,530	63,300	65,190

1. Census families include couple families, with or without children, and lone-parent families.
Source: Statistics Canada, CANSIM, table 111-0009.
Last modified: 2016-07-14.

The Average Canadian's Credit Score

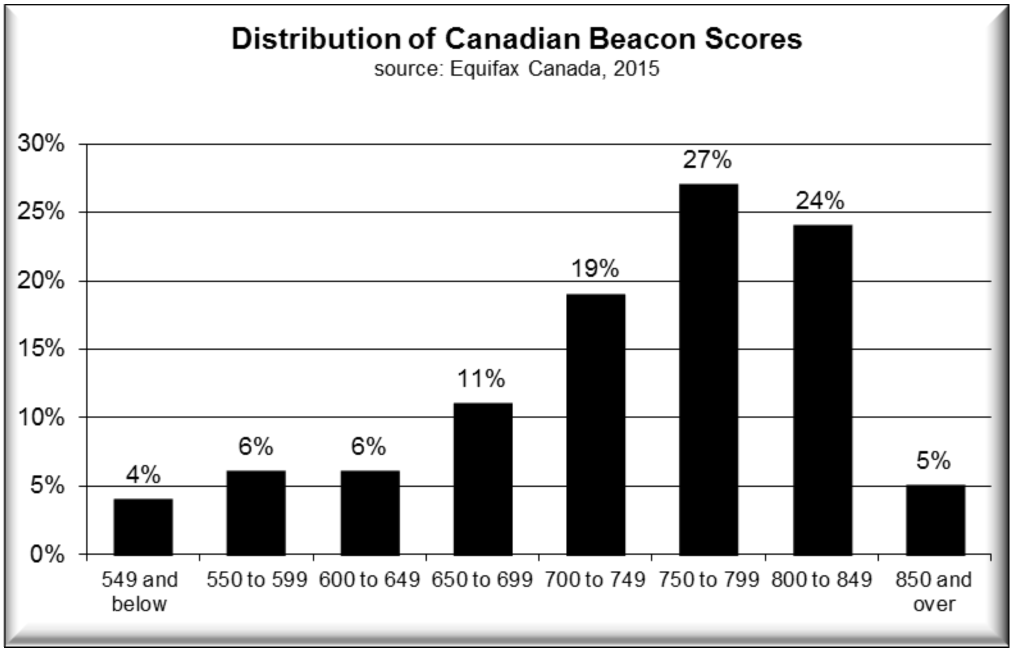
It is of particular interest to note that historically the majority of mortgage agents surveyed believe that the average Canadian has a credit score near 650. In actuality, the fact is quite different, with the average credit score of Canadians being approximately 740. The following graph illustrates the breakdown of beacon scores (a credit score used in Equifax's credit report) by percentage of the population according to Equifax Canada.

Pause for clarification – Credit score
A ***credit score***, called Beacon Score by Equifax and Empirica Score by Transunion, is a numerical representation of an individual's overall credit.

While there are no statistics available to indicate the average beacon score of a typical mortgage brokerages' client, anecdotal evidence points to the fact that the majority of brokerage business is in the range of 650 and below. This would indicate that brokerages are missing the majority of Canadians with good to excellent credit.

One factor behind this trend may be that many brokerages focus on consumers at the lower end of the credit spectrum. This can be evidenced by common advertising found in many publications that advertise mortgages available to consumers with poor credit, previous bankruptcies, non-verifiable income, and so on.
For the mortgage brokerage industry to break through the 30% market penetration number, a paradigm shift may be required: from focusing on those declined by the banks to those who are approved by the banks. All anecdotal information tends to point to the fact that the majority of consumers, if approved by their bank, will obtain their mortgage financing there as opposed to from a mortgage agent.

Figure 5 – Distribution of Canadian Beacon Scores



1.7 The Commercial Mortgage Market

The mortgage market in Ontario can be divided into two major areas of expertise: commercial and residential financing. Of course, in either specialization there can be sub-specializations. In other words, a commercial mortgage agent may focus on financing industrial complexes as opposed to apartment buildings. Likewise, a mortgage agent specializing in residential financing may decide to focus on refinancing, renewals, etc.

It's important to keep in mind that commercial mortgage financing, although very lucrative, is also extremely specialized. It is not uncommon for a commercial transaction to take three months or longer to be completed. In addition, if a mortgage agent who has not completed a commercial transaction before attempts one, that broker is apt to find that there are substantial differences, from the security or property involved, to the underwriting process. A common phrase that "you don't know what you don't know" is important to remember for commercial transactions. A residential broker with no commercial experience may attempt to apply the residential process to the commercial transaction because he or she doesn't realize the differences. This can only lead to confusion and frustration for both the broker and the borrower.

Here are six of the major differences between commercial and residential transactions.

Property
The property types of a commercial transaction are significantly different from residential. In a commercial transaction ICI, or Industrial, Commercial, Investment type properties are being dealt with. These can include:

- Apartment buildings
- Office buildings
- Strip plazas

- Shopping malls
- Warehouses
- Factories
- Recreational properties such as a golf course, etc.

To be able to provide sound advice to the potential borrower, the mortgage agent must have intimate knowledge of the workings of the property that is the subject of the financing. Without such knowledge the broker will ultimately fail to ask the appropriate questions.

Appraisal
To appraise a residential property in Ontario will normally cost in the range of a few hundred dollars, depending on where the property is located. For example, in the GTA an appraisal may cost slightly less than three hundred dollars. In a commercial transaction an appraisal may cost from a low of $2,000 to a high of $50,000, depending on the property and the scope of the appraisal, and may take up to three months to complete. It is important to know what appraisal requirements are involved, based on the potential lender, before requiring a client to pay such a significant amount for an appraisal.

Environmental Assessment
In many cases at least a Phase 1 ESA (Environmental Site Assessment) will be required by the lender. This is to determine whether there are any contaminates in the property. If there are, a Phase 2 and Phase 3 may be required, which can take several months to complete and several thousand dollars in costs.

Income
To determine the viability of a commercial mortgage request, the broker must look at the type of property. If it is an incoming producing property such as an apartment building, then the Income Approach of appraising a property will be used. The broker must be familiar with the Net Operating Income, how to standardize it and what should be used and excluded within it. If it is not income producing, then typically the broker will have to obtain financial statements from the corporation applying for the mortgage and be knowledgeable enough to decipher and interpret them accurately.

Lenders
The commercial lending market in Ontario and Canada as a whole is quite small, limiting the number of options available to a broker. This has also resulted in commercial lenders being very selective about with whom they deal. Most commercial lenders do not like dealing with inexperienced brokers. They also have certain requirements regarding application submissions to which brokers must adhere.

Timing
While a typical residential transaction can be completed within two weeks (some can be funded quicker while others, such as purchases may close a few months after the initial application) commercial transactions can take anywhere from three months to a year, depending on the type of the transaction and its complexity.

Success Tip – Commercial transactions

If you are new to the mortgage brokerage industry or if you have not brokered a commercial transaction before, seek the advice of your supervisor, manager, or Broker before proceeding. Consider co-brokering the application with a commercial mortgage broker and ask him or her to split their commission with you. In a best-case scenario, ask him or her to be involved in the transaction so that you might learn from an experienced Broker.

1.8 Investing in Mortgages

Private Lending

In the mortgage brokerage industry, the private lending market has always been and continues to be a major source of funds for many mortgage agents. Until the recent influx of institutional sub-prime lenders into the market, the primary source of mortgage financing for borrowers who were declined by banks, trust companies, and credit unions was private lenders.

A private lender is best described as an individual who lends his or her own money to a property owner, securing this loan by a mortgage. Most private lenders in Ontario are sophisticated and have many characteristics that resemble institutional lenders. A private lender will underwrite a borrower's application based on his or her income and credit, and the property. However, whereas an institutional lender will base its decision primarily on a borrower's credit, a private lender will base his or her decision primarily on the property. This is similar to institutional sub-prime lenders. While these lenders will consider a borrower's credit, most private lenders will ignore derogatory credit and base the decision to lend primarily, and in many cases solely, on the property and the loan to value of the loan. Most private lenders will not lend above 85% loan to value, except in rare circumstances.

Many well-established mortgage agents have private lenders with whom they currently deal with and are often approached by individuals looking to lend money.

Example

Malik Adams has a home valued at $200,000 with a current mortgage of $155,000. Mr. Adams has missed several payments on his mortgage in the past twelve months and is currently three months in arrears. He is currently behind on his two credit card payments and although up to date on his car loan, has missed two of those payments in the past twelve months. His mortgage came up for renewal two months ago and his current institutional lender is refusing to renew the mortgage.

The other institutional lenders he has approached have also declined Malik due to his poor credit and the fact that he is currently in default on his mortgage. Malik's banker suggested that Malik approach a mortgage agent for the financing, which Malik has done. In this scenario, the mortgage agent was able to get Malik a mortgage from a private lender for 85% of the property value, which allowed Malik to consolidate his other debts and refinance his mortgage. This mortgage was an interest only mortgage with a one-year term at a rate 3% above current bank posted rates and a lender's fee of 2% of the total mortgage amount. Because private lenders typically do not pay finder's fees, the mortgage agent charged a fee of 2% of the total mortgage amount.

Syndicated Mortgage Investment (SMI)

Another option for a private lender is to invest in a single mortgage with other private lenders. For example, if a borrower requires a $150,000 mortgage two or more investors may combine their money to invest in one mortgage. As of July 1, 2018, syndicated mortgages have been subdivided into two classifications:

1. Qualified syndicated mortgage
2. Syndicated mortgage

Qualified Syndicated Mortgage

A qualified syndicated mortgage must meet the following criteria:

1. It is arranged through a mortgage brokerage
2. It secures a debt obligation on property that,
    a. is used primarily for residential purposes,
    b. includes no more than a total of four units, and
    c. if used for both commercial and residential purposes, includes no more than one unit that is used for commercial purposes.
3. At the time the syndicated mortgage is arranged, the amount of the debt it secures, together with all other debt secured by mortgages on the property that have priority over, or the same priority as, the syndicated mortgage, does not exceed 90 per cent of the fair market value of the property relating to the mortgage, excluding any value that may be attributed to proposed or pending development of the property.
4. It is limited to one debt obligation whose term is the same as the term of the syndicated mortgage.
5. The rate of interest payable under it is equal to the rate of interest payable under the debt obligation.

Syndicated Mortgage

As of July 1, 2018, mortgages with two or more lenders that do not meet the definition of a Qualified Syndicated Mortgage have additional restrictions in place, including extensive suitability and disclosure requirements, restrictions and maximum loan amounts, among others.

Mortgages as Investments

To understand why private investors will lend money to borrowers through mortgages, it is important to understand the characteristics of a mortgage as an investment.

Rate of Return

The principal reason that an investor will lend to a borrower is based on the rate of return. A private lender can typically expect to receive a rate of return far in excess of traditional investment vehicles with limited risk in comparison to other high return investments like the stock market.

For a first mortgage, a private lender will traditionally charge in excess of 7% interest, and as high as 9% interest, while on a second mortgage interest rates of 13% and higher are typical, making second mortgages the vehicle of choice among most private lenders.

Pause for clarification – second mortgage

A first mortgage simply means that the mortgage was registered first, or before any other mortgages on the property. A mortgage registered after the first mortgage is called a second mortgage. A mortgage registered after the second mortgage would be considered a third mortgage, and so on. If a borrower who has a first and second mortgage pays off that first mortgage, the second mortgage would now become the first mortgage. This is discussed in more detail in later chapters.

In addition to a higher rate, most private lenders will charge a lender's fee. This represents an amount equal to a certain percentage of the total mortgage (usually between 1 and 4%) and is deducted from the mortgage proceeds. A private lender's fee is also referred to as a bonus, which is an additional incentive for the private lender to lend money to a sub-prime borrower.

Security

It is often assumed that mortgages are safe investments because the security for the loan is a property. However, this assumption is sometimes faulty. The private lender's mortgage will be based on a maximum loan to value, set at his or her maximum risk tolerance. This is typically 85% loan to value. As discussed earlier, a loan to value is based on the value of the loan to the value of the property, expressed as a percentage. Therefore, the maximum loan amount is determined by the property's value.

To ensure that his or her investment is adequately protected, the private lender must have confidence in the value of the property before he or she makes the final decision to lend. In order to determine the value, the private lender will request that a full appraisal be completed on the property. To further protect the private lender, he or she will usually only deal with an appraisal firm that is felt to be reliable, accurate and conservative and that the private lender has dealt with in the past.

Even though the private lender may have an accurate appraisal done to determine the exact market value of the property, that will be little consolation if the real estate market takes a downturn and property prices fall, especially if the loan to value is 85% of the original appraised value.

Example

To illustrate this point, let us continue with the Example.

Malik Adams received a private mortgage two years ago in the amount of $170,000 that represented 85% of the appraised value at the time the mortgage was funded. Since that time, Malik has once again failed to make his mortgage payments and the private lender has undertaken steps to sell the property and retrieve his investment. To do so, the private lender has retained a lawyer who is handling the power of sale process as well as a Real Estate Salesperson who will be selling the house on behalf of the private lender.

The Real Estate Salesperson has informed the private lender that the value of the property has declined over the past year as the market has taken a downturn. The price that the Real Estate Salesperson is suggesting that the property be sold for is $185,000. If that sale price is realized, the private lender will lose approximately $2,780. A cost analysis reveals that the private lender's rate of return is reduced from 9% to approximately 7.4% (excluding the bonus).

> ***Pause for clarification – Power of Sale***
> The term **power of sale** refers to the process by which a lender can obtain the amount lent to the borrower and associated costs, including unpaid interest, upon default by the borrower. More information on this can be found in the chapter Mortgage Remedies.

Here is the breakdown of that transaction. Although this is a theoretical breakdown, it is evident that if there is a decrease in the value of the property a loan to value of 85% does not necessarily mean that the lender's investment is safe. Further, consider the potential losses if the original appraisal had been incorrect and the value of the property too high. It should now be evident why an accurate appraisal is so important in a private mortgage.

Outstanding mortgage balance	$170,000 (balance is the same as the advance since it is an interest only mortgage)
Mortgage Arrears	$3,755.22 (based on 3 months of missed interest only payments)
Collection Costs	$475.00
Real Estate Fees	$11,100 (6% of the sale price)
Legal Fees	$2,450
Total to be repaid from proceeds	**$187,780.22**

Challenges for the Private Lender

Although private mortgages can offer the private lender a higher rate of return with relatively low risk based on an accurate appraisal and a conservative loan to value, there still remain challenges for the private lender.

- **Assessing the Risk**

The first challenge is assessing the risk or determining the probability that the borrower will repay the mortgage loan on the terms that are set out in the mortgage contract. This requires the private lender to understand the underwriting process (the process of assessing the merits of an application) as well as being able to analyze the borrower's credit, income and debt service ratios. If the private lender is not sophisticated enough to complete these analyses, then he or she will have to rely on their mortgage agent to make a recommendation.

- **Significant Capital Outlay**

To invest in a mortgage, a private lender will typically be required to invest tens of thousands of dollars as opposed to hundreds of dollars. This makes investing in mortgages difficult for the small investor.

- **Reinvestment of Return**

The next challenge is how the private lender will reinvest the return on his or her investment. Since mortgage loans usually require tens of thousands of dollars to advance and the typical repayment is a monthly amount of interest only, it will take some time before the private lender can acquire enough monthly payments to invest in yet another mortgage. In the meantime, the monthly returns will have to be invested in an investment vehicle with lower rates of return since the investment amount is so low. This is not the case with some other investments such as mutual funds that will reinvest profits as they occur.

- **Lack of Liquidity**

Unlike the stock exchange, there is no central exchange that deals with mortgages. A private lender cannot list his or her mortgage for sale in a central registry, since none exist. The result is that, if a private lender wishes to sell his or her mortgage, he or she must locate a potential buyer through a mortgage agent or other source, possibly even having to advertise. The time involved in this process may be lengthy and cause the private investor to lose other investment opportunities and/or result in selling the mortgage at a discount to recover their investment more quickly.

Pause for clarification - Discount

The term discount refers to an amount that is subtracted from the sale price of a mortgage to make it more attractive to a buyer. The concept is similar to obtaining a piece of merchandise from a retailer for a price lower than its original; in other words, it is on sale.

Indirect Investing in Mortgages

To be able to mitigate the challenges identified above, a private lender may decide to invest in a pool of mortgages, such as mortgage-backed securities or in a Mortgage Investment Corporation (MIC).

Mortgage Backed Securities (MBS)

A mortgage backed-security is an investment in a pool of amortized residential mortgages insured through CMHC under the *National Housing Act* (NHA). NHA MBS issuers are approved by CMHC and must be a chartered bank, a trust company, an insurance company, a caisse populaire (meaning "people's bank" in French), a credit union, or a loan company.

MBS offer a rate of return similar to GICs and higher than Government of Canada Bonds that have equivalent terms, although lower than private mortgage loans.

They answer the issue of liquidity by being able to be sold easily and the issue of security by being fully guaranteed by the Government of Canada. MBS are not limited to the maximum insurable amount of $100,000 provided by the Canada Deposit Insurance Corporation.

Since being launched in 1987 by CMHC, MBS have become very popular with over 47,000 investors investing over 27 billion dollars in the NHA MBS program.

Mortgage Investment Corporation (MIC)

A mortgage investment corporation (MIC) is a corporation that enables small investors to invest in a diversified pool of mortgages on residential real estate with the benefit of using the corporate form by purchasing shares in the corporation. A MIC is generally treated as a conduit for income tax purposes. Its income may be flowed through to its shareholders and taxed in their hands without tax at the corporate level.

One hundred per cent of a MIC's annual net income must be distributed to its shareholders in the form of a dividend.

According to the *Income Tax Act*, a MIC must have at least 20 shareholders with no individual shareholder owning more than 25% of the MIC. In addition, at least 50% of the MIC's assets must be comprised of residential mortgages.

1.9 Real Estate and Mortgage Institute of Canada Inc. (REMIC)

Founded in 2008 by Joseph White, the Real Estate and Mortgage Institute of Canada Inc. (REMIC) is a national educational institution dedicated to providing the financial services industries with exceptional education designed to increase market penetration and the success of its students. More information can be found on REMIC by visiting its website at www.remic.ca

1.10 Mortgage Associations and Professional Designations

Mortgage associations have become much more prevalent in Ontario over the past several years. Providing a voice for their members as well as industry networking events, they represent a significant portion of Ontario's mortgage brokering community. The following associations are active in Ontario.

Association of Mortgage Investment Professionals (AMIPROS) – www.amipros.org
The Association of Mortgage Investment Professionals, AMIPROS, a non-profit organization, is the national association for and collective voice of the mortgage investment industry. The Association represents several mortgage investment disciplines, including syndicated mortgages, private mortgages and other mortgage investment vehicles.

AMIPROS sets high quality industry standards designed to protect investors and ensure the continued integrity of the industry. AMIPROS' designees are committed to promoting the industry with integrity, fairness and professionalism. AMIPROS offers the Certified Mortgage Investment Professional (CMIP) designation.

Mortgage Professionals Canada – www.mortgageproscan.ca
Mortgage Professionals Canada, a national association, was founded in 1994 as the Canadian Institute of Mortgage Brokers and Lenders (CIMBL). It underwent a name change in 2006, changing its name to CAAMP. It once again underwent a name change in 2016 and is now called Mortgage Professionals Canada. It has approximately 10,000 members throughout the country. They offer the Accredited Mortgage Professional (AMP) designation. This designation was launched in January of 2004.

The Canadian Mortgage Brokers Association (CMBA) – www.cmbaontario.ca
Founded in 2000 as the Independent Mortgage Brokers Association, an Ontario association, IMBA rebranded as another national association, providing membership to other provincial associations as well. It calls itself "an inter-jurisdictional umbrella association consisting of provincial mortgage broker associations in Canada".

1.11 Choosing a Brokerage

Choosing a brokerage for whom to work can be a difficult process if you don't know what questions to ask or what to look for. With several hundred brokerages licensed in Ontario, you certainly have choice, so the first tip in choosing a brokerage is to ensure that you interview with several before deciding which one to join.

Be sure to treat your first contact and interview the same as you would any other interview. When making your initial inquiry be sure to use proper grammar, punctuation and if using email, format it correctly. Be prepared to submit your resume before your interview. At the interview dress professionally, bring a copy of your resume and be prepared to answer questions, including why you feel you'll be a success. You can use FSRA's website to search for brokerages and their contact information, as well as online search engines like Google, and other mediums like newspapers and the Yellow Pages. You may also wish to call an agent who works for the brokerage you're considering to learn of his or her opinion on the brokerage.

In addition, I suggest asking some, or all of the following questions so that you can get a feel for what the brokerage has to offer, and you can compare different brokerages before making your final decision. Deciding which of the following questions is most important to you is a personal decision and will change from person to person. Keep in mind that the commission rate shouldn't be your only consideration. You need to look at *everything in context,* determine what is ultimately in your best interests and then decide where you want to work. At the end of the following form there is a spot for your general comments on the brokerage as well as any additional questions that were not included in this guide.

Question	Answer
Training Training is one of the most important factors to consider for new agents. Great training on lead generation, referrals, underwriting and products, to name but a few, can make the difference between success and failure.	
1. Do you provide training?	
2. If so, at what location or is it online?	
3. If so, on what topics?	
4. If so, how often?	
5. If so, is there a cost to me?	
6. Do you have lenders attend meetings to provide agents with information?	
7. If so, how often?	
8. If so, at what location?	

Tools Having the right tools can make all the difference. Tools can include a CRM (customer relationship management software), pre-approval software, online applications, mobile app, etc.	
9. What tools does your brokerage provide? List all of them and include any costs associated with each.	☐ Mobile application for consumers ☐ Lead generation website ☐ Website ChatBot ☐ Facebook ChatBot ☐ Auto posting for social media ☐ Application submission software ☐ CRM ☐ Property valuation system
10. Is there a cost for any of the tools listed above? If so, list the cost for each or if bundled, list that individual cost.	

Marketing Marketing is a very important way for you to get your name out to the public. Marketing can include an advertising campaign(s), pre-approved and ready-to-use, professionally designed ads, flyers, brochures, etc.	
11. Do you provide compliant marketing materials?	
12. If so, are they professionally designed?	
13. If so, is there a cost for me to use them?	
14. Do you provide testimonials that I can use in my marketing from your satisfied customers?	
15. Do you have a local/provincial/national marketing campaign to raise awareness of your brand?	
16. Do you provide any of the following? Check all that apply.	☐ Pre-written articles ☐ Blog posts ☐ Video content ☐ Email templates ☐ Newsletters ☐ Social media posts ☐ Magazine for my database

Brand Brand recognition can help a new agent open doors and create trust.	
17. Do you have a recognizable brand in your community?	
18. Do you have a recognizable brand in Ontario?	
19. Do you have a nationally recognizable brand?	
20. If a random consumer was asked, would he or she likely know about your brand?	
21. How long have you been in business?	

Support New agents typically appreciate strong support from their new brokerage, especially when doing their first deal. Taking your first, second, or third application can be intimidating; a great brokerage for new agents will help you overcome your first deal jitters by providing in depth support.	
22. Do you provide help on deals that I do not know which lender to use?	
23. Do you have a central underwriting department that can handle a deal that I can't do? If so, what is my commission split?	
24. What is your process if I disagree with a lender that declines an application?	
25. Do you provide office space for me to meet with clients? If so, is there a cost?	
26. Do you advertise? If so, do I get any leads from your advertising? Is the commission split different on these leads?	

Website Your online presence is often the first impression made on a potential client. How good is that first impression?	
27. Do you provide me with a website?	
28. Can I change its content?	
29. Do you provide updated content?	
30. Is there any cost?	
31. Does it have an online application that submits the application to me?	

Cross and Up-selling Having multiple products to sell to each individual customer can increase your income and lower your cost of acquiring a new customer.	
32. Do you provide any additional products that I can sell to my customers? If so, what are they?	☐ Credit Card (i.e. Visa) ☐ Life insurance ☐ Mortgage insurance (i.e. MPP) ☐ Property insurance ☐ Other – list here

Lenders Having a variety of lenders is vital to compete with banks and other brokerages.	
33. Are there any lenders you do not deal with? Why?	
34. Do any lenders not deal with you? Why?	

Policies and Procedures Direction from your brokerage regarding compliance is vital if you want to stay on the right side of the law and have a long career.	
35. Do you provide a compliance manual so I'm aware of your compliance policies?	
36. Do you provide a file checklist, so I know what I have to submit to get paid?	
37. Do you have a Policies and Procedures Manual for your agents?	

Commission While not the most important thing to consider, it's still important to your income. Keep in mind everything else that you've asked about before this section, and ask yourself, "is this commission split worth everything else that I'm getting?" Only you can answer that question.	
38. What is your commission split?	
39. Do you pay volume bonus?	
40. Does the commission split and/or volume bonus vary based on production? If so, what are the levels?	
41. Do you have a minimum level of production that I must meet to remain an agent with you?	

Costs Costs are a normal part of doing business and making ongoing investments in yourself is expected by many brokerages. You deserve to know what you have to pay, how often and for what. Don't be afraid to ask! You'll find out if the brokerage provides great value for money, or not.	
42. What are the costs to join?	
43. How much does your Errors and Omissions Insurance cost?	
44. How much does a credit bureau report cost?	
45. Do I have to be a member of a trade association?	
46. Do you charge agents any other costs? If so, what are they?	
47. Do you charge any monthly fees? If so, what are they and what do I get for them?	

Contract	
48. Do you have an agent contract that I have to sign?	
49. Does the contract have a term during which I cannot work for another brokerage if I leave?	

50. How much notice must I give if I decide to leave?	

Additional Questions (use this section to list any additional questions you may have)	
General Notes (Use this section to make notes on your impression of the brokerage and/or provide any other information relevant to making your decision)	

1.12 Key Terms and Definitions

"B" type lending
Mortgage lending to borrowers who have impaired credit or some other impairment that prevents them from being able to qualify for traditional lending products

Alternative mortgage market
A market for borrowers who do not qualify for traditional lending products

AMP designation
The Accredited Mortgage Professional designation awarded by Mortgage Professionals Canada

Bank
An institution approved as a Schedule I, II, or III Bank under the *Bank Act*. Schedule 1 Banks are Canadian owned, while Schedule II Banks are subsidiaries of foreign owned Banks and Schedule III Banks are foreign owned Banks.

Bank Act
The legislation that governs chartered banks in Canada

Borrower
The individual responsible for the receipt and repayment of mortgage proceeds

British North America Act, 1867
On March 29, 1867, the British Parliament passed the *British North America Act*, which established the provisions of the Confederation of the Province of Canada (Ontario and Quebec), New Brunswick and Nova Scotia into a federal state with a parliamentary system patterned on the British model. The Act established the division of powers between the central Parliament and the provincial legislatures. The federal government was responsible for, among other things, banking business, criminal law, the post office, the armed forces; the provinces could legislate, among other things, property law, contracts, and local work.

Canadian Mortgage Brokers Association (CMBA)
An inter-jurisdictional umbrella association consisting of provincial mortgage broker associations in Canada

Collateral mortgage
A promissory note with a lien on the property for the total amount registered.

Commercial mortgages
A commercial mortgage is similar to a residential mortgage, except the collateral is a commercial building or other business real estate, not residential property.

Constitution Act, 1867
The *Constitution Act, 1867* (formerly called the *British North America Act, 1867*, and still known informally as the *BNA Act*), constitutes a major part of Canada's Constitution. The *Act* entails the original creation of a federal dominion and defines much of the operation of the Government of Canada, including its federal structure, the House of Commons, the Senate, the justice system, and the taxation system. It received its current name in 1982, with the patriation of the

constitution (originally being enacted by the British Parliament).

Crown
The executive branch of government, the Queen acting through Her Agents (the members of the Cabinet)

Demographics
Refers to selected population characteristics as used in government, marketing or opinion research

Errors and omissions insurance
Insurance that provides coverage for errors or omissions made by a brokerage, broker, agent or Administrator. This insurance must contain a provision for fraud.

Expropriate/Expropriation
The act of a public authority (such as federal, provincial, municipal governments or other bodies empowered by statute) taking property without the consent of an owner through a statutory or common law process. In Ontario this right is conferred by the *Expropriations Act.* This process involves the payment of compensation to the owner by the authority and the owner having the right to claim additional compensation to be determined by the courts or an administrative board. Compensation is intended to make the owner whole, in light of the loss suffered.

Financial statements
Formal records of a business' financial activities. These statements provide an overview of a business' profitability and financial condition in both short and long term.

Foreclosure
A lender's remedy that enables the lender to obtain title to the defaulted borrower's property and dispose of it. Any profit or loss will belong to the lender while the borrower is free of the debt.

FSRA
The Financial Services Regulatory Authority of Ontario (formerly the Financial Services Commission of Ontario until June 8, 2019). This is the regulatory body that oversees the mortgage brokerage industry and enforces the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (formerly the *Mortgage Brokers Act*), as well as several other industries and Acts.

Home inspector
A home inspection is a non-invasive examination of the condition of a home, often in connection with the sale of that home. This is carried out by a home inspector, who usually has special equipment and training to carry out such inspections.

Income approach
An approach to calculating the value of an income producing property through the usage of the net operating income and capitalization rate typical for that type of property and the area in which it is located

Institutional lender
A lender considered to be a Bank, Loan or Trust Company, Credit Union or caisses populaires.

Institutional mortgage originator
An individual employed by an institutional lender to provide suitable borrowers to that institution for mortgage financing

Lawyer
A person licensed to practice law

Life insurance company
A licensed company providing life insurance to policy holders

Line of credit
An amount of credit made available to a borrower but not advanced on closing.

Mortgage
The word mortgage is defined as, "any charge on any property for securing money or money's worth." However, the more common definition of a mortgage states that: a mortgage is defined as a loan secured by real property.

Mortgage administrator
An individual or business that processes mortgage loans on behalf of another party.

Mortgage backed security
An investment in a pool of amortized residential mortgages insured through CMHC under the *National Housing Act* (NHA)

Mortgage agent or broker
Individuals who are remunerated for dealing in mortgages or trading in mortgages in Ontario, as employees or otherwise. A mortgage broker may hold the position of principal broker and may supervise licensed mortgage agents. Mortgage agents and brokers must be licensed.

Mortgage brokerage community
The mortgage brokerage industry as a whole

Mortgage Brokerages, Lenders and Administrators Act, 2006
The legislation that governs the mortgage brokerage industry in Ontario. This legislation is enforced by FSRA and replaces the previous *Mortgage Brokers Act.*

Mortgage Brokers Act
The legislation predating the *Mortgage Brokerages, Lenders and Administrators Act, 2006.* This legislation governed the mortgage brokerage industry in Ontario until July 1st, 2008 and was enforced by FSRA.

Mortgage default insurer
An insurer that provides a policy to the insured lender. This policy will compensate the lender for losses incurred in a mortgage transaction. As of 2011 the insurers that are in Ontario include CMHC, Genworth Financial and Canada Guaranty.

Mortgage Investment Corporation (MIC)
A corporation created to invest in mortgages. Investors purchase shares in the corporation and receive income through dividend payments.

Mortgage Professionals Canada
A national mortgage industry association

***National Housing Act* (NHA)**
The legislation that created mortgage default insurance in 1954

Non-conforming mortgage market
Mortgage loans for borrowers who have impaired credit or some other impairment that prevents them from being able to qualify for traditional lending products

Premiums (Life Insurance)
Payments made in return for a policy

Private lender
A private lender is typically an individual investor with funds who would like to invest in mortgages. This individual will usually invest through his or her lawyer who may have clients requiring mortgage financing or a mortgage agent. His or her purpose may vary but normally an investor will invest in 2^{nd} mortgages due to their higher rate of return when compared to 1^{st} mortgages and other potential types of investments such as GICs or bonds.

Real Estate and Mortgage Institute of Canada Inc. (REMIC)
A national organization dedicated to providing the mortgage and real estate industries with resources designed to increase market penetration and the success of its members.

Real estate appraiser
An individual, usually licensed, who provides a report illustrating several components of a property, including its value, usually in the form of its market value

Real estate board
A non-profit organization representing local real estate brokers and agents, that provides services to its members

Real estate broker
According to the *Real Estate and Business Brokers Act, 2002*, a “Broker” means an individual who has the prescribed qualifications to be registered as a broker under the *Act* and who is employed by a brokerage to trade in real estate.

Real estate brokerage
According to the *Real Estate and Business Brokers Act, 2002*, a “Brokerage” means a corporation, partnership, sole proprietor, association or other organization or entity that, on behalf of others and for compensation or reward or the expectation of such, trades in real estate or holds himself, herself or itself out as such.

Real estate lawyer
A lawyer specializing in real estate law

Real estate salesperson/salespersons
According to the *Real Estate and Business Brokers Act, 2002,* an "agent" means an individual who has the prescribed qualifications to be registered as an agent under this Act and who is employed by a brokerage to trade in real estate.

Refinance
When a borrower already has an existing mortgage, refinancing means to increase the size of that mortgage, or renegotiate it in some fashion.

Renewal
This is an option when a borrower has an existing mortgage. At the end of the term of the mortgage the lender may offer to renew it. This means that the lender is offering to give the borrower new terms and conditions for a new term while not changing the mortgage amount (unlike in a refinance).

Residential mortgages
Mortgage lending on properties that are zoned residential

Securitization
The selling of a pool of mortgages to a third party

Sub-prime mortgage
A mortgage loan for a borrower who has impaired credit or some other impairment that prevents him or her from being able to qualify for traditional lending products

Sub-prime mortgage market
A market for borrowers who do not qualify for traditional lending products

Title insurer
A provider of title insurance

Title insurance
An insurance policy that provides protection against errors in title such as survey errors, zoning infractions and property encroachments. It can also protect the homeowner against fraud.

1.13 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. What are the main differences between a mortgage agent and a mortgage broker?

2. What are the typical activities of a mortgage agent/broker?

3. List and define the key participants in the Ontario mortgage industry.

4. Explain when and why banks began lending in the residential mortgage market.

5. Define the sub-prime mortgage market.

6. What impact has the U.S. sub-prime market collapse had on the Ontario mortgage market?

7. Which type of lender is the predominant lender in the Canadian mortgage market?

8. What segment of the Canadian population has a Beacon Score of 750 to 799?

9. What are the six major differences between the commercial and residential mortgage markets?

10. What is the typical maximum loan to value of a private mortgage?

11. What advice would you give to an individual wishing to invest in mortgages?

12. What options are available for investors who wish to invest in mortgages but have a low tolerance for risk?

Appendix 1: Schedule 1 Banks

Schedule 1 Banks[13]
As at December 31, 2018

Name of Bank	Head Office
ADS Canadian Bank	Ontario
B2B Bank	Ontario
Bank of Montreal	Quebec
Bank of Nova Scotia (The)	Nova Scotia
Bridgewater Bank	Alberta
Caisse populaire acadienne ltée	New Brunswick
Canadian Imperial Bank of Commerce	Ontario
Canadian Tire Bank	Ontario
Canadian Western Bank	Alberta
Coast Capital Savings Federal Credit Union	British Columbia
Concentra Bank	Saskatchewan
Continental Bank of Canada	Ontario
CS Alterna Bank	Ontario
DirectCash Bank	Alberta
Equitable Bank	Ontario
Exchange Bank of Canada	Ontario
First Nations Bank of Canada	Saskatchewan
General Bank of Canada	Alberta
Haventree Bank	Ontario
Home Bank	Ontario
HomeEquity Bank	Ontario
Laurentian Bank of Canada	Quebec
Manulife Bank of Canada	Ontario
Motus Bank	Ontario
National Bank of Canada	Quebec
President's Choice Bank	Ontario
Rogers Bank	Ontario
Royal Bank of Canada	Quebec
Street Capital Bank of Canada	Ontario
Tangerine Bank	Ontario
Toronto-Dominion Bank (The)	Ontario
Vancity Community Investment Bank	British Columbia
VersaBank	Ontario
Wealth One Bank of Canada	Ontario
Zag Bank	Alberta

[13] *Bank Act* (1991, c. 46), Schedule I, https://laws-lois.justice.gc.ca/eng/acts/B-1.01/page-161.html#h-1115190

Appendix 2: Schedule 2 Banks

Schedule 2 Banks[14]
As at December 31, 2018

Name of Bank	Head Office
Amex Bank of Canada	Ontario
Bank of China (Canada)	Ontario
Bank One Canada	Ontario
BofA Canada Bank	Ontario
Cidel Bank Canada	Ontario
Citco Bank Canada	Ontario
Citibank Canada	Ontario
CTBC Bank Corp. (Canada)	British Columbia
Habib Canadian Bank	Ontario
HSBC Bank Canada	British Columbia
ICICI Bank Canada	Ontario
Industrial and Commercial Bank of China (Canada)	Ontario
J.P. Morgan Bank Canada	Ontario
J.P. Morgan Canada	Ontario
KEB Hana Bank Canada	Ontario
Mega International Commercial Bank (Canada)	Ontario
SBI Canada Bank	Ontario
Shinhan Bank Canada	Ontario
Société Générale (Canada)	Quebec
UBS Bank (Canada)	Ontario
Walmart Canada Bank	Ontario

[14] *Bank Act* (1991, c. 46), Schedule II, https://laws-lois.justice.gc.ca/eng/acts/B-1.01/page-162.html#docCont

Appendix 3: Schedule 3 Banks

Schedule 3 Banks[15]
As at December 31, 2018

Name of Authorized Foreign Bank (FB)	Name under which FB is permitted to carry on business in Canada	Type of Foreign Bank Branch (FBB)	Principal Office
Bank of America, National Association	Bank of America, National Association	Full-service	Ontario
Bank of China Limited	Bank of China, Toronto Branch	Full-service	Ontario
Bank of New York Mellon (The)	Bank of New York Mellon (The)	Full-service	Ontario
Barclays Bank PLC	Barclays Bank PLC, Canada Branch	Full-service	Ontario
BNP Paribas	BNP Paribas	Full-service	Quebec
Capital One Bank (USA), N.A.	Capital One Bank (Canada Branch)	Full-service	Ontario
China Construction Bank	China Construction Bank Toronto Branch	Full-service	Ontario
Citibank, N.A.	Citibank, N.A.	Full-service	Ontario
Comerica Bank	Comerica Bank	Full-service	Ontario
Coöperatieve Rabobank U.A.	Rabobank Canada	Full-service	Ontario
Crédit Agricole Corporate and Investment Bank	Crédit Agricole Corporate and Investment Bank (Canada Branch)	Lending	Quebec
Credit Suisse AG	Credit Suisse AG, Toronto Branch	Lending	Ontario
Deutsche Bank AG	Deutsche Bank AG	Full-service	Ontario
Fifth Third Bank	Fifth Third Bank	Full-service	Ontario
First Commercial Bank	First Commercial Bank	Full-service	British Columbia
JPMorgan Chase Bank, National Association	JPMorgan Chase Bank, National Association	Full-service	Ontario
M&T Bank	M&T Bank	Full-service	Ontario
Maple Bank GmbH	Maple Bank	Full-service	Ontario
Mega International Commercial Bank Co., Ltd.	Mega International Commercial Bank Co., Ltd.	Full-service	Ontario
Mizuho Bank, Ltd.	Mizuho Bank, Ltd., Canada Branch	Full-service	Ontario
MUFG Bank, Ltd.	MUFG Bank, Ltd., Canada	Full-service	Ontario

[15] *Bank Act* (1991, c. 46), Schedule III, https://laws-lois.justice.gc.ca/eng/acts/B-1.01/page-163.html#docCont

	Branch		
Natixis	Natixis Canada Branch	Lending	Quebec
Northern Trust Company (The)	Northern Trust Company, Canada Branch (The)	Full-service	Ontario
PNC Bank, National Association	PNC Bank Canada Branch	Full-service	Ontario
Silicon Valley Bank	Silicon Valley Bank	Lending	Ontario
Société Générale	Société Générale (Canada Branch)	Full-service	Quebec
State Street Bank and Trust Company	State Street	Full-service	Ontario
Sumitomo Mitsui Banking Corporation	Sumitomo Mitsui Banking Corporation, Canada Branch	Full-service	Ontario
U.S. Bank National Association	U.S. Bank National Association	Full-service	Ontario
UBS AG	UBS AG Canada Branch	Full-service	Ontario
United Overseas Bank Limited	United Overseas Bank Limited	Full-service	British Columbia
Wells Fargo Bank, National Association	Wells Fargo Bank, National Association, Canadian Branch	Full-service	Ontario

Chapter 2: Basic Mortgage Concepts

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Define the terms “mortgage” and “collateral mortgage”
- ❑ Explain the need for mortgage financing
- ❑ Discuss the purposes of using a mortgage
- ❑ Understand the financial components of a mortgage
- ❑ Explain compound interest
- ❑ Discuss the interest and principal portions of a mortgage payment
- ❑ Explain what constitutes the mortgage contract
- ❑ Describe the documents related to the registration and discharge of a mortgage
- ❑ Explain how mortgages are ranked, such as 1st, 2nd and other mortgages
- ❑ Differentiate between a conventional and high ratio mortgage

Introduction

The Ontario mortgage market has experienced various changes over the past two decades, with the introduction of new mortgage brokering legislation in 2008, and more recently with the loss of a few mortgage lenders, the introduction of several new lenders, changes in many lender’s guidelines and the implementation of several new regulatory modifications regarding mortgage financing in Canada, such as alterations of certain default insurance policies.

The mortgage brokerage industry in Ontario has also experienced a variety of changes over the past several years. What was once a small, fringe industry has grown into the mainstream, gathering more acceptance by the consumer as a whole.

Although the industry still has a long way to go to achieve the results of our American counterparts where it was estimated that between 75% and 80% of all mortgage transactions were brokered prior to the mortgage crisis (statistics are not precise at this time), the Ontario mortgage brokerage industry is well on its way.

A major reason behind this transformation is the professionalism that both consumers and the industry itself have begun demanding of mortgage agents. In a complex market where consumer choice for mortgage financing is more diverse than at any other time in history, it has become necessary to upgrade the training available to the industry.

As professional students of the mortgage industry, all must endeavour to keep abreast of the innovations in the market. For the new student or someone just entering the industry, it is necessary to begin with a firm foundation of knowledge related to mortgage financing in Ontario.

2.1 What is a Mortgage?

Definition

According to the Ontario *Mortgages Act, R.S.O. 1990 c.M.40* (the legislation that governs mortgages in Ontario), the word mortgage is defined as, “any charge on any property for securing money or money’s worth.”

Most consumers would not necessarily understand that technical definition. In actuality, a mortgage is evidence of a debt. It is both an interest in land created by the mortgage contract and security for a debt.

However, the more common definition of a mortgage states that:

A mortgage is a loan secured by real property

That is a straightforward, simple definition, but there is more to a mortgage than this. This definition must be broken down into its core components.

- A loan
  This is the amount of money advanced to a borrower.

- Secured
  This means that a Charge (a legal document that outlines the terms of the loan) is registered on title of the property to secure the loan. If the borrower defaults on the loan, the lender has the right to exercise its interest in the security through several methods.

> ***Pause for clarification - Title***
> ***Title*** is a term that refers to the ownership of a bundle of rights that its owner has in a property, typically fee simple ownership. If something is registered “on title” it means that it is officially registered against the ownership of the property through the Land Titles Office, where property ownership is recorded.

- Real Property
  Real property is the term used to describe the home and the land upon which it resides. It is a legal term that differentiates real estate ownership from other types of property such as personal property. Personal property is comprised of items that are typically movable property, also often referred to as chattels.

2.2 What is a Collateral Mortgage?

Unlike a standard mortgage that places a charge on title, a collateral mortgage, which has been around for years but typically only used for secured lines of credit, is a promissory note with a lien on the property for the total amount registered. You can register more debt against the property than the property is worth since normal regulatory limitations on loan to values do not apply.

For example, TD Bank changed their mortgage lending practices on October 18, 2010, changing their mortgages to collateral mortgages. They began registering 125% of the property value, even though that amount may not have been advanced to the borrower initially. TD Bank now offers the choice to register the charge at 125% or at the actual amount of the advance.

Since the collateral mortgage allows for the “re-advancing” of principal, like a revolving line of credit, the balance can rise. Most chartered banks will not allow transfers of collateral mortgages from other chartered banks. This results in additional legal fees over and above what are normally charged for a straight transfer on renewal because the mortgage must be fully discharged as opposed to simply being transferred.

In addition, collateral mortgages allow lenders to lend more money to borrowers, based on their qualifications, after closing without registering a new mortgage because the current mortgage is registered at a higher amount than is advanced. The rate can also be increased because the rate on the collateral mortgage is also registered at a higher amount than is charged.

For example, a bank can register a mortgage at 125% of the value of the home and at prime plus 10% but may only advance 80% of the value of the home and charge prime at the time of closing. This allows for both additional advances of principal and increases in the rate during the life of the mortgage.

Since the mortgage is registered for such a high loan to value, the homeowner won’t be able to take out a second mortgage, regardless of how low the outstanding balance is on the first mortgage. While this type of situation allows for the homeowner to borrow more funds after closing without having to discharge a current mortgage and register a new one, it also comes with the above mentioned risk, making it important to explain this to the borrower when arranging this type of product.

2.3 Why is Mortgage Financing Needed?

In Ontario, housing costs have risen from an average of $155,000 in 1995 to $571,696 in 2016[1]. This represents an annual increase of 6.41%. If a family had wanted to purchase a home in 2016 and had started saving in 1995, it would have had to save $16,005 per year (assuming a rate of return on their savings of 5% for those fifteen years to come up with the full purchase price). That equates to $1,333.75 per month. The average Canadian family’s gross income as of 1995 was approximately $55,000[2], or $4,583 per month. The amount that this average family would have to spend to save this amount would be equal to 29% of its gross income. Considering that this family would still be renting and using considerably more of its income, it becomes evident as to why there is such a significant need for mortgages.

As it stands, the percentage of “shelter to income” costs (the percentage of income that is used to pay for shelter or housing costs) was approximately 21% in 1995[3]. However, the numbers are

[1] CREA, https://www.crea.ca/housing-market-stats/national-price-map/
[2] Statistics Canada, https://www.statcan.gc.ca/daily-quotidien/980512/dq980512-eng.htm
[3] Statistics Canada

analyzed, they do not add up. It is therefore not plausible for the average Canadian to save the purchase price of a home.

In addition, it has become increasingly difficult for individuals to save for a down payment. In fact, the average debt-to-income ratio (the amount of debt compared to income, expressed as a percentage) for the average Canadian household was a staggering 163% in 2012[4], compared to 150% in 2010, 105% in 1995 and 60% in 1980[5]. This gave birth to more aggressive programs such as the "No Money Down" mortgage where the purchaser can obtain a mortgage without having to provide a down payment.

Pause for clarification – Down payment
A down payment is the amount of money that a purchaser will be providing from his or her proceeds (not borrowed) towards the purchase price of the property being purchased.

Pause for clarification – Down payment requirements for insured mortgages
Effective February 15, 2016 the minimum down payment for new insured mortgages increased from 5% to 10% for the portion of the house price above $500,000. The 5% minimum down payment for insured mortgages remains for properties up to $500,000. For example, a property being purchased for $500,000 would require a minimum down payment of $25,000 (.05 x $500,000). A property being purchased for $1,000,000 would require a minimum down payment of $75,000 (.05 x the first $500,000 plus .10 x the next $500,000)

2.4 The Purposes of Using a Mortgage

There are four typical purposes that mortgages are used for.

1. Purchase
2. Refinance
3. Equity take-outs
4. Bridge Financing

Purchase

People use mortgages to assist in purchasing a home in combination with a down payment, or depending on the financing available, they may qualify to borrow the complete purchase price. A down payment is the amount of money that the purchaser has to give to the vendor in cash. The balance of the purchase price is made up of a mortgage.

[4] Statistics Canada, http://www.statcan.gc.ca/pub/75-006-x/2015001/article/14167-eng.htm
[5] Statistics Canada, https://www.statcan.gc.ca/pub/75-001-x/2012002/article/11636-eng.htm

Refinance

If a borrower already has a home, he or she may wish to refinance the property. Refinancing means to increase the size of the mortgage or renegotiate it in some fashion. If he or she decides to do this during the term of the mortgage, that person may have to pay a penalty to the lender for repaying the mortgage before the end of the mortgage contract, referred to as the term, unless the current mortgage is fully open. The refinanced mortgage will reflect the lender's current rate of interest, which may or may not be lower than the borrower's current rate.

Success Tip – Home Buyer's Program (HBP)

The Canada Revenue Agency (CRA) has a program entitled the Home Buyer's Program (HBP) that allows a first time buyer to use up to $35,000 (as of March 19, 2019) of their RRSPs as a down payment without paying tax on the withdrawal. The amount removed must be repaid within 15 years. First-time buyers purchasing a home jointly with a spouse or partner can withdraw up to $70,000 in total.

CRA defines a first time buyer as an individual or the individual's spouse, or common-law partner who has not owned a home that they occupied as a principal place of residence during the period beginning January 1 of the fourth year before the year of the withdrawal and ending 31 days before the withdrawal.

For example, if you withdrew funds on March 31, 2015, the four-year period would have begun on January 1, 2011 and would have ended on February 28, 2015.

Success Tip – Home Buyer's Tax Credit (HBTC)

Enacted in 2009, the federal government provides a non-refundable tax credit, based on an amount of $5,000, for certain home buyers that acquire a qualifying home. The HBTC is calculated by multiplying the lowest personal income tax rate for the year by $5,000. The current maximum credit is $750. More information can be found on the Canada Revenue Agency (CRA) website at http://www.cra-arc.gc.ca/gncy/bdgt/2009/fqhbtc-eng.html

Equity Take-Out (ETO)

An equity take-out is when a borrower increases the size of their mortgage or takes out a second mortgage or another debt against the property, such as a line of credit. An ETO is most often used to consolidate higher interest rate debt such as credit cards. In the case of paying off other debts, on closing the lawyer issues cheques to the creditors being paid out from the proceeds. Borrowers may also take equity out of their property to purchase other assets such as a boat or a cottage, or for any other reason as allowed by their lender.

Bridge Financing

Bridge financing is used when a person is selling their current home and buying a new home. In some cases, a buyer may find that the home that is being sold has a closing date after the home that they are purchasing is set to close. This results in the homeowner temporarily owning two homes. The problem with this is that normally the down payment for the new purchase would be coming from the sale of the current home. Without the down payment when the new home is set to close, the borrower will lose the new home and forfeit the deposit. Bridge financing is simply a second mortgage placed on the first home while waiting for it to sell. This money is used as the down payment on the new home. Once the first home sells the mortgage is repaid. This provides a “bridge” between the two homes.

2.5 Financial Components of a Mortgage

The basic premise behind every mortgage is the borrower’s promise to repay the amount borrowed. There are several components to a mortgage, as is illustrated in the Standard Charge Terms, but at its core a mortgage payment is made up of the following financial components:

The Face Value

The face value or the face amount of a loan is the total amount of the mortgage that is registered against the property. This is the amount that the borrower has contracted to repay. It is important to note that this amount is not necessarily what the borrower receives, but it is the amount for which the borrower is liable.

The Term

The mortgage contract will indicate the time that the contract will be in force. After this time expires the contract must either be paid in full (referred to as paying the lender a balloon payment) or renewed with the current lender. These are the only two options that a borrower has.

Paying the mortgage in full can be done in several ways. Refinancing with the current lender has the same effect as making a balloon payment since the mortgage is paid out by the new loan. In essence, the lender is giving itself the balloon payment. The same occurs with a switch or transfer of the mortgage from one lender to another or going to another lender and getting a new mortgage. In this case, the mortgage is paid out through a balloon payment made by the new lender. Of course, the mortgage can also be paid in full from the borrower’s own funds.

The Amortization

The contract will stipulate the amortization period for the mortgage. The amortization refers to the total number of years that it will take to fully repay the amount borrowed and requires a blended periodic payment of both interest and principal. Interest Accruing Mortgages and Interest Only Mortgages do not have an amortization period and are discussed later under “Types of Contemporary Mortgage Repayment Plans.”

The Interest Rate

The mortgage contract also stipulates the amount of interest charged to the borrower, including how this interest is to be calculated. Slight variations in the rate will lead to changes in the payment amount as well as the amount paid in interest.

For example, (the following calculation is taught in chapter 8), a mortgage with a face value of $200,000 amortized over 25 years, with a 5-year term and a rate of 6% calculated semi-annually, will result in a monthly payment of $1,279.62. Over the term of the mortgage, the borrower will repay $76,777.20, of which $20,327.06 will be applied to principal and $56,450.14 will be applied to interest.

If the rate were 6.1% instead of 6%, with all other factors remaining the same, the borrower would be making payments of $1,291.53. Over the term of the mortgage, the borrower would repay $77,491.80, of which $20,074.54 would be applied to principal and $57,417.26 would be applied to interest. This .1% increase in the rate from 6% to 6.1% has resulted in a $714.60 increase in the amount paid during the first 5 years by the borrower, or an average of $142.92 per year.

The Compounding Frequency of the Interest Rate

Lenders must indicate the rate of interest being applied in either annual or semi-annual compounding, as per the *Interest Act, R.S., 1985, c. I-15, s. 6; 2001, c. 4, s. 92.* More information on the effects of compounding frequencies may be found in the chapter, Calculating a Mortgage Payment. The following section of the *Interest Act* clearly stipulates that:

Whenever any principal money or interest secured by mortgage on real property or hypothec on immovables is, by the mortgage or hypothec, made payable on a sinking fund plan, on any plan under which the payments of principal money and interest are blended or on any plan that involves an allowance of interest on stipulated repayments, no interest whatever shall be chargeable, payable or recoverable on any part of the principal money advanced, unless the mortgage or hypothec contains a statement showing the amount of the principal money and the rate of interest chargeable on that money, calculated yearly or half-yearly, not in advance.
R.S., 1985, c. I-15, s. 6; 2001, c. 4, s. 92.

Payment Amount

The contract will lay out the amount of each payment during the term, based on the face value, interest rate, payment frequency, and the amortization. It is of interest to note that the term is not used in the calculation of the payment amount. The term is only of interest to the date of the contract expiry.

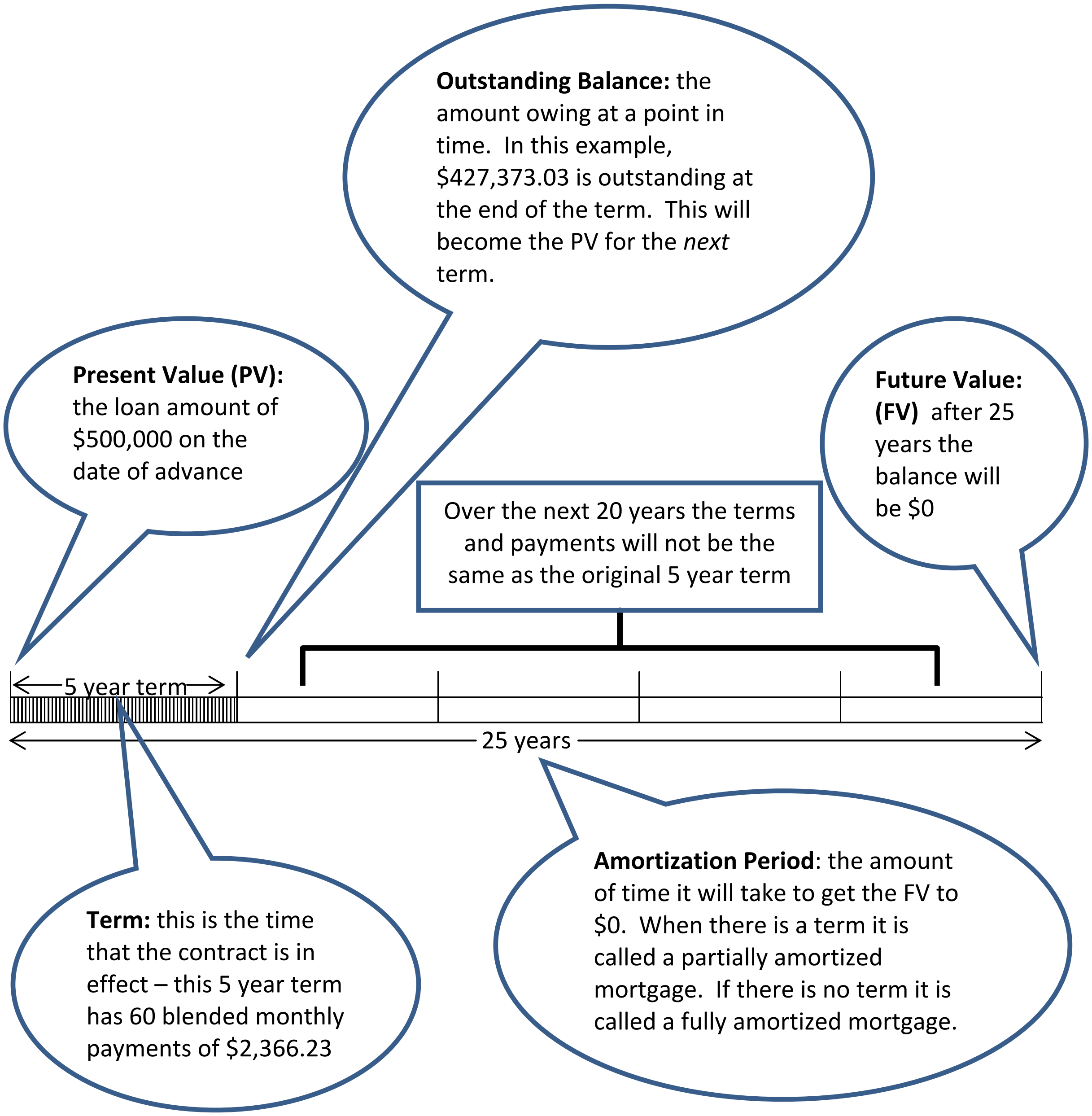
Visual illustration of a mortgage

In the following figure we have a $500,000 mortgage with a rate of 3% compounded semi-annually, amortized over 25 years with a 5-year term consisting of blended monthly payments. This monthly payment is the amount needed to bring the mortgage balance to zero at the end of the amortization.

While the payment is based on the 25-year amortization, it is only in effect during the term. In other words, the payment will change at the end of the term based on the lender's new terms, interest rate and conditions.

Based on these terms the monthly mortgage payment will be $2,366.23 and at the end of the 5-year term the outstanding balance will be $427,373.03.

Figure 6 – Visual illustration of a mortgage



2.6 Compound Interest

Before a mortgage payment can be calculated, it is vital to understand the role that interest rates play in the process. Interest rates in Canada are typically compounded. This means that the rate is charged more than once per year with the effect of charging interest on interest. The effects of compound interest can be significant.

However, before the effects of compounding can be discussed, the method in which interest rates are expressed or written must be explained. The standard form of expressing an interest rate verbally is by first indicating the rate, then the compounding frequency followed by whether the rate is calculated at the beginning of the compounding period or at the end of the compounding period.

Canadian mortgages are calculated in arrears, or at the end of the compounding period. For example, if a borrower was making monthly payments on his or her mortgage and the next payment date was January 1st, that payment would cover the month of December.

For other financing, such as a car lease, payments are made in advance so interest must be calculated in advance. For example, if an individual had a car lease and his or her next payment was due on January 1st, that payment would cover the month of January.

Therefore, for Canadian mortgages an interest rate is expressed verbally in the following manner, considering an annual rate of 6% for the following example:

"The rate is 6% compounded semi-annually, not in advance."

That is how the rate is expressed verbally. However, it is necessary to write these calculations and therefore the method of expressing a rate on paper must be explained. That same statement would be expressed in the following manner on paper:

J2 = 6%

J refers to the fact that this is an annual interest rate

2 refers to the fact that this interest rate is compounded semi-annually, or twice per year (there are two semi-annual periods in a year). 6% is the rate of interest.

If the rate was 6% compounded annually, not in advance it would be written as:

J1=6%

If the rate was 6% compounded monthly, not in advance it would be written as:

J12=6%

The following chart illustrates how compounding frequencies are written for an annual interest rate:

Figure 7 – Expressing Compounding Frequencies

Compounding Frequency	Written as:
Annually	J1
Semi-Annually	J2
Quarterly	J4
Monthly	J12
Bi-Weekly	J26
Weekly	J52
Daily	J365

The next step is to explore the effects of compounding on a borrowed amount.

Example
An individual is borrowing $100,000 at J2=6%, over a one-year period and not making any payments during that period (this is an example of an interest accruing mortgage – although not a popular mortgage it is best suited to illustrate the effect of compound interest).

During the year, interest will be charged twice since the compounding frequency is semi-annually.

In the first 6 months (first semi-annual compounding period) 3% will be charged (6% divided by two compounding periods) on the outstanding balance of the mortgage, as is illustrated below:

$100,000 x 3% = $3,000

The $3,000 represents the amount of interest charged in the first 6 months. After the first 6 months the borrower will owe the principal ($100,000) plus the accrued interest ($3,000) as is illustrated below:

$100,000 + $3,000 = $103,000

In the second 6 months which is the second semi-annual compounding period, another 3% will be charged on the current outstanding balance, as is illustrated below:

$103,000 x 3% = $3,090

The $3,090 represents the amount of interest charged in the second 6 months. After the second 6 months the borrower will owe the outstanding balance ($103,000) plus the accrued interest ($3,090) as is illustrated below:

$103,000 + $3,090 = $106,090

In this example, the effect of compound interest, which simply means charging interest on interest, is clear.

If the borrower was told that he or she would be borrowing $100,000 on an interest accruing mortgage over one year and at the end of that year would owe $6,090 in interest, how much would the interest rate be if it was charged only once a year compared to twice? Written mathematically the equation looks like this:

X (the unknown) x $100,000 = 6,090

X = 6,090 / 100,000

X = .06090 *OR* 6.090%

This means that J2=6% has the exact same effect as J1=6.09%. In other words, these interest rates are equivalent.

Pause for clarification – Equivalent interest rates

Two interest rates are said to be ***equivalent*** if, for the same amount borrowed over the same period of time, the same amount is owed at the end of that period.

2.7 Interest and Principal Portions of Mortgage Payments

A blended mortgage payment consists of interest and principal. The principal portion of the mortgage payment is a partial repayment of the principal borrowed, while the interest portion is paid to compensate the lender for loan. Using our previous example of a $500,000 mortgage with a rate of 3% compounded semi-annually, amortized over 25 years with a 5-year term consisting of blended monthly payments we can visually illustrate the makeup of the very first payment.

As we can see the interest portion of the payment is slightly more than the principal portion. Over time this mix of interest and principal will change and the interest portion of the payment will decrease while the principal portion will increase, as illustrated below in payments 30 and 60.

Payment 1	**Payment 30**	**Payment 60**
Total Payment: $2,366.23	Total Payment: $2,366.23	Total Payment: $2,366.23
Interest Portion: $1,242.26	Interest Portion: $1,158.39	Interest Portion: $1,065.05
Principal Portion: $1,123.97	Principal Portion: $1,207.84	Principal Portion: $1,301.18

2.8 The Mortgage Contract

The Standard Charge Terms

The Standard Charge Terms is a document that is created by the lender and must be registered with the Director of Titles under the *Land Titles Act*. Many lenders' versions can be viewed at https://www.teraview.ca/en/mortgage-schedules/

This document is the mortgage contract. It contains detailed information on the lender's and borrower's obligations, referred to as covenants, as well as the remedies available to the lender if the borrower does not meet these obligations. A covenant is a promise to do or not do something. In a mortgage contract, both the mortgagee, who is the lender, and mortgagor, the borrower, have covenants that each must abide by.

It is vital to understand that the borrower, while at the lawyer's signing the final documentation to register the mortgage, signs acceptance of the Standard Charge Terms. What many borrowers fail to realize is that they have Standard Charge Terms on their mortgage and that they outline the rights and responsibilities of the borrower. Contravention of the terms of this document is considered default and the lender can exercise its rights, which the borrower agrees to, that are found in this document.

The following is a breakdown of both the mortgagor and mortgagee covenants as listed in the Standard Charge Terms.

Borrower Covenants

When a borrower pledges his or her real property as security for a loan by placing a mortgage on that property, he or she has several obligations.

1. **Repay the loan**
   The borrower agrees to repay the loan based on the payment schedule outlined in the contract. Failure to do so results in the borrower deemed to be in default or in contravention of the terms of the mortgage contract.

2. **Insure the property**
   The borrower agrees to keep adequate property insurance on the property to protect the lender from losing his or her security due to a fire or other covered risks. If the borrower fails to keep insurance on their property, the lender will consider him or her in default.

3. **Maintain the property**
   The borrower agrees to keep the property in good saleable condition including repairing any portion of the property that requires it. Failure to do so will result in the lender considering the borrower to be in default.

4. **Not to commit waste**
   Waste is a legal term which includes actions or conduct that could result in damage to the property or a loss of property value. Committing waste will result in the lender considering the borrower to be in default. This may include significant renovations, such as the addition of another storey to the building. This is due to the fact that if the borrower runs out of money during the renovation and it remains incomplete, the value of the property will be diminished.

5. **Pay Property Taxes**
   The borrower is required to pay his or her property taxes on time. If the borrower doesn't the lender can pay those taxes, add them to the borrower's mortgage and/or consider the borrower in default. This is because the Municipality can register a lien against the borrower's property for unpaid taxes. This lien will take precedence over any other mortgages registered on title reducing the lender's security.

6. **Follow the terms of the Standard Charge Terms**
   The Standard Charge Terms is the document that makes up the bulk of the contract. It is vital to understand that the borrower, while at the lawyer's signing the final documentation to register the mortgage signs acceptance of the Standard Charge Terms. This document details the rights and responsibilities of the borrower. Contravention of the terms of this document is considered default and the lender can exercise its rights, which the borrower agrees to, that are found in this document.

Lender Covenants

The mortgagee, or lender, also has several covenants by which they must abide. The following list summarizes those covenants.

1. **Certificate of Discharge**
   Once the mortgagee has received funds that are sufficient to completely repay the outstanding balance of the mortgage, the mortgagee is required to provide the mortgagor, or borrower, with a Certificate of Discharge that indicates that the amount borrowed has been repaid in full. The mortgagee does not have to register this certificate of discharge on title, which means that the borrower is responsible for having this registered. If the mortgage is being refinanced by another lender, it is standard procedure for the new lender to have their Solicitor closing the mortgage register the certificate of discharge before they register their new charge.

2. **Assignment of mortgage**
   The mortgagor has the right to request that the mortgagee assign the mortgage to a new lender as long as the mortgagor's mortgage is in good standing and the mortgagor has the right to redeem the mortgage. For the exact legislation referring to assignments, refer to the *Mortgages Act*, Part 1, and Section 2[6].

> ***Pause for clarification – "Right to redeem"***
> This term means the right to pay off the mortgage in full. As per the Mortgages Act, R.S.O. 1990, c. M.40 all mortgages automatically have this right after 5 years. In other words, if a borrower has a 7 year term (even if it is closed) that mortgage becomes open with a three month interest penalty after 5 years.

3. **Provide quiet possession**
   Quiet possession is a legal term that reflects the right of the mortgagor to have possession of the property free from interference by the mortgagee, except when in default.

2.9 Mortgage Registration Documentation

The Charge/Mortgage
The Charge/Mortgage is the instrument that is used to register the debt or loan against the borrower's property. It forms the security of the debt.

The Discharge of Charge/Mortgage
This is the instrument used to discharge the debt or loan against the borrower's property. It releases the lender's interest in the property.

[6] Government of Ontario, https://www.ontario.ca/laws/statute/90m40

Case Study – Figures 8 - 10
Jack Adams currently has a second mortgage on his condominium with a private lender. You have arranged a new mortgage through SuperBank for $25,000 that Jack is using to pay off this second mortgage. The Charge/Mortgage shows the new charge/mortgage that is being registered on Jack's condominium while Figure 10 shows the discharge of charge registered by the private lender's lawyer. If Jack was getting a collateral mortgage, the charge would look like it does in figure 9.

The Charge/Mortgage

Figure 8 – Charge/Mortgage

LRO # 80 **Charge/Mortgage** **Receipted as AT1101777** on 2008 10 10 at 16:15
yyyy mm dd Page 1 of 1

The applicant(s) hereby applies to the Land Registrar.

Properties

Pin	11872-0259 LT	*Interest/Estate*	Fee Simple
Description	UNIT 6, LEVEL 16, METROPOLITAN TORONTO CONDOMINIUM CORPORATION NO. 811, PT LT 2, PL 1234, CITY OF TORONTO AS DESCRIBED IN SCHEDULE 'A' OF DECLARATION D167901 TORONTO, CITY OF TORONTO		
Address	1211 SUITE 04727 SHEPPARD AVENUE EAST TORONTO		

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and standard charge terms, if any

Name	ADAMS, JACK
Address for Service	4727 Sheppard Avenue East Toronto, Ontario M1S 5B2

I am at least 18 years of age. This document is not authorized under Power of Attorney by this party.

Chargee(s) *Capacity* *Share*

Name	SUPERBANK
Address for Service	5588 King Street East Toronto, Ontario L1L 1L1

Provisions

Principal	$25,000.00	*Currency*	CDN

Calculation Period	semi-annually, not in advance
Balance Due Date	2009 10 31
Interest Rate	14.75%
Payments	$338.26
Interest Adjustment Date	2008 10 10
Payment Date	Last day of each and every month
First Payment Date	2008 11 30
Last Payment Date	2009 10 31
Standard Charge Terms	200033
Insurance Amount	full insurable value
Guarantor	N/A

Additional Provisions

This Charge/Mortgage of Land secures the monies owing by the Chargor to the Chargee from time to time up to the Principal Amount as set out in the Standard Charge Terms.
See schedules

Signed By

Paul Jonathon Jacobs	55 Main Street Toronto M1M 1K1	acting for Chargor(s)	Signed 2008 10 10

Tel 4165559990
Fax 4165559991

I have the authority to sign and register the document on behalf of the Chargor(s)

Submitted By

		Signed 2008 10 10
PAUL JACOBS, BARRRISTOR & SOLICITOR	55 Main Street Toronto M1M 1K1	

Tel 4165559990
Fax 4165559991

Fees/Taxes/Payment

Statutory Registration Fee	*$60.00*
Total Paid	$60.00

File Number

Chargor Client File Number:	*08-1823*

The Collateral Charge/Mortgage

Figure 9 – Collateral Charge/Mortgage

LRO # 80 **Charge/Mortgage** **Receipted as AT1101777** on 2008 10 10 at 16:15
yyyy mm dd Page 1 of 1

The applicant(s) hereby applies to the Land Registrar.

Properties

Pin	11872-0259 LT	*Interest/Estate*	Fee Simple

Description UNIT 6, LEVEL 16, METROPOLITAN TORONTO CONDOMINIUM CORPORATION NO. 811, PT LT 2, PL 1234, CITY OF TORONTO AS DESCRIBED IN SCHEDULE 'A' OF DECLARATION D167901 TORONTO, CITY OF TORONTO

Address 1211 SUITE
04727 SHEPPARD AVENUE EAST
TORONTO

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and standard charge terms, if any

Name ADAMS, JACK

Address for Service 4727 Sheppard Avenue East
Toronto, Ontario
M1S 5B2

I am at least 18 years of age.

This document is not authorized under Power of Attorney by this party.

Chargee(s) *Capacity* *Share*

Name SUPERBANK

Address for Service 5588 King Street East
Toronto, Ontario
L1L 1L1

Provisions

Principal	$25,000.00	*Currency*	CDN
Calculation Period	See Additional Provisions		
Interest Rate	See Additional Provisions		
Payment Date	***ON DEMAND***		
Interest Adjustment Date	2008 10 10		
Payment Date	Last day of each and every month		

First Payment Date	2008 11 30
Last Payment Date	2009 10 31
Standard Charge Terms	201027
Insurance Amount	Full insurable value
Guarantor	N/A

Additional Provisions

See Schedule 1

Signed By

Paul Jonathon Jacobs	55 Main Street Toronto M1M 1K1	acting for Chargor(s)	Signed 2008 10 10

Tel 4165559990
Fax 4165559991

I have the authority to sign and register the document on behalf of the Chargor(s)

Submitted By

PAUL JACOBS, BARRRISTOR & SOLICITOR	55 Main Street Toronto M1M 1K1	Signed 2008 10 10

Tel 4165559990
Fax 4165559991

Fees/Taxes/Payment

Statutory Registration Fee	$60.00
Total Paid	$60.00

File Number

Chargor Client File Number: 08-1823

The Discharge of Charge

Figure 10 – Discharge of Charge

LRO # 80 **Discharge of Charge** **Receipted as AT1101589** on 2008 10 05 at 16:15
yyyy mm dd Page 1 of 1

The applicant(s) hereby applies to the Land Registrar.

Properties

Pin 11872-0259 LT *Interest/Estate* Fee Simple

Description UNIT 6, LEVEL 16, METROPOLITAN TORONTO CONDOMINIUM CORPORATION NO. 811, PT LT 2, PL 1234, CITY OF TORONTO AS DESCRIBED IN SCHEDULE 'A' OF DECLARATION D167901 TORONTO, CITY OF TORONTO

Address 1211 SUITE
04727 SHEPPARD AVENUE EAST
TORONTO

Document to be Discharged

Registration No.	*Date:*	*Type of Instrument:*
AT770911	2008 10 05	Charge/Mortgage

Discharging Party(s)

This discharge complies with the Planning Act. This discharge discharges the charge.

Name LENDER, PRIVATE

Address for Service 1299 John Street, Toronto, Ontario, L4B 1B1

This document is not authorized under Power of Attorney by this party.

This party giving this discharge is the original chargee and is the party entitled to file an effective discharge.

Signed By

Lender, Private 1299 John Street acting for Applicant(s) Signed 2008 10 01
Toronto L4B 1B1

Tel 416 5551255
Fax 4165551266

Submitted By

LEGALWORKS, INC.	987 Adams Street Toronto M1M 1K1	Signed	2008 10 05

Tel 416 5556547
Fax 4165556548

Fees/Taxes/Payment

Statutory Registration Fee	*$60.00*
Total Paid	$60.00

2.10 Mortgage Ranks

There are different ranks of mortgages, referring to the number of mortgages on the same property.

A first mortgage simply means that the mortgage was registered first, or before any other mortgages on the property. A mortgage registered after the first mortgage is called a second mortgage. A mortgage registered after the second mortgage would be considered a third mortgage, and so on. If a borrower who has a first and second mortgage pays off that first mortgage, the second mortgage would now become the first mortgage.

The rank of the mortgage has nothing to do with the amount of the mortgage but in most cases, lenders will not advance a second mortgage that is larger than the first mortgage or that exceeds a maximum percentage of the size of the first mortgage.

Typically, the interest rate on a mortgage will increase with the level of risk attached to that mortgage. A second mortgage is considered riskier than a first, a third mortgage riskier than a second, and so on. The reasoning behind this is that if the borrower defaulted on the first mortgage, the first mortgage lender would begin the power of sale process to recover the money owing on its mortgage. Once the property is sold, the remainder of the proceeds of the sale would go to the other mortgage holders, such as a second mortgage lender. This is a risk for the second mortgage lender since there may not be enough money left from the sale of the property to fully pay off their mortgage. To offset this risk the second mortgage lender will typically charge a higher interest rate.

2.11 Conventional and High Ratio Mortgages

A mortgage can be described as either conventional or high ratio. To determine how the mortgage is classified, the loan to value of the mortgage must first be calculated.
This is calculated by dividing the mortgage amount by the value of the property.

Example
If a borrower wished to purchase a property for $400,000 and he or she had $50,000 as a down payment, the loan to value would be calculated using the following formula:

$$\frac{\text{Mortgage Amount}}{\text{Property Value}}$$

To obtain the mortgage amount, the amount of the down payment must first be subtracted from the purchase price.

Purchase Price – Down Payment = Required Mortgage Amount

$400,000 - $50,000 = $350,000

The mortgage amount is then divided by the property value (which is, in this case, the purchase price)

$$\frac{\$350{,}000}{\$400{,}000}$$

= 0.875 or 87.5% loan to value

Bill C-37, enacted in 2007 by the federal government, contains legislation that changed the definition of conventional and high ratio mortgages in Canada. By amending section 418, subsection 1 of the *Bank Act*, the federal government changed what constitutes a high ratio mortgage in Canada from 75% loan to value to 80% loan to value.

The following is the text of the amendment:
418. *(1) A bank shall not make a loan in Canada on the security of residential property in Canada for the purpose of purchasing, renovating or improving that property, or refinance such a loan, if the amount of the loan, together with the amount then outstanding of any mortgage having an equal or prior claim against the property, would exceed 80 per cent of the value of the property at the time of the loan.*

High Ratio Mortgage

A high ratio mortgage is a mortgage that exceeds 80% loan to value. This refers to either a purchase where the purchaser has less than 20% for a down payment or, in a refinancing scenario, where there is less than 20% equity in the property. If a mortgage is provided by a federally regulated bank, that bank must obtain mortgage default insurance on the loan if the loan exceeds 80% loan to value. This is important for an agent to know because the premium for this default insurance is typically added to the mortgage amount and will increase the mortgage payment.

If the mortgage is not provided by a federally regulated bank, then mortgage default insurance is not required. Many lenders that do not use mortgage default insurers refer to their mortgages as “self-insured”. This simply means that the lender will charge a lender’s fee (referred to as the self-insured fee), typically similar in amount to a default insurer’s fee. The lender will often use these fees to create a reserve fund that can be accessed to help offset losses suffered by a borrower’s default.

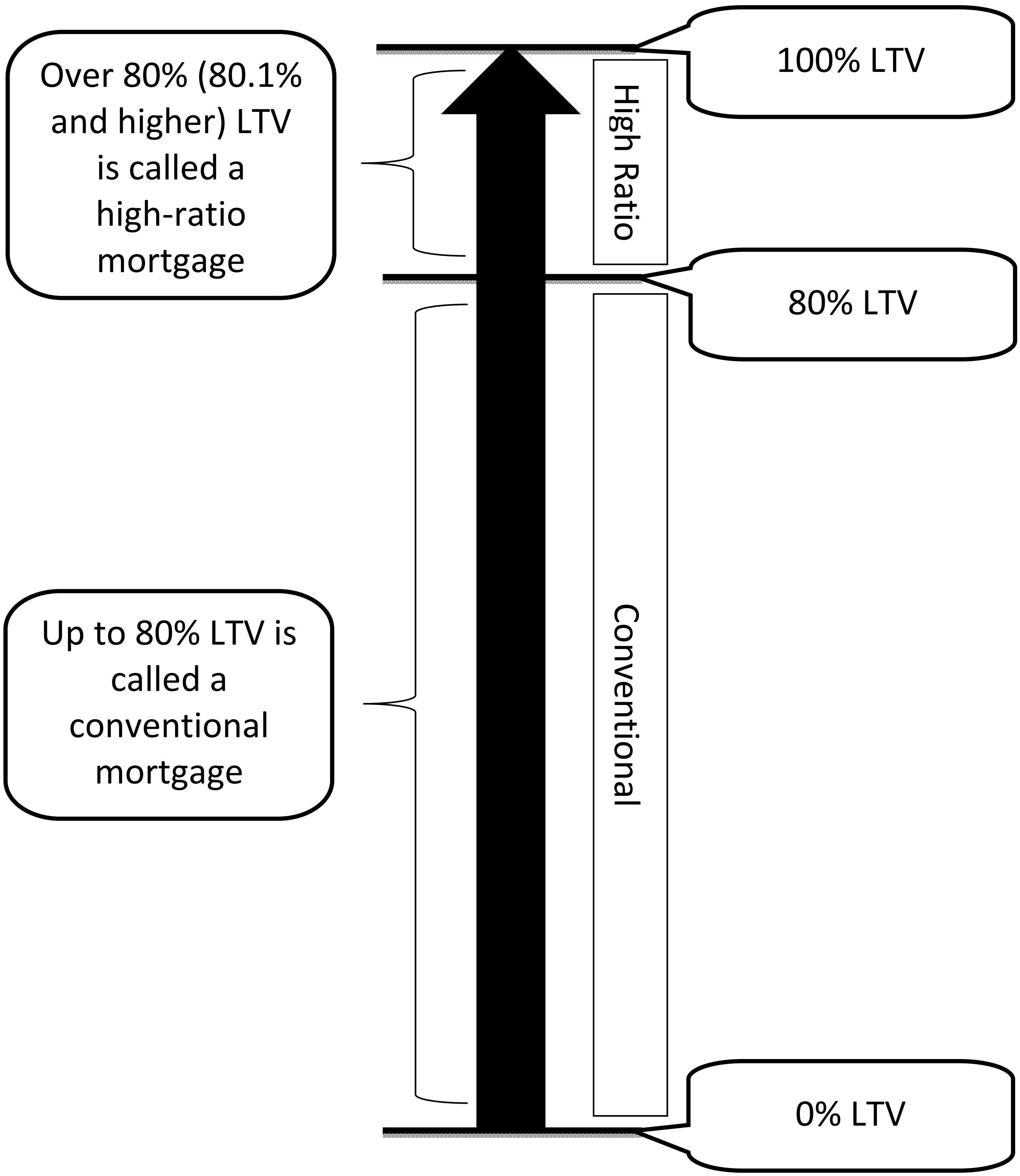
Pause for clarification – Self-insured lender

A “Self-Insured” lender is simply a lender that does not use default insurance, but that charges a lender’s fee and pools this money in a reserve fund to help offset the risks associated with lending high ratio mortgages without the protection of default insurance. The amount of this fee is typically similar to what a borrower would pay for default insurance.

More information on mortgage default insurance may be found in the chapter, Insurance in the Mortgage Industry.

Conventional Mortgage

A conventional mortgage is one that is 80% loan to value or less. This refers to either a purchase where the purchaser has 20% or more for a down payment or, in cases of refinancing, where there is more than 20% equity in the property.



2.12 Key Terms and Definitions

1st mortgage
The first mortgage registered on title of a property

2nd mortgage
A mortgage registered on title of a property after a 1st mortgage

3rd mortgage
A mortgage registered on title of a property after a 2nd mortgage

Assignment of mortgage
The transference of a mortgage from one lender to another

Charge/Mortgage
The document that indicates that there is a debt registered against the title of a property

Chattel
Personal property, movable property and other property not deemed to be fixtures

Collateral mortgage
A promissory note secured by a lien on the property for the total amount registered, which may differ from the total amount advanced.

Conventional mortgage
A mortgage not exceeding 80% loan to value

Discharge of Charge/Mortgage
The document that indicates that a debt has been removed from the title of a property

Down payment
An amount of a purchaser's money provided to the vendor from his or her own resources (not included in a mortgage loan). Under certain programs this amount may be borrowed.

Equity take-out (ETO)
The removal of equity by refinancing of the property

Interest rate
The rate at which interest, which is a fee paid to the lender for borrowing money, is calculated

Mortgage
The providing of real property to a lender as security in exchange for a debt

Mortgagee
The lender

Mortgagor
The borrower

Payment
A periodic amount, in dollars, required to be made in relation to a mortgage contract. A payment may be interest only or a blend of interest and principal.

Personal property
Everything one owns that is not real property. That includes chattels and other goods. Personal property is typically not fixed in its location and normally has a shorter useful life expectancy than real property.

Real property
Land and everything affixed to it. It is in a fixed location and is permanent, remaining, to one extent or another, long after the current owners have relinquished their rights to it.

Self-insured lender
A lender that does not use default insurance, but that charges a lender's fee and pools this money in a reserve fund to help offset the risks associated with lending high ratio mortgages without the protection of default insurance. The amount of this fee is typically similar to what a borrower would pay for default insurance.

Standard Charge Terms
The terms and conditions of the mortgage contract, including the remedies available to the lender upon default by the borrower

Term
A period of time in which the mortgage contract is in force. After this period of time the mortgage must be fully repaid or renegotiated.

Title
A term that refers to the ownership of a property. If something is registered "on title" it means that it is officially registered against the ownership of the property through the Land Titles Office, where property ownership is recorded

2.13 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Discuss the difference between a mortgage and a car loan.

2. There are two mortgages registered against the title of Barbara's property. One was registered on May 20, 2006 and the other was registered on March 17, 2005. Which is the 1st mortgage and which is the 2nd?

3. Jonathan owns a house valued at $250,000 with a current 1st mortgage that has a balance of $190,000. Jonathan has credit card debts of $12,500 that he wishes to consolidate by increasing his first mortgage. Would Jonathan require a conventional or high ratio mortgage?

4. Describe the purpose of the Charge/Mortgage.

5. Name and describe three of the main borrower obligations under a mortgage contract.

6. Every mortgage comes with a set of Standard Charge Terms. Discuss the purpose of this document and its importance in the mortgage transaction.

Chapter 3: Mortgage Repayment Plans and Options

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Describe the types of mortgage repayment plans and explain the benefits and risks of each
- ❑ Describe the different prepayment options available to borrowers and explain the benefits and risks of each
- ❑ Describe the cash back option available to borrowers and explain its benefits and risks
- ❑ Describe a combination or bundled mortgage and explain its benefits and risks
- ❑ Discuss the portability option and describe its benefits and risks
- ❑ Discuss the assumability option and describe its benefits and risks

3.1 Types of Mortgage Repayment Plans

As a mortgage agent it will be your role to determine the most appropriate product for your client. To do so you will need to fully understand your clients' needs and circumstances, which is discussed in detail in the chapter on the initial consultation. To be able to make an informed recommendation to your client requires you to be well versed in all of the current repayment plans available. This section examines the types of mortgage repayment plans that may be available to you and discusses the benefits and risks of each. By understanding the benefits and risks you will be able to better identify which repayment plan is best suited to your client. Once you have a firm understanding of the types, we will then examine the options that are available with these repayment plans. It's comparable to buying a car; first you find the model that's right for you then you decide on the options. We begin by listing the most common types of mortgage repayment plans, followed by a detailed examination of each.

1. The Partially Amortized, Blended Constant Payment Mortgage – Fixed Rate
2. The Partially Amortized, Blended Constant Payment Mortgage – Variable Rate
3. The Partially Amortized, Blended Variable Payment Mortgage – Variable Rate
4. The Interest Only Mortgage
5. The Home Equity Line of Credit (HELOC)
6. The Interest Accruing Mortgage
7. The Reverse Mortgage
8. The Straight Line Principal Reduction Mortgage
9. The Graduated Payment Mortgage

The Partially Amortized, Blended Constant Payment Mortgage – *Fixed* Rate

This is the most common repayment plan in Canada today. This mortgage has several characteristics.

Partially Amortized
The amortization refers to the total amount of time that it will take to repay the mortgage. The most common amortization is 25 years, although there are several different lengths currently available. The term partially amortized indicates that there is a term involved. If there wasn't a term, it would be a fully amortized mortgage, which is uncommon in Ontario today.

Term
The term is a period of time in which the terms of the mortgage remain the same (not to be confused with amortization which is the total amount of time to repay the mortgage to a zero balance), typically anywhere between six months and five years (although longer terms are available). The mortgage contract is based on this term and, at the end of the term, the contract comes up for renewal. The borrower can then renew with his or her current lender based on the terms of the renewal, refinance with the current lender or a new lender, switch to a new lender, or pay the mortgage off from his or her own funds (or borrowed funds).

Blended Payment
The blended payment is a combination of principal and interest, allowing the borrower to pay the accumulated interest due for the payment period as well as an amount to pay down the principal amount of the loan that is outstanding.

Constant Payment
This means that the payment does not change throughout the term. For example, given a mortgage of $200,000 at a rate of 6% compounded semi-annually, a term of 5 years and an amortization of 25 years, the monthly payment is $1,279.62.

This payment would remain constant for the full 5 years, at the end of which time the outstanding balance would have to be repaid, either by renewal, refinance, switch or full payment from the borrower's own money.

The portion of interest and principal within this constant payment will change every month as the amount of interest payable decreases. In this example, the amount of principal paid in the first payment would be $291.90 while the interest paid would be $987.72. By the end of the term, in the sixtieth payment the amount of principal paid has increased to $390.36 while the amount of interest has decreased to $889.26.

Fixed Rate
This refers to the fact that the interest rate is fixed or does not change for the entire term.

Benefits
❑ Security
The main benefit of this type of mortgage repayment plan centres around security.
The borrower knows what the payment is throughout the term of the mortgage and can budget accordingly. This security should not be overlooked in terms of importance, especially for first time home buyers who may be used to renting and paying a fixed amount for shelter every month. Many first-time home buyers are not fully aware of the other costs associated with home ownership, the clarification of which is part of the duty of the mortgage agent.

Risks
❑ Potential Lack of Savings

There are no basic risks attached to this type of mortgage repayment plan for the borrower other than the fact that he or she may not save as much interest as possible when compared to the variable rate option.

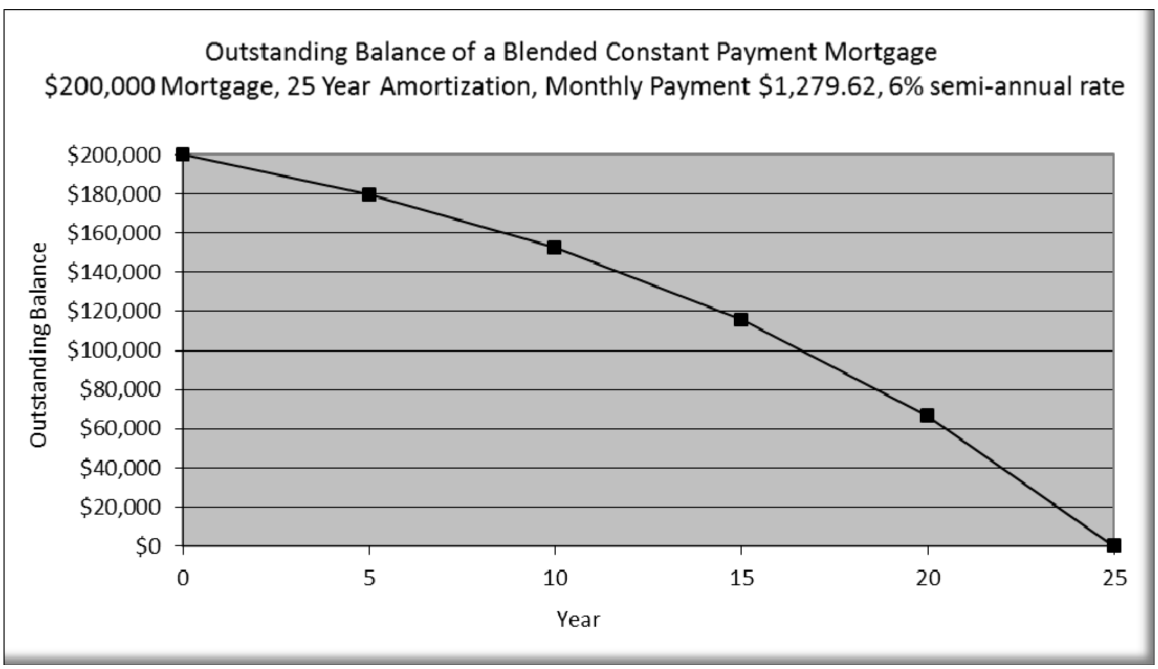
The following figure illustrates the reduction of the outstanding balance on a Blended Constant Payment Mortgage.

The Partially Amortized, Blended Constant Payment Mortgage – *Variable* Rate

The characteristics of this type of mortgage are the same as the Partially Amortized, Blended Constant Payment Mortgage – Fixed Rate, except concerning the interest rate.
While there are different types of variable rate mortgages, the main feature is that a variable rate mortgage has an interest rate that fluctuates.

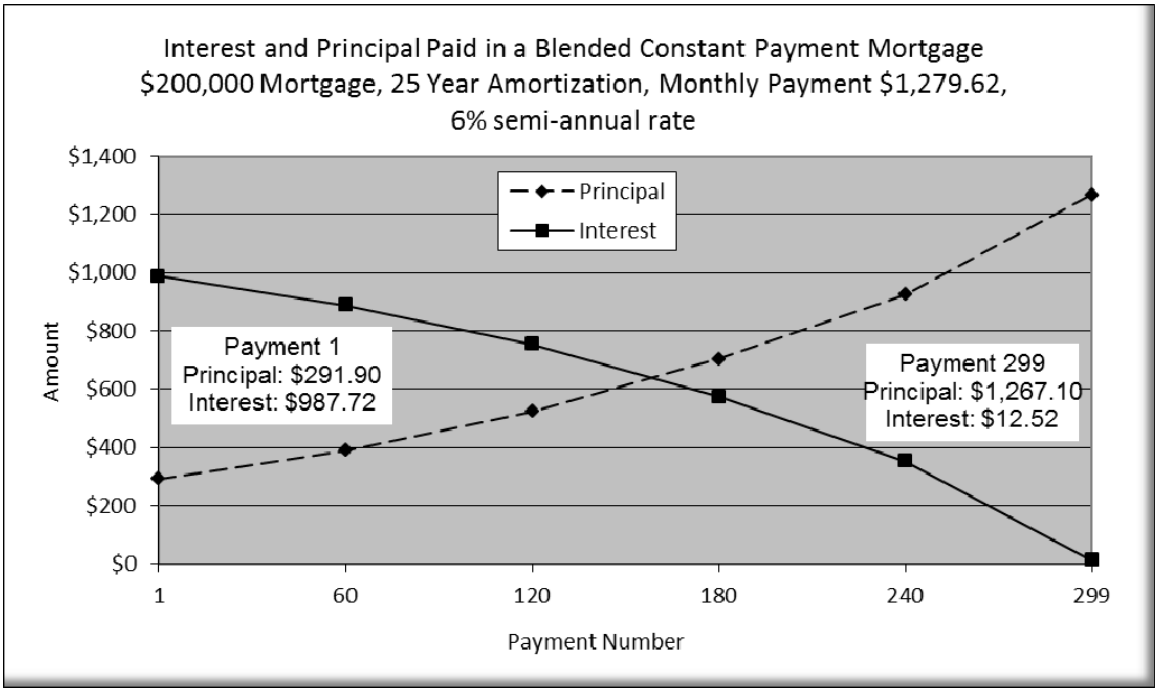
This type of repayment plan is designed to protect the lender from mismatching funds that it has on deposit. As their rates paid on deposit products, such as bank accounts and investments fluctuate, so does the rate of the variable rate mortgage. This allows a lender to keep the spread between what it is paying on its deposits to what they are receiving on their mortgages more consistent, thus protecting profit margins. For this increased security to the lender, the borrower tends to receive a lower rate than on a fixed rate mortgage.

Figure 11 – Outstanding Balance of a Blended Constant Payment Mortgage



The following figure illustrates how principal and interest are repaid on a Blended Constant Payment Mortgage.

Figure 12 – Interest and Principal Paid in a Blended Constant Payment Mortgage



At the beginning of the mortgage, the payment is typically set at the lender's posted 3-year rate. Many lenders offer a capped variable rate mortgage that caps the amount of interest that can be charged at that preset rate, which is typically included in a Schedule attached to the Standard Charge Terms.

The rate fluctuation is normally tied to the lender's current prime rate and can be reset monthly. Typical variable rate mortgages carry interest rates that are lower than their fixed rate mortgages. For example, a lender may offer its variable rate mortgage at its prime rate minus 50 basis points (a basis point is 1/100th of 1 percent; therefore, there are 100 basis points in 1 percent). If its current rate is 6.5%, then its current variable rate would be 6.5% - .5% = 6%.

In this type of variable rate mortgage, the payment remains the same, or constant, while the percentage of the payment allocated to interest and principal fluctuates according to the current interest rate. If the rate goes up, more of the payment is comprised of interest, and vice versa. If the rate was to rise past a certain point, the borrower would not be repaying all of the interest for the period, let alone any principal. This would result in a negative amortization; in other words, the mortgage would not be paid off during the amortization period. In fact, it would extend beyond the contracted amortization period. For this reason, lenders will have a clause in the standard charge terms that indicates that if the amount of the loan exceeds a set percentage the lender has the right to increase the payment amount.

There was an increase in the number of variable rate mortgages taken out from 2001 to 2005 due mainly to the fact that variable rate mortgages provided a lower interest rate than fixed rate mortgages. In 2006, it was estimated that 22 per cent of new or renewed mortgages were comprised of variable rate mortgages compared to 36 per cent in 2005, due mainly to the decrease in the difference between fixed and variable rates.

However, it was back up to 48% in the third quarter of 2008 as that spread increased. Once again that trend reversed itself as the economy faltered. According to CMHC's Canadian Housing Observer report, only 21% of insured mortgages funded in 2010 were variable rate mortgages.

Benefits

❑ Savings

For borrowers who are not "risk sensitive" (fluctuations in rates do not cause them stress) this type of repayment plan can save them money. In most cases, the rate for variable rate mortgages has been lower than those of fixed rate mortgages.

❑ Ability to Switch to a Fixed Rate

Most variable rate mortgages offer the flexibility of allowing the borrower to switch to a fixed rate product through the same lender without penalty. This provides the borrower with the comfort of being able to switch if the variable rate begins to rise.

Risks

❑ Volatility

This type of mortgage, while being able to save the borrower money, can also have the reverse affect if the lender increases its rates. The borrower must be financially sophisticated enough to keep a close watch on rates and make the decision to switch to a fixed rate product if and when the situation warrants it.

❑ Negative Amortization

If the interest rate rises, the possibility exists that the fixed payment will not be sufficient to cover the interest due for the payment period. This will cause the borrower to potentially enter a negative amortization scenario, which can force him or her into increasing his or her mortgage payment or paying a lump sum of money to the lender to return the mortgage to a positive amortization.

❑ Payment Increase

As mentioned under Negative Amortization, if the borrower falls into that category and must increase his or her payment, the question then becomes can the borrower afford the higher payment?

The following is an example of a variable rate clause:

This tells the borrower when this clause is applicable

DESIGNATED AMOUNT (applicable to Variable Rate Mortgages only)
(a) "Designated amount" shall mean the lesser of:

(i) the designated amount specified in the schedule, or

(ii) if you have a conventional mortgage, 80% of the fair market value of your property as established by an up-to-date appraisal report of your property which either we obtain at your expense, from a real estate appraiser acceptable to us, or which you provide to us, signed by a real estate appraiser first approved in writing by us, or

(iii) if you have a CMHC insured mortgage, the lesser of:

A. 80% (95% if insured under the First Time Home Buyer Program) of the lesser of the appraised value or purchase price of your property, plus the CMHC insurance premium, or

B. 110% of the original balance of the Mortgage, including the CMHC insurance premium.

This section tells the borrower what is expected to happen if this clause applies

(b) If the loan amount exceeds the designated amount, you shall be required to take one of the following actions:

A. increase the amount of each regular payment under the mortgage, in order to amortize the mortgage over the remaining amortization period;
B. reduce the total amount of the loan amount then owing by making a lump sum payment sufficient to reduce such total amount to a point below the designated amount; and
C. convert the mortgage to a fixed rate mortgage having equal monthly payments.

If you are unable to take any of the actions set out in (i), (ii) or (iii) above, then, at our option, the mortgage will immediately become due and payable.

Success Tip – Determining a borrower's needs

Many borrowers do not know what to look for in their mortgage. Do they need a fixed or variable rate mortgage? The answer isn't always straightforward. It is necessary to determine the borrower's needs and assess his or her risk tolerance to determine the right type of mortgage for him or her. More information can be found in the chapter, The Initial Consultation. This will help ensure that you get your client the right product, and thereby successfully close the transaction!

The Partially Amortized, Blended Variable Payment Mortgage – *Variable* Rate

This type of variable rate mortgage is identical to the Variable Rate, Fixed Payment mortgage except that the payment will change each time that the lender's prime rate, which is used to determine the variable rate, changes. This is designed to minimize the risk to the lender of the borrower experiencing a negative amortization.

Benefits

❑ Savings

This type of mortgage tends to offer the borrower the greatest savings possible since the rate of interest charged tends to be the lowest among mortgage products offered in the market today. In addition, if the rate drops, the payment will drop, improving the borrower's cash flow.

❑ Maintain Amortization

Regardless of the change in the interest rate the payment will fluctuate to match that change, thereby keeping the amortization the same. This is important if the borrower is insistent that the mortgage be paid off in a specific number of years without being affected by the rate.

Risks

❑ Volatility

This type of mortgage, while being able to save the borrower money, can also have the reverse effect if rates rise. The borrower must be financially sophisticated enough to keep a close watch on rates and make the decision to switch to a fixed rate product if and when the situation warrants it.

❑ Payment Fluctuation

Since the payment is reset each time the lender's interest rate fluctuates, the borrower must ensure that he or she has sufficient funds to reflect any increases in the payment. This results in cash flow uncertainty for the borrower.

The Interest Only Mortgage

The interest only mortgage is straightforward. The borrower takes out a lump sum of money and only repays the interest due each payment period. This means that, throughout the life of the mortgage, the borrower will always owe the same amount of principal. For example, given a mortgage of $200,000 with an interest rate of 6% compounded semi-annually, not in advance, over a 1-year term, the borrower would be making monthly repayments of $987.73. An interest only mortgage does not have an amortization since there is no repayment of principal.

Benefits

❑ Increased Cash Flow

From a borrower's perspective, the fact that no principal is being included in the mortgage payment typically results in a lower payment than would otherwise be the case in an amortized mortgage. This may be beneficial to a borrower who knows that he or she will be receiving an increase in income in the near future. Once that increase is realized, the borrower can switch to a blended payment mortgage.

For your information… Interest Rates

Mortgage interest rates on Partially Amortized, Blended Constant Payment Mortgages, either fixed or variable rate, typically follow this hierarchy:

Highest Rate

1 Year Open Mortgage
6 Month Open Mortgage
10 Year Closed Mortgage, Zero Down Payment Mortgages
7 Year Closed Mortgage, Cash Back Mortgages (depending on %)
6 Year Closed Mortgage
5 Year Closed Mortgage
4 Year Closed Mortgage
3 Year Closed Mortgage
2 Year Closed Mortgage
1 Year Closed Mortgage
Variable Rate Mortgage

Lowest Rate

❑ Increased Purchasing Power
If, however, the borrower wishes to keep the payment at the same amount as he or she would have been paying in a blended payment mortgage, he or she will be able to borrow more money than otherwise possible. See the following figure for an illustrated example.

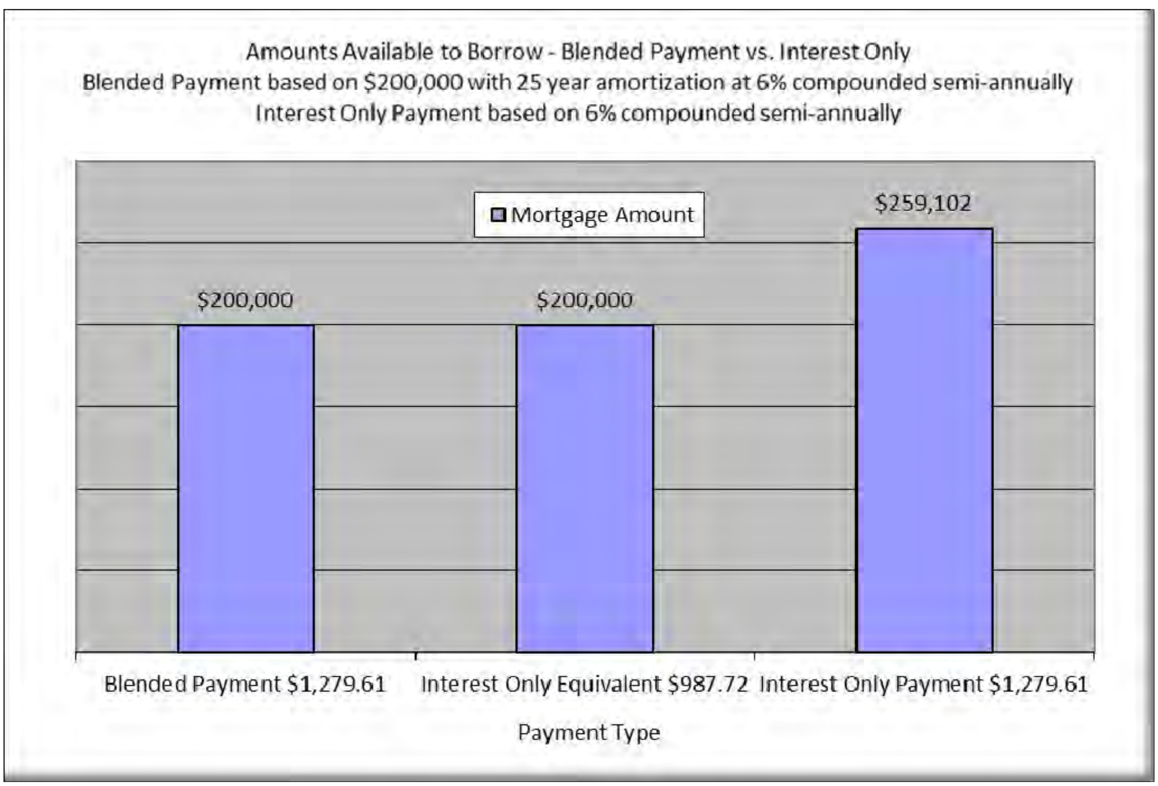
❑ Investments
If this type of repayment plan is used to purchase an investment property, for example, the investor can deduct the interest paid as a cost of investing. Under this scenario, the investor is able to purchase a property at a higher value than using a blended payment repayment plan while using the income from the property to make the mortgage payments.

Risks

❑ No Principal Reduction
The fact that there is no principal reduction can put both the lender and the borrower at risk. The risk to the lender is that, if the borrower defaults and the property does not appreciate, their principal may be at risk, depending on the loan to value.

For the borrower, if he or she uses this repayment plan to increase his or her purchasing power and property prices decrease, he or she can end up owing more than the property is worth. The interest only mortgage is one of the factors that contributed to the mortgage crisis in the United States in 2007.

Figure 13 – Amounts Available to Borrow – Blended Payment vs. Interest Only



The Home Equity Line of Credit (HELOC)

A HELOC is a Line of Credit secured by real property. A Line of Credit (LOC) is an amount of credit made available to a borrower but not advanced on closing. For example, if a borrower had a $200,000 LOC, he or she would be able to use these funds whenever he or she wished. As of November, 2014 the Office of the FSRA of Financial Institutions (OSFI) requires federally-regulated financial institutions to limit the loan to value of interest only HELOCs to 65%.[1]

However, payments are only made on the outstanding balance of the LOC. A typical HELOC has monthly payments of interest only based on a variable rate. The borrower can make payments as small as the interest only or as large as he or she wishes.

Benefits

❑ Flexibility

This plan allows the borrower to borrow funds as necessary and make repayments that fit his or her budget.

Risks

❑ Volatility

A HELOC contains the same rate volatility as a variable rate mortgage.

The Interest Accruing Mortgage

Interest accruing mortgages are loans that have no repayment of principal or interest during their life. At the end of the mortgage, the entire principal amount is repayable, including all of the accrued interest. Standard forms of Interest Accruing Mortgages tend to be for short periods of time due to the lender's risk. As the following figure illustrates, this type of mortgage accumulates interest at a very fast pace, which is why lenders don't like these repayment plans to be outstanding for much longer than a year.

Benefits

❑ Cash Flow

Under this repayment plan there is absolutely no impact on a borrower's cash flow. In other words, they can simply borrow the funds and forget about the mortgage, until the term expires, of course.

Risks

❑ Increasing Debt

Under this repayment plan the amount borrowed increases over time. The following chart illustrates that increase. Based on this example, the borrower will owe just under $270,000 at the end of 5 years, an increase of nearly $70,000 in debt.

❑ Reduced Equity

Since the debt increases it eats into the equity that the property has. The borrower must hope that the property appreciates in value over the same period to offset this loss.

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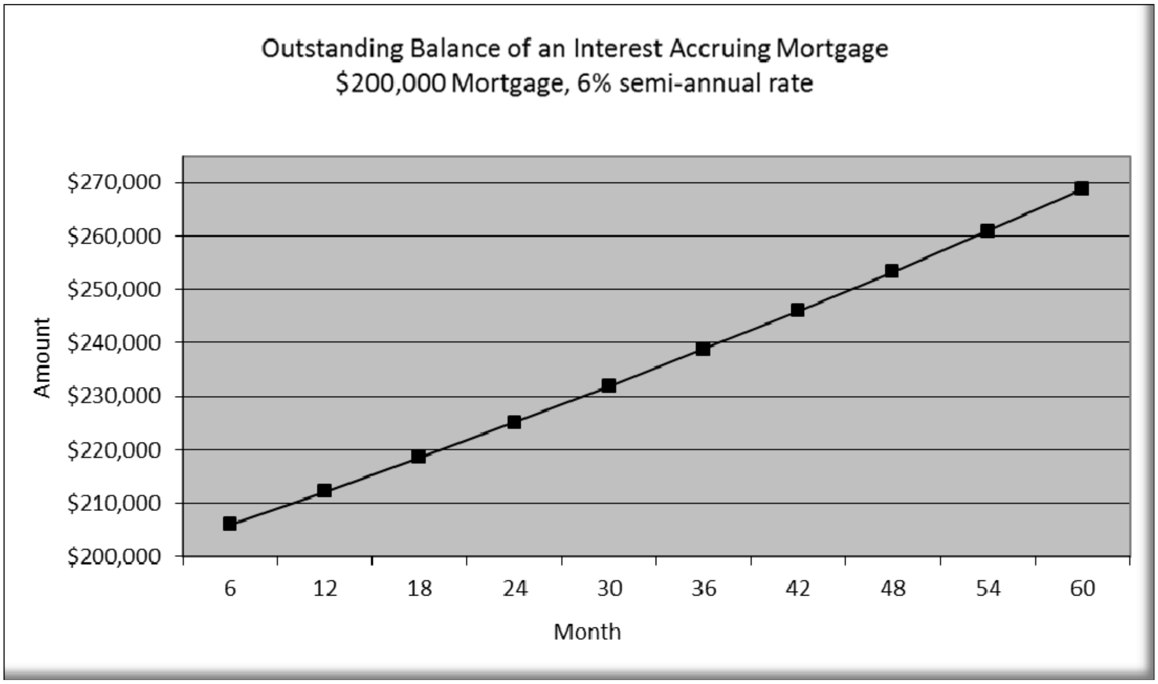
[1] OSFI, http://www.osfi-bsif.gc.ca/eng/fi-if/rg-ro/gdn-ort/gl-ld/pages/b20.aspx

Figure 14 – Outstanding Balance of an Interest Accruing Mortgage



The Reverse Mortgage

A Reverse Mortgage is a type of interest accruing mortgage that is typically provided to seniors. The major provider of Reverse Mortgages in Ontario today is the Canadian Home Income Plan (CHIP). This organization provides homeowners who are 55 years of age or older up to 55% of the property value in a lump sum of cash, less any current debt secured by the property. This amount accumulates interest until the death of the homeowner (the surviving homeowner, in the case of spouses) or until the property is sold, at which time the mortgage is due and payable.

According to CHIP, this tax-free type of mortgage is suitable for seniors looking to enhance their lifestyle, renovate their home or pay off their debts without having to use their savings. As of November, 2017, the current rate for a CHIP reverse mortgage ranges from 5.66 to 6.27%[2].

At one point, Reverse Mortgages were referred to as RAMS or Reverse Annuity Mortgages. These mortgage plans would operate the same as the CHIP Reverse Mortgage but, instead of providing the borrower with a lump sum of cash, the proceeds would be used to purchase an annuity that would pay the borrower a monthly income. Proceeds from a CHIP Reverse Mortgage can still be used to accomplish this, but the term RAM is now no longer as relevant as it once was.

Benefits

❑ Cash Flow

[2] CHIP, https://www.chip.ca/reverse-mortgage-rates/

Similar to the Interest Accruing Mortgage, the Reverse Mortgage has no impact on the borrower's cash flow.

❑ Repayment
Since the Reverse Mortgage is not due (under the CHIP) program, until death of the remaining homeowner or sale of the property, the borrower never has to repay the debt in his or her lifetime.

Risks
❑ Reduced Equity
This mortgage may reduce in part or in whole the amount of equity remaining to be passed into the estate. In addition, the potential of reduced equity may be an issue if the homeowner decides to sell the property during his or her lifetime.

The Straight-Line Principal Reduction Mortgage

A Straight-Line Principal Reduction Mortgage is a type of repayment plan that allows the borrower to pay off a set amount of principal each payment along with the accrued interest (interest that has accumulated) for that period. This is not a common form of mortgage in Ontario or Canada but is more prevalent in the United States.

This type of loan may be beneficial to the manufacturing industry when dealing in depreciating assets. For example, if an automobile rental company purchases a fleet of automobiles it can be said that their expenses would be less to maintain those vehicles at the outset when they are new. Over time, it will become more expensive to maintain the fleet due to higher maintenance costs. Under this scenario, the company may wish to have its loan payments decrease over time to match the increase in its costs.

Benefits
❑ Cash Flow
The highest payments occur at the outset of the mortgage. This can be beneficial to a business if it believes its cash flow will decrease over time and it has the cash flow to comfortably make the initial payments.

Risks
❑ High Initial Payment Size
The size of the payment is largest at the outset. This results in limited circumstances where this type of repayment plan can be beneficial to the borrower.

The Graduated Payment Mortgage

A Graduated Payment Mortgage is a type of loan that has lower payments at the outset that will increase over time. For the first several payments, the amount paid is not sufficient to pay the full amount of interest accumulated during the period, meaning that the outstanding balance of the mortgage is actually increasing. This trend will continue until the payment increases to such a point that it pays the full amount of the interest for the period plus some principal. This, like the Straight-Line Principal Reduction Mortgage, is not a common form of mortgage in Ontario or Canada.

The major risk to a lender under this repayment plan is that the borrower's cash flow will not be able to afford the increase in payments over time, and/or that the property value will not appreciate. This combination can lead to a property with a higher loan balance than its value where the borrower cannot afford the payments.

A similar situation to this occurred in the United States in 2007, which saw tens of thousands of homeowners walk away from their properties due to their payments becoming unaffordable along with the combination of loan to values in excess of 100 per cent. Although the situation in the United States was not due to Graduated Payment Mortgages, the effect was the same.

This type of repayment plan would be beneficial for someone who expects their income to increase over time, such as in a newly formed business. However, the risks to the lender make this type of plan virtually unheard of, except in texts and theory.

Benefits
❑ Cash Flow
The payment in this repayment plan is at its lowest initially, resulting in better cash flow for a borrower who believes their cash flow will increase over time.

Risks
❑ Principal Risk
This type of repayment plan has risk associated with the principal, since it acts as a type of interest accruing loan at the outset due to the payments being insufficient to pay the full amount of principal and interest due in each period.

3.2 Mortgage Options

In today's market, there are many features that lenders offer borrowers to suit their financing needs. Lenders, over the past several decades, have become more sensitive to the changing market and have produced mortgage features that better reflect the borrower's goals and attitudes towards mortgage financing.

These features can be broken down into categories:
1. Prepayment Options
   a) Fully Open
   b) Partially Open
   c) Closed
2. Repayment Options
   a) Periodic Payment Increase
   b) Accelerated Mortgage Payment
   c) Lump Sum Payment
   d) Extended Amortization
3. Cash Back Options
4. Bundled Options
5. Portability Options
6. Assumability Options

1. Prepayment Options

Lenders are offering borrowers more options than ever before to prepay their mortgages, that is, to pay the mortgage off sooner than was agreed to in the original mortgage contract. The lender begins with the standard repayment plans that were discussed earlier. The borrower then has options to enhance the repayment plan by determining the type of prepayment features they would like as part of the plan. In this section we'll be discussing the several different options borrowers have when it comes to prepaying and repaying their mortgage, beginning with the fully open prepayment option.

a) Fully Open

A fully open mortgage allows the borrower to repay the mortgage, in whole or in part, at any time without penalty or notice. This option is particularly beneficial to those borrowers who know that they may be coming into a cash windfall, such as from an inheritance or property sale.

Benefits

❑ Flexibility

The mortgage can be repaid at any time, providing the borrower with the flexibility to pay the mortgage off from his or her own proceeds or refinance the mortgage with another lender.

❑ No penalties

A fully open mortgage has no prepayment penalties, meaning that the borrower can prepay the mortgage without being charged the 3-month interest penalty or the interest rate differential (discussed later in this chapter). This can save the borrower from hundreds to tens of thousands of dollars in penalties.

Risks

❑ Higher Rate

Most fully open mortgages are at a higher interest rate. This is primarily due to the fact that the lender has no guarantee in how long the borrower will keep the funds. This means that the lender has no certainty about the overall rate of return on the mortgage. Since a borrower would usually only take this option if he or she planned to repay the mortgage early, the lender typically charges a premium interest rate for that right.

b) Partially Open

A partially open mortgage allows the borrower to repay the mortgage in whole with a penalty of either 3 months' worth of interest or the interest rate differential (the difference between the mortgage's rate and lender's current mortgage rate).

Benefits

❑ Flexibility

The mortgage can be repaid at any time, providing the borrower with the flexibility to pay the mortgage off from his or her own proceeds or refinance the mortgage with another lender.

Risks

❑ Higher Rate

Although this option doesn't carry the same rate premium as the Fully Open feature, it can come with a higher rate than found in a closed mortgage.

❑ Penalties

Although it offers the flexibility to prepay the mortgage at any time, the penalty to fully prepay the mortgage may outweigh the benefits of refinancing with a different lender, because the cost of the penalty may be more than the amount saved by refinancing at a lower rate with another lender.

The actual prepayment penalty when prepaying the entire amount of the principal during the term is based on either 3 months' worth of interest or the interest rate differential, whichever is *higher*. For the detailed equations used to calculate these penalties please refer to the chapter, "Calculating a Mortgage Payment."

Pause for clarification – Interest rate differential

The interest rate differential is the difference (which is the amount of the penalty) between a borrower's current contracted mortgage rate and the lender's current available rate for a similar term.

c) Closed Mortgage Prepayment Option

This type of prepayment feature actually only applies to the sale of the property. Under all other circumstances, the borrower has no right to prepay the entire principal owed, although there are typically other repayment options such as increasing his or her periodic payment or making lump sum payments. However, the main characteristic of this feature is that it does not allow for full prepayment at any time during the term of the mortgage except by sale of the property. This must normally be considered an arm's length sale, as well, meaning that a borrower couldn't "sell" the property to a family member simply to prepay the mortgage.

Although this type of mortgage feature is not the norm, several lenders do offer it. It is important to ensure that the lender's prepayment options are understood before deciding on a mortgage for the client.

For example, Home Trust has a clause that defines a closed mortgage as one that can only be repaid on a "bona fide sale". It reads, "You may prepay the initial loan or any other fixed loan or renewal of such loan only upon the closing of a bona fide arm's length sale of your property in the open market and payment of the prepayment charge set out below in section 5.3. If the initial loan or the fixed loan or the renewal is for a term of more than three (3) years, you may also at any time after the third year of the term, prepay your mortgage in full but only with payment of the prepayment charge set out below in section 5.4."

Contrast this with a clause found in CIBC's Standard Charge Terms describing repayment of *its* closed mortgage. It reads, "If you have a fixed rate closed mortgage or a 6-month convertible closed mortgage, you may prepay some or all of the outstanding principal amount of your mortgage before maturity."

Both lenders refer to their mortgages as closed, but while CIBC offers full prepayment before maturity Home Trust does not. Once again, it is very important that the lender's terminology is fully understood.

Benefits

❑ Rate

Since this type of prepayment feature provides the lender with significant security regarding their mortgage portfolio, they are often inclined to provide their lowest rates on their closed mortgages. If the borrower is fairly certain that they won't need to refinance their mortgage or prepay it in full during the term, then this type of feature can be financially beneficial due to the lower rate.

Risks

❑ Lack of Flexibility

As the borrower is "locked in" on this mortgage, he or she has no flexibility to prepay the entire mortgage amount or refinance with another lender. This can limit his or her options if rates decrease or if he or she wishes to increase his or her mortgage amount.

> ***Success Tip – Defining a "Closed Mortgage"***
>
> The term "Closed Mortgage" is often used interchangeably with the term "Fixed Rate Mortgage." Although this is an incorrect usage of the terms, it is important that you, as a mortgage agent, understand what each lender means by its terminology.
>
> For example, if a lender calls its loan a "closed mortgage" it is imperative that you read its guidelines to determine whether it means a closed mortgage, as was described above, or whether it means a partially open mortgage. There is no universally accepted phraseology that must be followed by lenders, so to provide your client with the best advice, it is up to you to understand the lender's products!

2. Repayment Options

While prepayment options focus on the ability of the borrower to make a lump sum payment and fully prepay the mortgage, repayment options focus on the ability to change how they repay the mortgage during its term.

a) Periodic Payment Increase

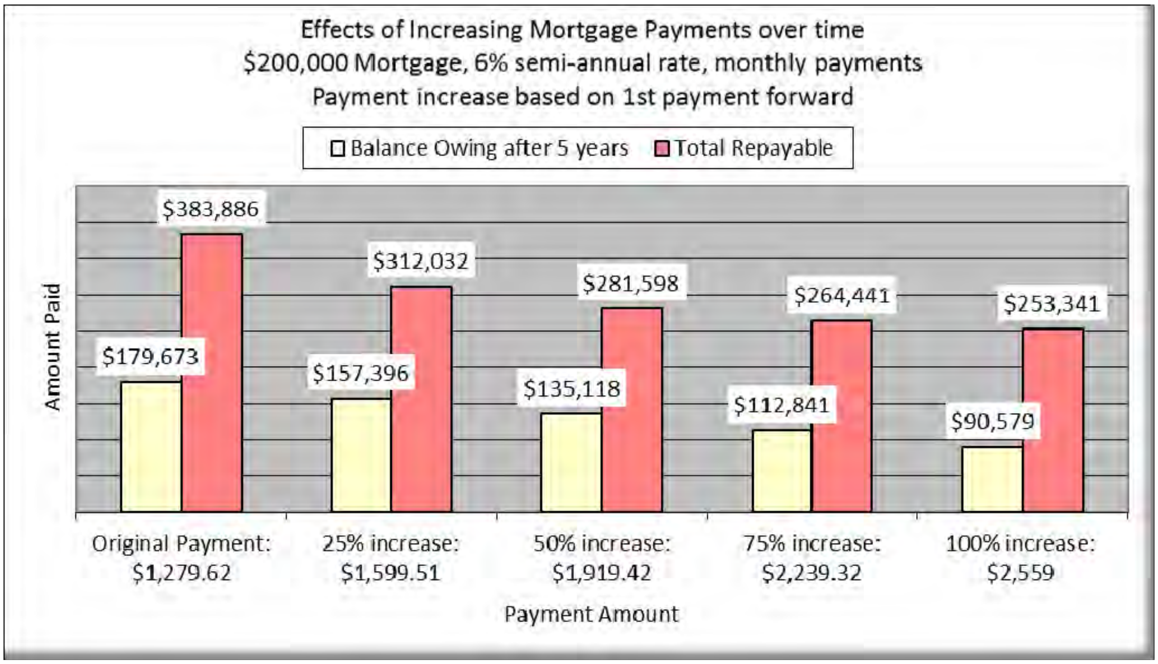
This option allows the borrower to increase his or her payment, in many cases up to 100% of the original payment amount, during the term of the mortgage. This can be an extremely important measure when it comes to paying a mortgage off more quickly and saving money in the process. Another nice feature of this option is that most lenders will allow the borrower to lower his or her payment to an amount no less than the original payment amount if he or she finds that the increased payment can no longer be afforded.

The exact timing of the payment increase and the exact amount of the increase will determine the precise savings but, as the following chart illustrates, those savings can be substantial, even with as low as a 25% increase in the payment.

The following chart uses the example of a $200,000 mortgage with an interest rate of 6% compounded semi-annually, not in advance, with monthly payments. The original amortization period is 25 years. The increase in the monthly payment is assumed to take place from the first payment forward.

Increasing the payment amount at other times during the life cycle of the mortgage will have similar, but less dramatic effects, depending on when the payment increase occurs.

Figure 15 – Effects of Increasing Mortgage Payments over time



Benefits

❑ Savings

As is illustrated by the above chart, the effects of an increased payment will save substantial sums over time.

Risks

❑ Cash Flow

Since the payment amount is increased, there is a decrease in the borrower's cash flow. This must be examined before increasing the payment amount to ensure that the borrower will not be negatively impacted.

b) Accelerated Mortgage Payment

An accelerated mortgage payment option is simply an option that provides for an increased periodic mortgage payment. This can be compared to the Periodic Payment Increase; however, this option allows the borrower to increase his or her mortgage payment before the first payment begins, whereas the Periodic Payment Increase is required to be requested once the mortgage has been advanced.

Typically, mortgage origination software (software used by the mortgage agent that performs common calculations and allows for the electronic submission of an application) will allow the originator to request an accelerated mortgage payment for the borrower, and in so doing does not have to do a manual calculation to determine the amount of the accelerated payment. This, however, has led to some misconceptions about the accelerated payment.

First, accelerating a payment has virtually nothing to do with the payment frequency. You may have heard the statement that "by changing the payment frequency a borrower can save tens of thousands of dollars over the life of their mortgage." This statement is patently false. Changing the payment frequency is not what accelerates a mortgage; increasing the mortgage payment *is*. The following example illustrates this point.

Barbara requires financing in the amount of $200,000. She is able to obtain a mortgage in this amount amortized over 25 years and at a rate of 6% compounded semi-annually, not in advance. We begin our analysis by calculating her regular monthly payment under this scenario. You will learn how to calculate a payment using a financial calculator later in the course, but in the meantime, I can tell you that her monthly payment works out to be:

$1,279.62

Based on this scenario it will take Barbara 300 payments to retire this mortgage. (Actually 299.9964 payments, but this will be explained in detail in the section on calculating a mortgage payment). By multiplying the number of payments by the payment amount, the total amount that Barbara will be repaying over the life of this mortgage in monthly payments can be calculated.

Total Amount Repaid by Barbara in monthly payments = $1,279.62 x 300

= $383,886

It is now necessary to calculate what Barbara would be paying if she was making weekly payments instead of monthly payments. In this scenario the weekly payment works out to be:

$294.74

Based on this scenario it will take Barbara 1,300 payments to repay this mortgage. By multiplying the number of payments by the payment amount, the total amount that Barbara will be repaying over the life of this mortgage in weekly payments can be calculated.

Total Amount Repaid by Barbara in weekly payments = $294.74 x 1,300

= $383,162

Now we can calculate the savings by taking what she would pay in monthly payments, $383,886, and subtract from it what she would pay in weekly payments, $383,162

Barbara's savings =$383,886 - $383,162

= $724

That is a savings of $724, *over 25 years!* That is hardly the tens of thousands of dollars' worth of savings that we are led to believe exists simply by changing the payment frequency.

In actuality, the only way to pay a mortgage off faster is to increase the amount of the periodic payment. With that said, let's look at how to accelerate this mortgage. As mentioned, the typical software will calculate the accelerated mortgage payment for the user. The equation that is used is simple and straightforward. The regular monthly payment is divided by the frequency of the accelerated payment.

For example, if an *accelerated* weekly payment is desired, the software would calculate the payment using the following formula.

Monthly Payment / 4 weeks = accelerated payment

It is important to note that there are *not* 4 weeks in a month, except in February. If there were only 4 weeks in a month there would only be 48 weeks in a year (4 weeks x 12 months). This is why the payment ends up being accelerated. To calculate the accelerated weekly payment, we must divide the monthly payment by 4.

$1,279.62 / 4 = $319.91

You can already see that this weekly payment is larger than the weekly payment that was calculated earlier.

By making weekly payments of $319.91, it will take a total of 1,092.34 payments to repay this mortgage. (You will learn how to calculate this number later in the course).

The total amount paid under this scenario is calculated by multiplying the weekly payment by the number of payments it will take to repay the mortgage.

$319.91 x 1,092.34 = $349,450.49

Now let's compare this to the non-accelerated weekly payment. To do so we can subtract the amount repaid by accelerated payments from the amount repaid by non-accelerated payments.

$383,162 - $349,450.49 = $33,711.51

That *is* a significant savings. In actuality, the effect of increasing the weekly payment under this scenario is equivalent to making one extra monthly payment per year. In each case of accelerating a mortgage payment, whether it is weekly or bi-weekly, the net effect is that the borrower is making what equates to an additional monthly payment annually.

As a matter of fact, you can accelerate a monthly payment as well. Let's look at how this would be accomplished. As mentioned, the effect of acceleration is simply an additional monthly payment per year. Therefore, if thirteen monthly payments were spread over twelve months, the result would be an accelerated monthly payment. We begin by multiplying 13 months times the regular monthly payment. We then take that amount and divide it by 12 months.

13 x $1,279.62 = $16,635.06 (amount paid per year)

$16,635.06 / 12 = $1,386.26

Therefore, the accelerated monthly payment would be $1,386.26. It can now be calculated that, by making accelerated monthly payments it will take 253.03 months to repay this mortgage. Under this scenario the total paid is:

$1,386.26 x 253.03 = $350,765.37

Compared to the non-accelerated monthly payment this equates to a savings of:

$383,886 - $350,765.37 = $33,120.63

That is also a significant savings!

You may hear some say that the majority of the savings occur due to the fact that under a weekly scenario, more periodic payments are being applied to the principal than under a monthly repayment plan, but that is simply not the case. There is no magic of compounding interest saving the borrower tens of thousands of dollars; it is simply that they are making larger payments.

Looking at this example, the effects of compounding on this transaction are minimal.

Accelerated Weekly Savings – Accelerated Monthly Savings = Total Savings

$33,711.51 - $33,120.63 = $590.88

This $590.88 represents the *total* savings over the entire life of the mortgage that the change in payment frequency has from monthly to weekly.

To summarize, accelerating a mortgage payment is achieved by increasing the amount of the mortgage payment, not by changing the payment frequency.

Benefits

❑ Savings

As discussed, the effects of an accelerated payment are clear: tens of thousands of dollars in savings over time.

Success Tip – Payment frequency

The majority of consumers believe that simply changing the payment frequency will save them thousands of dollars over the life of their mortgage. By knowing that this is not the case and why, you can explain this to your client. This is simply more proof that you are the mortgage professional and that you can truly advise them on how to save significant amounts of money over the life of their mortgage!

Risks

❑ Cash Flow

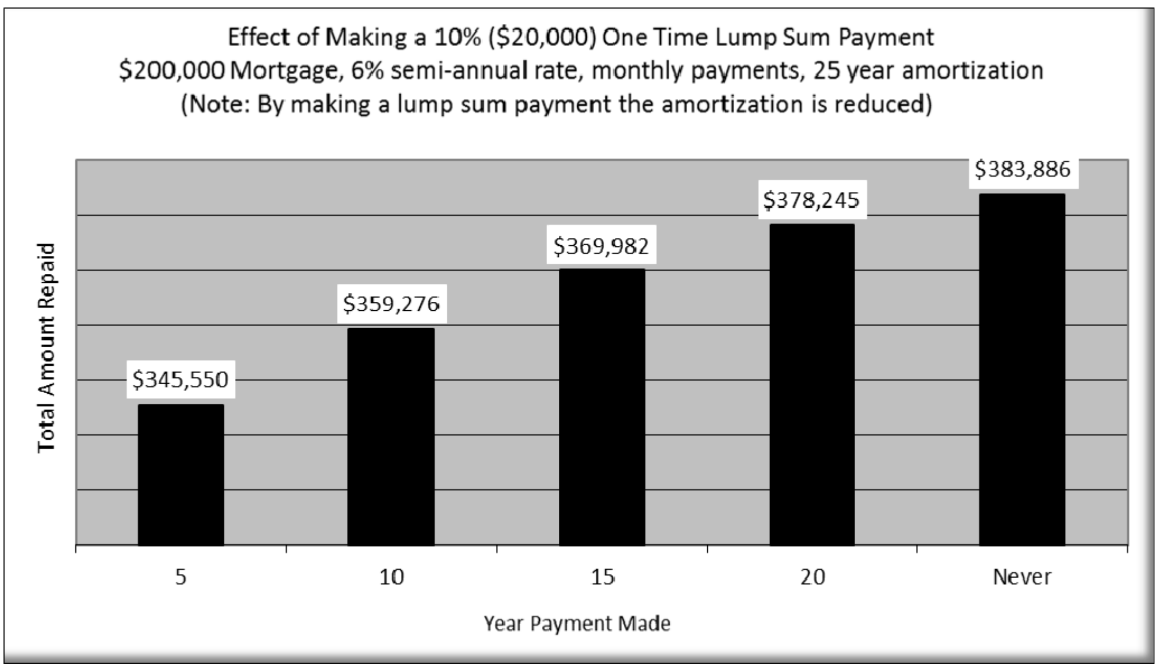
The effect of accelerating a mortgage is increasing the mortgage payment. Since the payment amount is increased, there is a decrease in the borrower's cash flow. This must be examined before increasing the payment amount to ensure that the borrower will not be negatively impacted.

c) Lump Sum Payment

This option allows the borrower to make a lump sum payment which is applied directly to the principal amount of the mortgage. This, in addition to the payment increase discussed previously, can significantly increase the savings over time by decreasing the amount of interest payable. As is the case with periodic payment increases, the effect of making a lump sum payment will be most significant the earlier it is made.

The following chart uses the same example as above but applies a $20,000 lump sum payment (10% of the original loan amount) at different times during the loan life cycle to illustrate the effects of such a payment. The Total Amount Repaid includes the lump sum payment of $20,000.

Figure 16 – Effect of Making a 10% ($20,000) One Time Lump Sum Payment



Analysis
By comparing the effect of making a one-time lump sum payment with the effect of an increased mortgage payment, the best scenario for a borrower, if his or her cash flow permits, would be to increase his or her monthly payments throughout the life of the mortgage. If he or she is unable or unwilling to do this, the next best scenario would be to make a lump sum payment directly to the principal of his or her mortgage as soon as possible. If the borrower could combine these scenarios, the total savings would be substantially increased.

d) Extended Amortization

As property values have increased substantially over time in comparison with incomes, the market has responded by developing creative options to assist borrowers in keeping their mortgage payments affordable. One such option is the extended amortization.

This option allows the mortgage to be amortized for a period longer than 25 years. For example, in today's market a borrower might qualify for an extended amortization of 30 years. Increasing the amortization has the effect of lowering the mortgage payment or allowing the borrower to borrow an increased amount of funds.

The following example illustrates the effects of extending an amortization period.

Example
Let's use the same example that we used earlier in this chapter. Our client is borrowing \$200,000. This mortgage has a 25-year amortization, a rate of 6% compounded semi-annually, not in advance and monthly payments.

Under this scenario, the payment would be \$1,279.62. As discussed earlier, this payment would result in the borrower repaying a total of \$383,886 over 25 years.

By extending the amortization to 30 years, the monthly payment is reduced to \$1,189.65. This might be beneficial to the borrower if he or she can't qualify for a mortgage payment of \$1,279.62; however, it does come at a price.

Under this 30-year amortization scenario, the borrower would be making 360 payments of \$1,189.65. That means that the borrower would be repaying:

$$\text{Total Repaid} = 360 \times \$1{,}189.65$$

$$\text{Total Repaid} = \$428{,}274$$

By saving \$89.97 per month the borrower ends up repaying an additional \$44,388. While this option may allow the borrower to borrow the amount of funds required for their purposes, for example to purchase a home, it is necessary to advise them of the additional interest that is repayable using this option. To mitigate the effect of this option the borrower can re-amortize the mortgage to a shorter amount once they can afford the increased payment.

The extended amortization can also increase the amount that the borrower can borrow.
For example, if the borrower can qualify for the mortgage payment of \$1,279.62, they can apply this payment over 30 years with the result being that instead of borrowing \$200,000 they can now borrow \$215,126, an increase of \$15,126 over its 25-year counterpart.

This has the effect of allowing the borrower to "purchase more house" for the same payment. It can be argued that the introduction of this repayment option, along with the interest only option, has allowed property values to remain high or increase with little impact on borrowers' ability to qualify for these increased housing values. It may be of interest to learn that our market is not the only one with increased amortization options. This has been available in the United States for several years. Many home buyers in Japan resorted to using 100-year amortization options to be able to afford housing at the peak of the real estate bubble, allowing the market to continue its rise.

3. Cash Back Option

In this type of option, the borrower receives an amount of cash, on closing (the time that the mortgage funds), that represents a percentage of the total loan amount. The amount of the Cash Back option can range from 1% to 7%, depending on the lender and the product.

Benefits

❑ Cash on Closing

Since many home buyers, especially first-time home buyers, invest all of their money as a down payment, it may be beneficial to receive funds on closing that could be used to purchase appliances, finance renovations, replenish bank accounts, etc.

Risks

❑ Higher Rate

Most Cash Back Options come with a higher rate of interest on the mortgage. This is designed to offset the cost of advancing additional monies that do not have to be repaid by the borrower.

❑ Repayment of the Cash Back

If the borrower decides to refinance their mortgage during the term, they will be required to repay a portion of the amount that was received under this option. For example, if a borrower received a 5% Cash Back on a $200,000 mortgage with a 5-year term and decided to refinance with a different lender on the 3rd anniversary of the term, the following calculation would be used to determine the amount repayable to the lender.

$$\text{Amount Repayable} = \frac{\text{Number of full or partial months remaining in the term}}{\text{Number of months in the term}}$$

$$= 5\% \times \$200{,}000 \times (60\text{-month term} - 36 \text{ months already paid}) / 60$$

$$= \$10{,}000 \times 24 / 60$$

$$= \$10{,}000 \times 0.4$$

$$= \$4{,}000$$

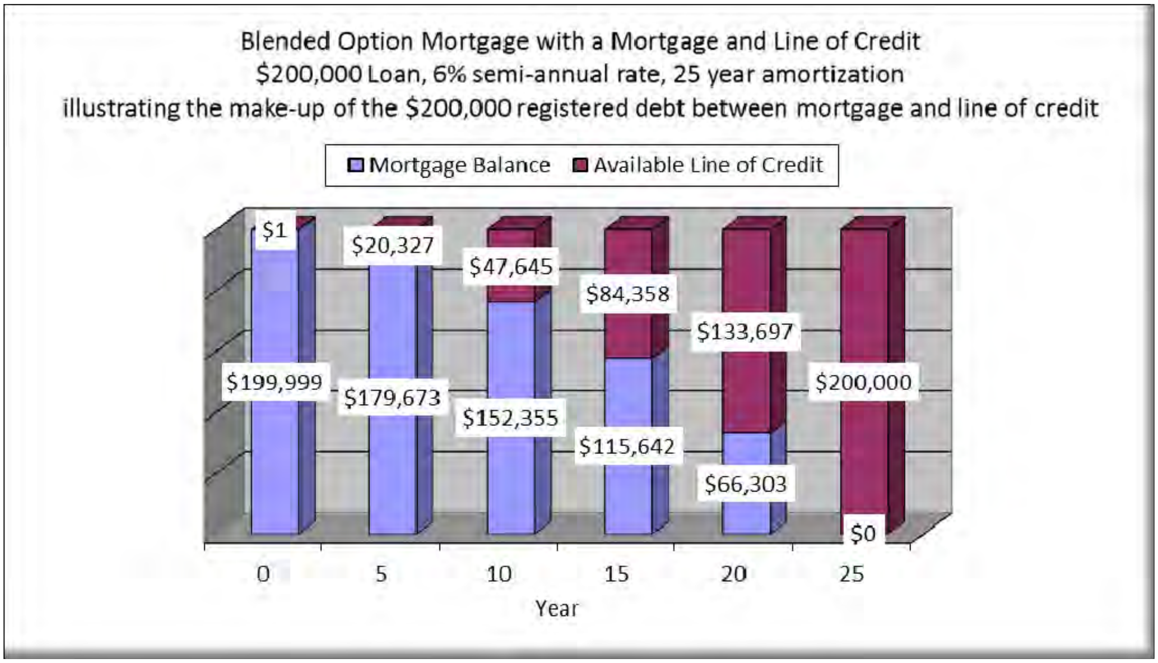
Therefore, the amount the borrower would be required to repay would be $4,000.

4. Combined or Bundled Option

For our purposes, a "Combined or Bundled Option" is one that includes a standard mortgage along with another type of debt, such as a line of credit. Scotiabank currently offers this option in the form of the STEP mortgage. If, for example, a borrower was to take out a $200,000 mortgage he or she could have that split into both a standard mortgage and a line of credit. If the mortgage amount was for $199,999 and the line of credit began at $1, then every payment, as the principal on the mortgage was reduced, would increase the amount available under the line of credit. In essence, the amount that the property is encumbered by (the amount of debt that is registered on title) remains at $200,000, but the percentage made up of the mortgage and line of credit changes over time.

The following chart provides an example of a $200,000 amount borrowed, with a $199,999 mortgage component, amortized over 25 years with a rate of 6% compounded semi-annually, not in advance and monthly payments, along with a $1 line of credit component. Over time, as the mortgage amount owed decreases, the available line of credit increases.

Figure 17 – Blended Option Mortgage with a Mortgage and Line of Credit



Benefits

❑ Flexibility

This type of option allows the borrower to have access to the equity of his or her property at any time by way of the line of credit, without having to reapply to borrow addition funds.

Risks

❑ Registered Debt

The full amount of the $200,000 Bundle is always registered against the title of the property. Whereas in a standard mortgage, the amount registered against the property decreases as the debt decreases, the amount of the Bundle remains constant at the total amount originally approved. This is due to the fact that the borrower has access to the funds, whether or not he or she has actually borrowed them.

5. Portability Option

The Portability Option, also referred to as porting, allows the current homeowner to effectively take his or her current mortgage to his or her new home. Under a typical scenario, the borrower would be selling the current home and purchasing a new one. If the mortgage is default insured and he or she was porting it within two years, he or she would be eligible for a premium credit from the mortgage default insurer. After two years that credit no longer applies and the full insurance premium (for example, through CMHC) would apply to either the entire mortgage (if it is increased) or the top-up portion (the amount increased). Since different premiums apply under both scenarios, it is necessary to determine which option is best suited to the borrower. The borrower could then take this mortgage to his or her new home. There are three options:

- Take the current loan in the exact amount that is outstanding provided that the Loan to Value of the original mortgage is not exceeded
- Take the current loan in a reduced amount that does not exceed the original Loan to Value
- Take the current loan to the new property and increase the amount by having the lender blend the current rate charged on a new mortgage with the borrower's current rate.

Benefits

❑ Rate Protection

If rates are currently higher than the borrower's contracted interest rate on the mortgage, he or she can benefit by keeping the lower rate and porting it to the new home

Risks

❑ Limited Application

This feature can be fantastic when current market interest rates are higher than the borrower's contracted rate, but in an era with consistently low rates, the application of this option is limited.

6. Assumability Option

An Assumable Option allows a purchaser to assume or take over the current homeowner's debt on the property being purchased. For the current borrower to be released from their covenant with the lender, the purchaser must be approved by the lender and complete an Assumption Agreement.

Benefits

❑ Rate Protection

If market interest rates are currently higher than the rate of the existing, assumable mortgage, it may be beneficial for the purchaser to assume the current mortgage.

Risks

❑ Limited Application

This feature can also be very beneficial when current market interest rates are higher than the borrower's contracted rate, but in an era with consistently low rates, the application of this option is limited.

3.3 Key Terms and Definitions

Accelerated mortgage payment
A mortgage payment larger than required to retire the mortgage over the contracted amortization, having the effect of repaying the amount borrowed sooner and saving the borrower interest

Amortization
The total amount of time required to fully repay a mortgage

Assumability options
This option allows a purchaser the ability to take over the current homeowner's mortgage

Balloon payment
The amount repayable at the end of the term

Basis point
1/100th of one percent

Blended payment
A payment that includes a combination of interest and principal

Bundled option
Also referred to as a Combination Option, this option combines a mortgage and a line of credit.

Capped variable rate mortgage
A variable rate mortgage that cannot exceed a preset interest rate

Cash back option
An option whereby on closing of the mortgage, a percentage of the mortgage loan is paid to the borrower by the lender

Closed mortgage
A mortgage with no option to repay the outstanding principal balance during the term unless the property is sold to an arm's length purchaser

Compounding frequency
The number of times per year in which an interest rate is charged. Typical compounding frequencies include semi-annually and monthly.

Constant payment
A payment that remains the same throughout the term of the mortgage

Default
The failure to meet the obligations of a contract. In a mortgage contract default typically refers to the failure to make the regular periodic mortgage payments

Equity
The difference, in dollars between the value of the property and the amount of financing

currently on the property. Value – Financing = Equity

Extended amortization
An amortization that exceeds the standard amortization of 25 years

Face value of the mortgage
The original amount of the mortgage repayable by the borrower

Fixed rate
An interest rate that remains the same throughout the term of the mortgage

Fully open mortgage
An option allowing early repayment of the mortgage principal without penalty or notice

Graduated payment mortgage
A mortgage repayment plan whereby the mortgage payments are initially small but grow over time. The initial payments may not be enough to pay the principal and accrued interest for the period.

High ratio mortgage
A mortgage in excess of 80% loan to value

Home equity line of credit (HELOC)
A line of credit secured by a property

Interest accruing mortgage
A mortgage with a term whereby no repayments of interest or principal are made. The principal and compound interest are repayable at the end of the term.

Interest only mortgage
A mortgage with a term and a constant mortgage payment consisting of only interest payable for the payment period. At the end of the term, the principal amount is repayable.

Interest rate differential
The difference between a borrower's current contracted mortgage rate and the lender's current available rate for a similar term

Line of credit
A debt with a credit limit that allows the borrower to withdraw funds up to that credit limit. Repayments are based on a percentage of the outstanding balance and interest is charged only on the amount of the credit limit that is actually used.

Loan to value (LTV)
The amount of a loan to the value of the property expressed as a percentage.
Loan to Value (%) = Loan / Property Value

Lump sum payment
A payment of money applied directly to the principal of a mortgage

Mortgage default insurance
An insurance policy which protects the insured (the lender) against losses suffered by the default of the borrower

Mortgage rank
The position of a mortgage registered on title of a property in relation to the timing of other registered mortgages. The first mortgage registered on title is considered a 1st mortgage. The next mortgage registered after the 1st is considered a 2nd mortgage, and so on.

Negative amortization
A scenario in which the periodic payment is not sufficient to pay the accumulated interest and the principal for the payment period. This causes the amortization to extend beyond the amount contracted.

Open mortgage
A mortgage that allows the borrower to repay the entire principal balance or portion thereof without penalty (fully open mortgage) or with an interest rate differential or 3 month's interest penalty (partially open mortgage)

Outstanding balance
The amount of the mortgage remaining to be repaid at a given time

Partially amortized
A mortgage contract that has a term

Partially amortized, blended constant payment mortgage – Fixed rate
A mortgage with a term and a repayment plan consisting of a fixed interest rate and the same periodic payment made up of a combination of interest and principal throughout the term.

Partially amortized, blended constant payment mortgage – Variable rate
A mortgage with a term and a repayment plan consisting of a variable interest rate that changes whenever the lender's prime rate changes and the same periodic payment made up of a fluctuating combination of interest and principal throughout the term.

Partially amortized, blended variable payment mortgage – Variable rate
A mortgage with a term and a repayment plan consisting of a variable interest rate and a fluctuating periodic payment that both change whenever the lender's prime rate changes. The payment consists of a fluctuating combination of interest and principal throughout the term.

Portability option
This option allows the borrower to take the mortgage with him or her to his or her new home

Power of sale
A process that allows the lender to take control of a property, sell it and repay its mortgage without having to use the courts (exceptions apply). This can be a quick and fairly inexpensive remedy available to lenders upon default by the borrower.

Prepayment options
Options available to the borrower to prepay a part of his or her mortgage. These options may or

may not include a penalty for this right.

Prepayment penalty
A penalty charged by a lender to a borrower for early prepayment of the mortgage

Principal
The amount of money advanced on a mortgage loan, excluding interest or any other costs

Property insurance
Insurance that protects the insured against losses to the property due to fire and other covered perils

Purchaser
The buyer of a property

Quiet possession
The right of the borrower to enjoy the property without interference by the lender unless there is a default by the borrower

Reverse mortgage
An interest accruing mortgage typically reserved for seniors. The mortgage is usually only repayable upon the death of the surviving homeowner or sale of the property.

Straight line principal reduction mortgage
A mortgage repayment plan whereby equal payments of principal are made throughout the term in addition to the interest payable for that period

Term
A period of time in which the mortgage contract is in force. After this period of time the mortgage must be fully repaid or renegotiated.

Variable payment
A payment that changes based on a lender’s prime rate

Variable rate
An interest rate that fluctuates based on a lender’s prime rate

Vendor
The seller of a property

3.4 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. What mortgage option allows a borrower to pay off his or her mortgage during the term without a penalty?

2. Discuss the difference between accelerating a mortgage and using the increased payment option to pay the mortgage off more quickly.

3. Discuss the difference between an open mortgage and a closed mortgage.

4. Why might a consumer be confused as to the differences between an open and closed mortgage?

5. Under what circumstances would a prepayment penalty be charged?

6. Describe a scenario under which a 3-month interest penalty would be charged.

7. Describe a scenario under which an interest differential penalty would be charged.

8. What is a bundled mortgage? Name and describe the lenders that currently offer bundled mortgages in Ontario. This will require you to complete outside investigation.

9. What is the most common type of mortgage repayment plan in Ontario today?

10. A borrower has asked you for options regarding repaying his mortgage more quickly. Explain the options available to him and under what circumstances you would advise him to use these options.

Chapter 4: Property Ownership in Ontario

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Distinguish between personal and real property
- ❑ Explain the meaning of property ownership
- ❑ Explain estates in land
- ❑ Discuss the various types of encumbrances and the effects each has on property ownership
- ❑ Explain the types of co-ownership of real property
- ❑ Discuss the impact of judgments on real property

4.1 Property

Real Property

Property can be classified in two distinct ways: personal and real. Real property can be defined as the land and everything affixed to it. It is in a fixed location and is permanent, remaining, to one extent or another, long after the current owners have relinquished their rights to it.

Personal Property

In contrast, personal property is defined as everything that is not real property. That includes chattels and other goods. Personal property is typically not fixed in its location and normally has a shorter useful life expectancy than real property.

4.2 Ownership

Ownership of real property is commonly thought of as owning the land and everything affixed to it. However, in a legal sense this is not the case. The current owner of a piece of real property actually owns the right to use the land. The only owner of the land is the Crown. Initially the Crown provided grants to individuals allowing them to use the land. Every piece of real property that is owned by anyone other than the Crown or Aboriginal peoples in Canada has an original grant.

The result of this is that individuals own different rights to the real property. These rights are determined by the type of ownership, referred to as the Doctrine of Estates. The most common forms of estates in Ontario today are fee simple estates and leasehold estates. Another type of estate, a life estate, is becoming more popular in Ontario and while other estates exist, these three common forms will be explored in this chapter.

4.3 Estates in Land

Fee Simple Estate

The fee simple estate is the most common form of ownership in Ontario and provides the holder with the widest breadth of rights available. Fee refers to the fact that the estate may be inherited while simple refers to the fact that there are no prohibitions against who may inherit it.

The owner of this estate is in control of the real property for as long as he or she has it, subject to paying the property taxes and other municipal obligations and subject to any interests in the property that may be registered against the property's title. This individual may transfer his or her interest in the property during his or her lifetime or dictate who will inherit the fee simple interest upon his or her death. In addition, he or she may mortgage the interest, pledge it as security for a loan such as through a secured line or credit, and so on.

If the fee simple owner dies without a will and there are no heirs, the fee simple interest is terminated, and the property will escheat or revert back to the Crown.

Leasehold Estate

The leasehold estate, commonly referred to as a lease, is an interest in land created by a landlord and tenant, most commonly by a lease. This interest in land is created for a fixed period of time, such as a month, year, or more. There is no limit on the time that a leasehold estate may be in effect.

A leasehold estate provides the owner of this estate the right to exclusive use and possession of the property, subject to contractual limits contained in the terms of the lease.

Life Estate / Life Lease

A life estate is defined as the right to use or occupy real property for the duration of one's life. At the end of that person's life, the life estate is over, and the fee simple ownership goes to the remainderman. A remainderman is the individual who is on the deed as the next in line to own the property.

Example
John owns a house. He is a widower and has a six-year-old daughter and his mother is still alive. John wants to ensure that if anything happens to him his mother can live in his house for the rest of her life. However, once she passes away, he wishes the house to go to his daughter. In this scenario John can create a life estate for his mother and name his daughter as remainderman.

Another form of life estate is commonly referred to as a "life lease". This is typically seen in senior's developments where the senior purchases the right to live in a house until death. Full ownership of the house then reverts to the corporation (typically a non-profit) that owns and manages the project. In 2007 CMHC reported that there were at least 135 life lease developments in Ontario containing more than 8,600 units.

It is important to note that the holder of a life estate will find it difficult to obtain a mortgage due to the difficulty that the lender will have in recovering their money upon default. However, some lenders are willing to finance life leases if the project has a guaranteed buy-back program. This area is considered to be a niche market because approximately 90% of life lease owners purchase the life lease from the proceeds of selling their previous home, which results in virtually no demand for life lease purchase financing.

Success Tip – Life Estate / Life Lease

Mortgage agents must be aware of these types of estates and ensure that if the mortgage is for a life estate or life lease that the application clearly indicates this. In addition the agent must be sure that the application is submitted to a lender that has a product for this type of ownership, and that the applicant meets the product requirements. Failure to do so could result in wasted time and money for both the agent and the applicant.

4.4 Condominium Ownership

Condominiums combine fee simple ownership of individual units, referred to as strata lots, including all of the rights attached to that ownership, with a combined ownership of common areas, referred to as common elements. These common elements include the hallways, recreational facilities, elevators, lobby, and so on.

Each unit pays a condominium maintenance fee on a monthly basis to the condominium corporation. The condominium corporation is a corporation created under the *Condominium Act* that is charged with managing the condominium, including its assets, and maintaining and repairing the common elements. It is managed by a Board of Directors consisting of unit owners who are elected by the other unit owners on a regular basis.

4.5 Encumbrances

An encumbrance is an interest in property that has the effect of limiting the rights of fee simple ownership of real property. Typical encumbrances are mortgages, easements, and restrictive covenants.

Mortgages

A mortgage is registered on title and has contractual obligations that prohibit the fee simple owner from having full control of his or her property.

Easements

Easements are rights acquired for the benefit of real property, granting rights to use another property. The land giving the right is called the servient tenement while the land receiving the right is called the dominant tenement, where the term tenement simply refers to the real property.

An easement is an interest in land that passes from one owner to another or as is commonly referred to, “runs with the land.” Unlike a fee simple interest that may be transferred by the current owner, an easement cannot be extinguished by the owner of the servient tenement. Both the owner of the dominant and servient tenement must agree to remove an easement.

Example

Adam owns a cottage that fronts onto a lake. Immediately behind Adam’s property is Mary’s cottage. Her cottage does not have direct access to the lake. To improve Mary’s property, Adam and Mary have agreed to create and allow the use of a three-foot-wide strip of land on the far right of Adam’s property as a path from Mary’s cottage to the lake. This has the effect of granting Mary's property access to the lake via Adam's property. As such, this creates an easement which is registered on title.

It is important to note that an easement must benefit the property, not simply the property owner. In this example, Mary's property has gained lake access and has therefore improved the property. If it simply benefited Mary, it would only be considered a contract, not an easement.

In addition to standard easements between dominant and servient tenements, provincial legislation has created special types of easements where a dominant tenement is not required. These easements, referred to as statutory rights of way, are normally provided to public utilities, allowing the utility to run, for example, hydro lines through a property.

Restrictive Covenants

A restrictive covenant is a restriction of use placed on title of the servient tenement for the benefit of the dominant tenement. As with an easement, a restrictive covenant runs with the land and can only be extinguished through the agreement of both current owners of the dominant and servient tenements.

Example
Adam owns two parcels of land. One fronts a lake while the other is directly behind that parcel. Adam is going to build a new two-storey home on the parcel behind the lakefront parcel and sell the lakefront parcel. When selling the lakefront parcel, Adam wishes to ensure that the new owner does not construct a building higher than one storey, since this would impede Adam's property's view of the lake. In so doing, Adam and the purchaser of the lakefront lot have agreed to place a restrictive covenant on title that prohibits the construction of a building higher than one storey. In this scenario Adam would also request an easement granting his parcel of land access to the lake.

Building Schemes

A building scheme is a group of restrictive covenants registered against several properties in a development plan that is binding on all purchasers of a property within that development. This has the effect of ensuring that all properties in the development conform to a set of predetermined policies for that development. An example of this form of restrictive covenant might be to limit the colour variations of property exteriors in a new sub-division, limit the number of stories of properties in a new sub-division, and so on.

4.6 Co-Ownership of Real Property

Property can be owned by an individual or by several individuals, referred to as co-ownership. Co-ownership occurs in one of two ways: by a tenancy in common or through a joint tenancy. The major difference between the two centers around the right of survivorship, which refers to how ownership is transferred on the death of one of the co-owners.

Tenancy in Common

A tenancy in common is a type of co-ownership of real property typically used by parties who wish to own individual shares in a property. For example, two business partners would like to purchase an office building. One is providing sixty percent of the purchase price while the other partner is investing forty percent. To reflect this arrangement, the ownership of the property is being divided into two portions, one representing a sixty percent ownership with the other representing a forty percent ownership.

Either party can sell, mortgage, or will his or her interest in the property, although most lenders would require all owners to sign on any mortgage placed on the property. This is due to the fact that, if the borrower defaults, the lender would have a difficult time selling a portion of an office building.

If one party decided to sell his or her interest in the property, the other party would become the new tenant in common.

Joint Tenancy

A joint tenancy is a type of co-ownership of real property typically used by spouses purchasing a matrimonial home. Unlike a tenancy in common, where each owner owns a divided share of the property, joint tenants own an undivided interest in the property. In other words, both own one hundred percent of the property together. If one co-owner dies, the property then becomes the surviving owner's property without having to go through the probate process.

Some parents will add a child or children on title as joint tenants so that, on the death of the surviving parent, the property becomes the child's without going through the process and paying the costs of probate. However, there may be income tax implications involved in this process since, when property other than a principal residence is transferred to a non-spouse, a disposition is deemed to occur at fair market value. The result is that any accrued gain is taxable in the year of disposition which may result in tax payable that exceeds the amount that would have been payable in probate fees.

4.7 Judgments, Writs of Seizure and Sale of Land and Liens

Judgments

A judgment, as it relates to a debt, is a judge's decision that a debt is owed by a debtor to a creditor. In Ontario a creditor can, after obtaining a judgment, file a Writ of Seizure and Sale of land against a debtor in any county or district in which the debtor owns land. The writ will encumber any currently owned land in any county or district, or land which is purchased in the future by the debtor, by way of placing a lien against the property. It should be noted that, even though a creditor has obtained a judgment, he or she does not have to file a Writ of Seizure and Sale and can wait until he or she knows that the debtor owns land.

Most lenders will not lend on a property until this debt is paid, unless, with certain lenders, the debt is being paid from the proceeds. The following is an excerpt from "After Judgment – Guide to Getting Results, " © Queen's Printer for Ontario, 2016. The guide in its entirety may be found at https://www.attorneygeneral.jus.gov.on.ca/english/courts/guides/After_Judgement_Guide_to_Getting_Results_EN.html

What is a writ of seizure and sale of land?

A creditor can file a writ of seizure and sale of land against a debtor in any county or district where the debtor may own land (including a house). The writ would encumber any land presently owned or land which may be purchased in the future by the debtor in the county(ies) or district(s) where the writ is filed. If you wish to enforce the writ in more than one location, you must issue a separate writ for each location and file it there.

The writ of seizure and sale of land can be very effective in the long run since it will be difficult for the debtor to sell or mortgage the land until the debt is paid.

In addition, if another creditor has a writ filed in the same enforcement office against the same debtor and is actively enforcing it, you will share, on a pro-rata basis (divided on a proportionate basis depending on the amount of each debt), in any money paid into the enforcement office (sheriff) from any enforcement activity taken against the debtor.

Note, however, that the enforcement office has a general duty to act reasonably and in good faith towards all parties. The enforcement office can refuse to act if the estimated costs of executing the writ of seizure and sale are greater than the debtor's equity in the property to be seized.

The writ can be filed whether or not the debtor owns land at the time of filing. However, if you prefer not to file until you are certain the debtor owns land, for a fee you can do a name search at the land registry or land titles office (visit the ServiceOntario website for a list land registry/titles offices) located in the area where you think the debtor may own property.

Does the creditor have to wait for the debtor to decide to sell the land?

No. Four months after filing the writ with the enforcement office you can direct the enforcement office (sheriff) to seize and sell the land, but the actual sale cannot proceed until the writ has been on file for six months. Contact the enforcement office to determine what will be required to commence with the seizure and sale of land.

Note: The enforcement office can only sell the portion of the land that the debtor actually owns. Mortgages, liens and encumbrances may reduce the value of the property that is available to be seized and sold by the enforcement office. Creditors should determine, before proceeding with this process that the debtor actually has equity (difference between what a property is worth and what the owner owes against that property) available to be sold.

The sale of land is a complicated and costly process, and commencing this process requires a large initial deposit for expenses associated with the sale.

Creditors should consider other less costly enforcement options before directing the enforcement office to proceed with seizing and selling the debtor's equity in the land.

How long does the writ last?

The writ will expire six years from the date it is issued, unless you renew it for an additional six-year period. A writ may be renewed before it expires by filing a Request to Renew a Writ of Seizure and Sale [Form 20N] with the enforcement office. Each renewal is valid for six years from the previous expiry date. There is a fee to file and renew a writ.

Liens

A lien is security against a property, either real or personal, for a debt. Legislation allows for the placing of a lien on a property for construction costs not paid, which is commonly referred to as a mechanic's lien. Under the *Personal Property Security Act (also referred to as the PPSA),* a lien can be registered against personal property such as for a car loan. A lien does not force the sale of property but simply uses that property as security for a debt.

4.8 Key Terms and Definitions

Building scheme
A group of restrictive covenants registered against several properties in a development plan that is binding on all purchasers of a property within that development

Chattel
Personal property, movable property and other property not deemed to be fixtures

Condominium
The whole collection of individual home units along with the land upon which they sit. Individual unit ownership is composed only of the air-space within the boundaries of the unit, as defined by a document known as a Declaration, filed on record with the local governing authority.

Dominant tenement
A property receiving a benefit

Easement
A right for the benefit of the dominant tenement over that of the servient tenement that is normally registered on title. Easements have several legal requirements and will "run with the land," or are passed from owner to owner.

Encumbrance
An interest in property that has the effect of limiting the rights of fee simple ownership of real property. Typical encumbrances are mortgages, easements and restrictive covenants.

Fee simple estate
The most common form of ownership in Ontario and provides the holder with the widest breadth of rights available. Fee refers to the fact that the estate may be inherited while simple refers to the fact that there are no prohibitions against who may inherit it.

The owner of this estate is in control of the real property for as long as he or she has it, subject to paying the property taxes and other municipal obligations. This individual may transfer his or her interest in the property during his or her lifetime or dictate who will inherit the fee simple interest upon his or her death, mortgage the interest, and so on.

Joint tenancy
A type of co-ownership of real property whereby all owners own an undivided interest in the property. This is most commonly used for spousal ownership of a matrimonial home.

Judgment
A final court ruling resolving the key questions in a lawsuit and determining the rights and obligations of the opposing parties, such as the awarding of monies to an injured party. Judgments are included in the public records section of credit reports and will normally have a negative impact on credit scores and a person's ability to obtain credit.

Leasehold estate
An interest in land created by a landlord and tenant, most commonly by a lease. This interest in land is created for a fixed period of time, such as a month, year, or more. There is no limit on

the time that a leasehold estate may be in effect. A leasehold estate provides the owner of this estate the right to exclusive use and possession of the property, subject to contractual limits contained in the terms of the lease.

Lien
Security against a property, either real or personal, for a debt

Personal property
Everything one owns that is not real property. That includes chattels and other goods. Personal property is typically not fixed in its location and normally has a shorter useful life expectancy than real property.

Real property
Land and everything affixed to it. It is in a fixed location and is permanent, remaining, to one extent or another, long after the current owners have relinquished their rights to it.

Restrictive covenant
A restriction of use placed on title of the servient tenement for the benefit of the dominant tenement

Runs with the land
Means that an interest in property, such as an easement or restrictive covenant, transfers from owner to owner

Servient tenement
A property giving up a benefit

Tenancy in common
A type of co-ownership of real property typically used by parties who wish to own individual shares in a property

4.9 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Describe the differences between real and personal property.

2. What does a homeowner actually own in relation to his or her property?

3. Describe the term “Fee Simple” and discuss the rights of the fee simple holder.

4. Describe the term “Leasehold Estate” and discuss the rights of a holder of this type of estate.

5. What makes condominium ownership unique?

6. What impact on property ownership do encumbrances have?

7. What is an easement and what are its impacts on property rights?

8. What is a restrictive covenant and what are its impacts on property rights?

9. Describe the difference between a building scheme and a restrictive covenant.

10. Discuss the main difference between joint tenancy and tenancy in common.

11. Explain the impact of a judgment on property ownership.

Chapter 5: Regulation and Legislation

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Describe the role and organizational structure of the regulator, the Financial Services Regulatory Authority of Ontario (FSRA)
- ❑ Identify activities that are subject to regulation
- ❑ Identify the four licenses captured by the *Act* and *Regulations*, restrictions, exemptions, how they are issued, registered, suspended, revoked and enforced
- ❑ Interpret the *Act* and *Regulations* (including Standards of Practice) that govern mortgage brokerages
- ❑ Interpret the *Act* and *Regulations* that govern mortgage agents
- ❑ Interpret the *Act* and *Regulations* that govern mortgage brokers
- ❑ Interpret the *Act* and *Regulations* that govern principal brokers
- ❑ Correctly interpret and use terminology related to the mortgage brokerage industry's regulatory environment

Introduction

Note: This chapter contains information about and interpretations of legislation. Neither the author nor the publisher is a lawyer and in no way does any information contained in this text constitute legal advice. Legal and other decisions related to financial or any other type of transaction should be completed only after seeking advice from a competent professional and should not be based on information contained herein. Neither the publisher nor the author is engaged in rendering legal or other professional advice.

The mortgage brokerage industry is now highly regulated, although it was not always. The *Mortgage Brokers Act*, dating back to the late 1960s, was not substantially updated for 30 years.

Originally, the *Real Estate and Business Brokers Act*, also referred to as *REBBA*, (the legislation that regulates real estate brokers), regulated mortgage agents, until the *Mortgage Brokers Act* took effect which separated mortgage brokering from real estate brokering. With the creation of the *Mortgage Broker Act,* real estate brokers were deemed mortgage agents. However, the new legislation that was enacted in July 2008 removed that provision.

The focus of the legislation enacted in 2008 is to ensure that the Ontario consumer is protected and provided with necessary disclosure to make an informed decision regarding the potential transaction. As of June 8, 2019, The Financial Services Regulatory Authority of Ontario (FSRA) has assumed responsibility for the regulation of non-securities financial services in Ontario from the previous regulatory body, the Financial Services Commission of Ontario (FSCO).

Pause for clarification – Disclosure

The act of revealing something, or making something evident. Several types of disclosure are required under the *MBLAA* and *Regulations*.

It is important for a mortgage agent to understand the legislation and its impact, especially given that licensed brokers can be in the position of managing licensed mortgage agents for whom brokers have some responsibility. Furthermore, a licensed broker can also hold the position of principal broker, the Chief Compliance Officer of a brokerage – in other words, the person within the brokerage who is responsible to FSRA for compliance.

A mortgage agent must have sufficient understanding of the legislation to ensure that he or she is making informed decisions on his or her actions as well as those of the brokerage and to quickly and successfully locate legislative information on a day-to-day basis as required. Failure to know and apply the relevant legislation can put the brokerage and the broker's license in jeopardy.

The Financial Services Regulatory Authority of Ontario (FSRA) is responsible for enforcing the current legislation and regulating the mortgage brokerage industry, among others.

> ***Pause for clarification – Regulate***
> To govern or direct according to rule, to make regulations for or concerning an industry.

Mortgage agents must have a clear understanding of FSRA's mandate as well as the means by which FSRA accomplishes its role as regulator of all activities related to dealing and trading in mortgages as well as lending in the province of Ontario.

This chapter will examine, in detail, the manner in which mortgage agents and the mortgage brokerage industry are regulated in Ontario.

5.1 The Regulator: FSRA (formerly FSCO)

The Financial Services Regulatory Authority of Ontario (FSRA), formerly the Financial Services Commission of Ontario (FSCO), took over FSCO's role as of June 8, 2019 and is the regulator for the mortgage brokerage industry in Ontario. FSCO was created on July 1, 1998 as an arm's length agency of the Ministry of Finance.

FSRA is established as a self-funded Crown corporation with a Board of Directors consisting of members who are appointed by the Lieutenant Governor in Council on the recommendation of the Minister of Finance. The Authority is accountable, through the Minister, to the Ontario Legislature.

FSRA is concerned with more than the mortgage brokerage industry. Following is a summary of the regulated elements of FSRA's day-to-day concerns as of March 31, 2019[1]:

- 1,230 licensed mortgage brokerages (1,224 in Sept 2017, 1,188 in Sept 2016, 1,196 in Dec 2015, 1,075 in Feb, 2015 and 1,169 in 2012)
- 2,484 mortgage brokers (2,807 in Sept 2017, 2,681 in Sept 2016, 2,696 in Dec 2015, 2,600 in Feb 2015 and 2,466 in 2012)

[1] FSCO, http://fsco.gov.on.ca/en/about/Pages/default.aspx

- 12,072 mortgage agents (12,697 in 2017, 10,893 in Sept 2016, 10,977 in Dec 2015, 9,703 in Feb 2015 and 8,134 in 2012)
- 210 licensed mortgage administrators (190 in Sept 2017, 166 in Sept 2016, 143 in Dec 2015, 130 in Feb 2015 and 95 in 2012)
- 305 insurance companies (316 in Sept 2017, 321 in Sept 2016, 327 in Dec 2015, 332 in Feb 2015 and 350 in 2012)
- 6,950 pension plans (6,993 in Sept 2017, 7,054 in Sept 2016, 7,059 in Dec 2015, 7,234 in Feb 2015 and 7,607 in 2012)
- 79 credit unions and caisses populaires (96 in Sept 2017, 101 in Sept 2016, 110 in Dec 2015, 118 in Feb 2015 and 157 in 2012)
- 51 loan and trust companies (51 in Sept 2017, 53 in Sept 2016, 52 in Feb 2015 and 58 in 2012)
- 1,740 co-operative corporations (1,754 in Sept 2017, 1,779 in Sept 2016, 1,788 in Feb 2015 and 1,694 in 2012)
- 56,450 insurance agents (54,128 in Sept 2017, 52,925 in Sept 2016, 51,324 in Dec 2015, 48,928 in Feb 2015 and 46,222 in 2012)
- 6,151 corporate insurance agencies (5,902 in Sept 2017, 5,693 in Sept 2016, 5,511 in Dec 2015, 5,284 in Feb 2015 and 4,632 in 2012), and
- 2,155 insurance adjusters (1,439 in Sept 2017, 1,505 in Sept 2016, 1,510 in Dec 2015, 1,588 in February, 2015 and 1,657 in 2012)
- 4,898 accident benefit service providers (4,692 in Sept, 2017)

More information may be found by visiting FSRA's website at www.fsrao.ca

In 2004, due to the increase in the popularity of mortgage agents and the growth in the mortgage industry, The Ministry of Finance began the process of reviewing the *Mortgage Brokers Act*, the legislation in place at the time. The stated goals of the review were to ensure that the legislation provided safeguards for the public while giving mortgage agents fair and effective rules that encourage industry growth and innovation.

This process began with a consultation paper entitled "Improving the *Mortgage Brokers Act*" that put forward ideas for new legislation and promoted industry involvement in the process. The result was, through Bill C-65, that the *Mortgage Brokers Act* was repealed and replaced by the *Mortgage Brokerages, Lenders and Administrators Act, 2006 (MBLAA)*. The Minister of Finance included provisions that one or more persons be appointed to review the operation of the *MBLAA* and its *Regulations* every five years.

Summary of the *Act* and *Regulations*

The mortgage brokerage industry is regulated by one principal *Act* and its corresponding *Regulations* (including one that addresses Standards of Practice). Standards of Practice are found in many industries and dictate the business rules by which that particular industry operates.

In Ontario, legislation is passed when a Bill (which has a number) is introduced to the legislature, goes through several phases called "readings," and if after the Third reading there are enough votes, it receives what's called "Royal Assent" by the Lieutenant Governor. At this stage it becomes an Act or Statute.

The following is a summary of the *Act* and *Regulations* that are currently in place for the mortgage brokerage industry. Each piece of legislation has a name and, in the case of the *Regulations*, a number, by which it is referred. The applicable sections of the *Act* and *Regulations* will be described in detail in a subsequent chapter as they relate to the brokerage, the mortgage agent, the mortgage broker, the principal broker and the mortgage administrator.

The *MBLAA*

- The *Mortgage Brokerages, Lenders and Administrators Act, 2006 (MBLAA)* is the principal legislation governing this industry. It is commonly referred to simply as the *"MBLAA" or "the Act."*

The *Regulations*

- Mortgage Brokerages
  - 408/07 *Mortgage Brokerages: Licensing*
  - 188/08 *Mortgage Brokerages: Standards of Practice*
- Principal Brokers
  - 410/07 *Principal Brokers: Eligibility, Powers and Duties*
- Mortgage Brokers and Agents
  - 409/07 *Mortgage Brokers and Agents: Licensing*
  - 187/08 *Mortgage Brokers and Agents: Standards of Practice*
- Cost of Borrowing and Disclosure
  - 191/08 *Cost Of Borrowing and Disclosure to borrowers*
- Mortgage Administrators (note: this is not covered on the exam as it does not apply to mortgage agents)
  - 406/07 *Regulated Activities: Additional Prescribed Activities*
  - 411/07 *Mortgage Administrators: Licensing*
  - 189/08 *Mortgage Administrators: Standards of Practice*
- Licensing Exemptions
  - 407/07 *Exemptions from the Requirement to be Licensed*
- Reporting Requirements
  - 193/08 *Reporting Requirements for Licensees*
- General
  - 190/08 *General*
- Penalties
  - 192/08 *Administrative Penalties*

5.2 Activities that are Regulated

The *MBLAA* regulates the following activities:

- dealing in mortgages in Ontario

- trading in mortgages in Ontario
- carrying on business as a lender in Ontario, and
- carrying on the business of administering mortgages in Ontario

Regulated activities are set out in *MBLAA*, sections 2 to 6. These sections, which refer specifically to the terms "dealing" and "trading in mortgages", as well as "lending", which were included in the old *Mortgage Brokers Act* but never defined, are now clearly explained. Those dealing or trading in mortgages, as well as those lending on real estate (unless exempted) must have a broker's or agent's license.

For the purposes of the legislation, the definition of the term "dealing in mortgages" is defined as anyone who solicits another person or business to buy, sell or exchange mortgages, or who does so on his/her own behalf or on behalf of another (that is, who solicits a person or entity, such as a business or corporation, to borrow or lend money on the security of real estate). In addition, if a person or business assesses a borrower, which would include underwriting a mortgage application, provides information to a lender or negotiates or arranges a mortgage on behalf of another person or business is deemed to be "dealing in mortgages."

Regarding lending activities, the *MBLAA* states that anyone who lends money in Ontario on real property is deemed to be a lender. In this case the person or business must be licensed as a mortgage brokerage, unless it is exempt. Typically, a business would be exempt if it was licensed under other legislation, such as the Bank Act or the Trust and Loan Companies Act, or if the person's or business's lending activities were done solely through a mortgage brokerage or other regulated lender.

Pause for clarification – Lending: licensed or not?

Yes: If you are advertising to the public as having money to lend, you must be licensed as a mortgage agent or broker or exempt from licensing.
No: If you are strictly using mortgage brokerages to find borrowers and not advertising to the public, you do not have to be licensed.

Several changes were made to the *Financial Services Commission of Ontario Act, 1997* as well as the *Licence Appeal Tribunal Act, 1999* to reflect the changes to legislation, resulting in the *MBLAA*. One that is of particular interest is paragraph 5 of subsection 35.2 of the *Securities Act*, which states: "Subject to the regulations, registration is not required to trade in the following securities: Mortgages or other encumbrances upon real or personal property, other than mortgages or other encumbrances contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, if such mortgages or other encumbrances are offered for sale by a person or company licensed, or exempted from the requirement to have a licence, under the *Mortgage Brokerages, Lenders and Administrators Act, 2006."*

The *MBLAA* introduced a new licensing requirement for those administering mortgages. This activity is defined as being any individual or business that receives mortgage payments on behalf of another. If engaged in this activity the individual or business must have a Mortgage Administrator's license.

5.3 Licensure

> ***Pause for clarification – Licensure***
> Licensure can be defined as permission granted by an agency of government to an individual or entity to engage in a given profession or occupation.

Four Licenses

In order to regulate, the *MBLAA* provides for four types of licenses to be issued by FSRA:

1. a brokerage license
2. a mortgage broker's license
3. a mortgage agent's license, and a
4. mortgage administrator's license.

Each is described in the *Act*, sections 7 – 12 and discussed in more detail later in this chapter.

Mortgage brokers' and mortgage agents' licenses are issued to individuals. Corporations, partnerships, sole proprietorships and prescribed entities that carry on the business of dealing in mortgages, trading in mortgages or lending money on the security of real property are required to have a brokerage license or a Mortgage Administrator's license.

> ***Pause for clarification – Corporations, partnerships and sole proprietorships***
> A corporation is a legal business entity created under federal or provincial statutes.
> A partnership is a type of business entity in which partners (owners) share with each other the profits or losses of the business undertaking in which all have invested.
> A sole proprietorship consists of a sole owner, also called a proprietor, of an unincorporated business.

The *MBLAA* states that, to enforce compensation for any of its licensed activities, the person or business must be licensed. Simply stated, if a person arranges a mortgage for another party and expects to be compensated by a lender, that lender may refuse to do so if the person is not appropriately licensed at the time of the transaction and the person would not be able to sue the lender for payment.

Restrictions

The *MBLAA* restricts the use of the titles "mortgage brokerage," "mortgage broker," "mortgage agent," "mortgage administrator" and their French equivalents to persons and entities licensed as such under the *MBLAA*. This prohibition includes using abbreviations such as mtg. broker, or their equivalents in another language.

Exemptions to Licensure

Regulation 407/07 details the circumstances under which certain people or entities are exempt from obtaining a license under the *MBLAA*. Exemptions from obtaining a license under the *Act* are indicated in various circumstances and for various entities which are spelled out in detail in the *Regulation* (simple referrals, lawyers, and so on). Following is a summary.

A simple referral (described in sections 1 – 2 of the *Regulation*) is a term used to describe the act of referring a potential borrower to a potential lender, or vice versa, if the referrer informs the other party, in writing, that a fee will be received for the referral, the nature of the relationship between the parties, and as long as the only other information provided is the name, address, telephone number, fax number, email address or website address of the individual being referred.

For simple referrals a person or entity does not have to be licensed. In addition, if no fee is payable, a person or entity does not have to be licensed. example of this situation could be a real estate salesperson who refers a client to a bank mortgage rep. In this case, if the real estate salesperson abides by these rules, he or she does not have to be licensed under the *MBLAA*.

A lawyer (as per sections 3 – 5) is exempt from prescribed activities if he or she is acting solely on behalf of his or her client and is not holding him or herself out to be trading, dealing or administering mortgages to the general public.

An example of this scenario could be a divorce lawyer who has a client who requires a mortgage to pay his spouse a settlement. In this case it would be legal for this lawyer to arrange this financing for that client without being licensed under the *MBLAA*. However, this lawyer could not advertise, for example in a newspaper, that he brokers mortgages.

Other exemptions from licensing include trustees in bankruptcy, those acting under a court order, statutory corporations, a personal corporation of a broker or agent, motor vehicle dealership financing companies, directors and employees of Crown agencies or other exempted persons or entities. As per section 11 of *Regulation 407/07*, consumer reporting agencies are exempt if they are only providing information on prospective borrowers to prospective lenders and are not otherwise dealing in mortgages.

Registered real estate brokerages, brokers or agents are exempt when they are arranging or attempting to arrange a vendor take-back mortgage for a client, as long as they are not holding themselves out to the public as dealing in mortgages.

Pause for clarification – Vendor take-back

A vendor take-back, also known as a VTB, is where the seller of the property provides all or some of the financing to the purchaser in order to sell the property.

A person or entity registered under the *Securities Act* is exempt, as per sections 12 – 14, under certain circumstances, as long as they are not holding themselves out to the public as trading in mortgages. In addition, those involved in the securitization of mortgages are also exempt.

If a person or entity only lends through a mortgage brokerage or other exempt person or entity, they are not required to have a mortgage brokerage license (section 15 on Mortgage Lending).

A person or entity is not required to have a Mortgage Administrator's license if they are administering mortgages on behalf of the Crown, a financial institution, a collection agency registered under the *Collection Agencies Act*, or if they are only administering mortgages that constitute mortgage backed securities as per sections 16 – 19, Exemptions for Administering Mortgages.

Getting and Keeping a License

Sections 13 to 22 of the *Act* states that any party wishing to apply for a license must complete the appropriate application and forms, along with the applicable fee to the FSRA, using the process laid out in the applicable *Regulation*. The licensing process for a mortgage brokerage is contained in *Regulation 408/07*; the licensing process for mortgage brokers and agents is contained in *Regulation 409/07* and the licensing process for Mortgage Administrators is contained in *Regulation 411/07*. The actual forms used to process an application for licensing may change from time to time, with current forms being available on FSRA's website or by contacting the regulator directly.

The FSRA has the right to refuse to issue or renew a license, suspend a license or propose to impose conditions on a licensee, if it is believed that the applicant does not meet the requirements for licensing. In such cases the applicant has the right to request a hearing by the Tribunal, as long as that request is made within 15 days of receiving notice from the FSRA regarding his or her license application.

Having a License Issued by FSRA

FSRA is empowered to:

- issue or refuse to issue a license
- impose or amend conditions on a license, and
- renew or refuse to renew a license

FSRA's Public Registry

Regulation 190/08 created the requirement of a public registry for licensees (brokerages and Administrators) which maintains the following information:

- each name in which it is licensed and its licence number
- the type of licence that it holds and whether the licence is in good standing or is suspended
- its mailing address in Ontario as it appears in the records maintained by the FSRA
- its telephone number as it appears in the records maintained by the FSRA
- any conditions that apply to the licence
- for a brokerage, the name of its principal broker

For two years after a brokerage or Mortgage Administrator ceases to be licensed, the register must contain the following information about the *former* brokerage or Mortgage Administrator:

- each name in which it was licensed and its former licence number
- the type of licence that it held
- the date on which it ceased to be licensed
- whether the licence was surrendered or revoked

Similarly, the public register of mortgage brokers and agents that is to be maintained under subsection 28 (1) of the *Act* must contain the following information about each broker and agent:

- the name in which he or she is licensed and the licence number
- the type of licence that he or she holds, its expiry date and whether the licence is in good standing or is suspended
- the name of the brokerage on whose behalf he or she is authorized to deal or trade in mortgages
- any conditions that apply to the licence, other than conditions relating to educational requirements

Again, if a broker or agent ceases to be licensed, the register must contain the following information about the former broker or agent:

- the name in which he or she was licensed and his or her former licence number
- the type of licence that he or she held
- the name of the brokerage on whose behalf he or she was authorized to deal or trade in mortgages immediately before ceasing to be licensed
- the date on which he or she ceased to be licensed
- whether the licence expired, renewal of the licence was refused, the licence was surrendered or the licence was revoked

The information required must be kept on the register until two years after the expiry date of the individual's licence or, if the licence was surrendered or revoked before the expiry date, until two years after the date on which the licence would have expired if it had not been surrendered or revoked.

Prohibited Activities

The *MBLAA* (sections 43 – 50) clearly lays out what are considered to be prohibited activities under the legislation. These include a prohibition on:

- counselling or advising anyone to give false or deceptive information in a transaction
- obstructing the FSRA from performing its duties or withholding anything relevant to an inquiry
- providing false or misleading information to the FSRA
- a person or business taking adverse employment action against an employee because the employee provided information or documents to the FSRA.

Pause for clarification – Prohibited activities

The *Mortgage Brokerages, Lenders and Administrators Act, 2006* and *Regulations*, prohibit:

- **Trading or dealing in mortgages without a licence:** As of July 1, 2008, all mortgage brokerages, administrators, brokers and agents must be licensed with FSRA to carry on business in Ontario, unless an exemption applies.
- **Using an unauthorized name:** You can only use the name in which you are licensed.

Compliance and Enforcement

The *MBLAA* specifically states what is required of a licensee and how failure to comply will be enforced.

Sections 28 – 42, for example, create the requirement that licensees provide information as required under *Regulations*. The legislation provides the FSRA or a person designated by the FSRA the right to enter (without using force) and inspect a licensee's premises (but not areas that are deemed to be dwellings, unless the occupant consents), examine money, valuables, documents and records of the licensee, require employees or those appearing to be employees to answer questions, produce documents or records, including data storage systems and remove any item that may be relevant to the inquiry or examination (receipts for all items removed must be provided).

If the FSRA or its designee is refused entry or it is believed that they will be refused entry, an order may be obtained from a justice of the peace, which may be enforced through the use of force by police officers, if that force is reasonably necessary to execute the order.
Under the *MBLAA*, the FSRA has several tools to enforce compliance with licensing requirements and conditions. The FSRA, if he or she believes that something the licensee is doing contravenes the *MBLAA*, may issue a Compliance Order to correct the issue.

The licensee has the right to appeal this decision to the Tribunal within 15 days of receiving the FSRA's proposal contained in the Compliance Order, in which case the Compliance Order will be on hold until the hearing occurs. If, however, in the opinion of the FSRA, it is in the public's interest to immediately implement the Compliance Order, the FSRA has the right to do so. The licensee's rights to request a hearing within 15 days of being notified of the Compliance Order still remain in effect.

Furthermore, the FSRA has the right to issue orders to freeze assets or trust funds if necessary, to protect the public, and may make application to the court to appoint a receiver or trustee. Section 36.8 of the *MBLAA* allows for the individual to prevent the FSRA from doing so if he or she provides the FSRA with a bond in the amount and manner required by the FSRA.

Pause for clarification – Trust funds
Trust funds are those monies received by a brokerage or Administrator on behalf of or payable to another party.

The *MBLAA* (sections 43 – 50) gives FSRA two types of enforcement tools: administrative penalties and charges under the legislation.

Pause for clarification – Administrative penalties
This is a penalty assessed by the FSRA for less serious contraventions of or failures to comply with the *MBLAA.*

Regulation 192/08 spells out rules and procedures related to administrative penalties. This *Regulation* (sections 1 – 4) prohibits the FSRA from imposing penalties on those covered in section 46 of the *MBLAA* (which prohibits reprisals against those who provide information to the FSRA).

Administrative penalties are either "general" or "summary" and are covered in detail in *Regulation 192/08* sections 1 – 6. The same timeframes apply to both. The FSRA may impose administrative penalties for contraventions of or failures to comply with the *MBLAA* in amounts determined in accordance with the *Regulations*. If the FSRA proposes to impose an administrative penalty, the affected party may request a hearing before the Financial Services Tribunal.

A summary process is provided for administrative penalties imposed on licensees who fail to provide information to the FSRA in accordance with the *Regulations*. An administrative penalty may not exceed $10,000 in the case of a contravention or failure to comply by a mortgage broker or agent or $25,000 in the case of a contravention or failure to comply by a brokerage, Mortgage Administrator or any other person or entity, or such lower amounts as may be prescribed.

In section 41 of the *MBLAA,* it empowers the FSRA to impose administrative penalties to promote compliance with the *MBLAA* up to a maximum of $25,000 for a brokerage or Administrator, up to $10,000 for a broker or agent and up to $25,000 for anyone else. If the FSRA proposes to impose an administrative penalty the licensee has the right to appeal this proposal to the Tribunal within 15 days of receiving it. If the penalty is not paid, it is considered a debt to the Crown and can be enforced as such.

Those assessed a penalty must pay the penalty within thirty days of being assessed the penalty or once a hearing has been conducted, or longer if provided for in the penalty or order made from the hearing.

Example
Judy obtained a mortgage agent license on June 14, 2015 and has been brokering mortgages for ABC Mortgages Inc., a licensed brokerage in Ontario, since that time. In March of 2016 Judy was approached by GiGi Mortgages Inc., another licensed mortgage brokerage, to broker mortgages on their behalf. Since Judy liked working for ABC Mortgages Inc., she kept her license there while also brokering mortgages for GiGi Mortgages Inc., thereby working for two mortgage brokerages at the same time.

Because an agent can only be authorized to deal in mortgages for one mortgage brokerage, GiGi Mortgages Inc. was in contravention of section 43(2) of *Regulation 188/08* for authorizing Judy to broker mortgages on behalf of that brokerage, knowing that Judy was already authorized to deal in mortgages for ABC Mortgages Inc. In this case the FSRA could impose an administrative penalty in an amount that it feels is appropriate up to $25,000.

Beyond administrative penalties, the *MBLAA* allows the FSRA to charge individuals or businesses with an offence under the legislation. Anyone who contravenes any of the sections as listed in section 48 of the *MBLAA* is considered to be guilty of an offence and may be subject, in addition to administrative penalties, of fines and imprisonment, as detailed below.

Section 48 (1) of the *MBLAA* states that “Every person who contravenes or fails to comply with any of the following provisions of this Act is guilty of an offence:”

1. subsection 2.2 or 2.3, Dealing in Mortgages
2. subsection 3.2 or 3.3, Trading in Mortgages
3. subsection 4.2, Mortgage Lending
4. subsection 5.2, Administering Mortgages
5. section 27, Prohibition re Disclosure in Advertising

6. section 30.6, Inquiries and Examinations
7. subsection 43.1 or 43.2, Prohibition re False or Deceptive Information
8. subsection 44.1 or 44.2, Prohibition re Obstruction
9. subsection 45.1 or 45.2, Prohibition re False or Misleading Information, and
10. section 46, Prohibition re Reprisals

Individuals charged with an offence are liable to a fine up to $100,000, imprisonment for up to one year, or both while corporations are liable to a fine of up to $200,000. It is important to note that directors and officers of a corporation that has committed an offence are also liable. Section 48.2 of the *MBLAA* also dictates that any contraventions of applicable Standards of Practice are an offence under the *MBLAA* and liable to the fines as previously discussed.

Having a License Suspended or Revoked by FSRA

The FSRA is empowered to:

- impose or amend conditions on a license
- renew or refuse to renew a license
- suspend or revoke a license
- allow or refuse to allow the surrender of a license, and
- impose conditions on the surrender of a license

As per the *Act*, sections 13 – 22, the FSRA has the right, without giving notice, to automatically suspend a license under several circumstances. A mortgage brokerage's license will be automatically suspended if it fails to have at least one licensed mortgage broker. A mortgage broker's and mortgage agent's license will be automatically suspended if the brokerage's license is lost or suspended, or if that brokerage no longer authorizes the broker or agent to deal in mortgages on its behalf, which in effect is when the brokerage terminates the broker's or agent's employment. In other words, only when employed by a brokerage is a mortgage agent or broker licensed.

Any of these suspensions will be automatically revoked if the reason for the suspension is rectified. For example, if the broker's license is suspended due to the brokerage's suspension, the broker's license will be reinstated as soon as the brokerage's license is no longer suspended. If the broker or agent is terminated, as soon as he or she is employed by another brokerage his or her license will be reinstated.

The FSRA must first give notice of his or her proposal and give the applicant or licensee an opportunity to request a hearing on the proposal before the Financial Services Tribunal. If it is in the public interest to act immediately, the FSRA may suspend a license before a hearing can be held before the Tribunal.

If an applicant or licensee fails to pay a fee or administrative penalty under the *MBLAA* or if an applicant does not give the FSRA information or documents required under the *MBLAA*, for example, the FSRA may revoke or refuse to issue or renew a license without making a proposal first or giving the licensee or applicant an opportunity to request a hearing.

The FSRA may also suspend or revoke a license due to unpaid fees or administrative penalties, the failure to provide the FSRA with information or documents required to be submitted, or for other reasons which may be prescribed in the future.

Section 4.1 of *Regulation 408/07*, entitled Surrender of License, details the criteria which the FSRA must use to determine whether a brokerage is allowed to surrender its license. The remainder of this chapter will provide a detailed explanation of each of the four licenses, along with the requirements for obtaining and keeping each one.

5.4 How FSRA Monitors, Investigates and Where Warranted Takes Enforcement Actions on the Sectors it Regulates[2]

To protect consumers and plan members and enhance public confidence in the regulated sectors, FSRA monitors, investigates and when there is non-compliance with legislation and regulations, takes appropriate enforcement action against the sectors it regulates and persons who are illegally engaged in those sectors.

Monitoring & Investigation Activities

FSRA undertakes a number of monitoring activities as part of its regulatory functions. It conducts criminal record checks on prospective agents and paralegals and reviews complaints against agents, paralegals, health care providers, insurance companies, and other financial services sectors. In addition, FSRA audits life agent renewal applications to ensure they meet continuing education (CE) and errors & omissions insurance (E&O) requirements. Paralegals are also subject to E&O audits. These checks, reviews and audits are the first step in the enforcement process. A significant number of matters are resolved at this first step.

As a follow up to its regular monitoring activities – criminal record checks, the reviews of complaints received and audits of compliance with CE requirements and E&O compliance - FSRA may decide that some matters need to be investigated. An investigation is the second step in the enforcement process. It is used where prosecution or administrative action may be contemplated.

Enforcement Activities

To resolve enforcement matters, the FSRA (or its delegate) may:

1. Issue a Letter of Caution, advising that regulatory action may be taken in the event of another violation.
2. Issue Minutes of Settlement, whereby the FSRA and a person reach an agreement about the appropriate resolution of the non-compliance.
3. Issue a notice of proposal that may lead to:
    a. A Financial Services Tribunal (FST) hearing
    b. A FSRA's hearing, or
    c. An Advisory Board hearing

which may result in an order to restrict, suspend or revoke a licence or registration, or a cease and desist/compliance order whereby a person is required to stop specific activities or is ordered to perform acts that are necessary to remedy the situation.

[2] FSCO, http://fsco.gov.on.ca/en/about/monitoring/Pages/monitoring_process.aspx

4. Make, without prior notice, an interim or temporary order which shall take effect immediately on its making, and which may become permanent on the 15th day after its making unless within that time the person requests a hearing before the FST, where the FSRA is of the opinion that the interests of the public may be prejudiced or adversely affected by any delay in the issuance of a permanent order.

5. Lay charges under the Provincial Offences Act (POA) which may result in a fine, and in the case of a prosecution involving the *Mortgage Brokerages, Lenders and Administrators Act*, a period of incarceration.

Example
Mortgage brokerages are required to pay fees every two years to maintain a brokerage license, and these fees must be paid on or before March 31st and every two years thereafter. ABC Mortgages Inc. failed to pay its licensing fees before the March 31st, 2016 deadline. As per Section 22 (1) of the *MBLAA* the FSRA may revoke the mortgage brokerage license.

This type of example has happened, resulting in a mortgage brokerage's license being revoked.

For more examples of actual cases, please refer to FSRA's website at http://fsco.gov.on.ca/en/mortgage/enforcement/Pages/default.aspx

5.5 The Mortgage Brokerage License

The *MBLAA* has created a license not previously seen in Ontario. Prior to the *MBLAA* a licensed mortgage agent would be employed by a company, often referred to as a brokerage, and in so doing the company would be allowed to deal or trade in mortgages.

Under the *MBLAA* the corporation, partnership or sole proprietorship must obtain its own brokerage license. This license allows the licensee to deal or trade in mortgages, as well as carry on business as a lender. This license is subject to meeting certain eligibility requirements and other terms and conditions as prescribed by *Regulation 408/07* and *188/08, Mortgage Brokerages: Standards of Practice*.

Licensing Requirements (Sections 1 – 3, *Regulation 408/07*)

A brokerage license may be issued to a corporation, partnership or sole proprietorship if it meets all of the following requirements:
- In the case of a corporation, it was incorporated in any jurisdiction of Canada,
- In the case of a partnership, it was formed under the law in any jurisdiction of Canada,
- In the case of a sole proprietorship, the proprietor is a resident of Canada.
- In all cases, it has a mailing address that is not a post office box and that is suitable to permit service by registered mail.
- In all cases, it has Errors and Omissions insurance with at least $1 million of coverage per year, and a minimum of $500,000 of coverage per occurrence. It must also include a provision for loss resulting from fraudulent acts.

> ***Pause for clarification – Errors and omissions insurance (E & O)***
> Errors and Omissions insurance, often referred to as E & O, is insurance that provides coverage for errors or omissions made by a brokerage, broker, agent or administrator. This insurance must contain a provision for fraud.

- In the case of a corporation or partnership, the application includes the particulars of the principal broker, who must meet eligibility requirements as found in section 7.7 of the *MBLAA*. In the case of a sole proprietorship the sole proprietor is also the principal broker.

> ***Pause for clarification – Principal broker***
> The position of *Principal Broker* is a licensed mortgage broker who is responsible for ensuring that the brokerage, and all of its brokers and agents, comply with the requirements of the *MBLAA*, including ensuring that any contraventions of the *Act* are dealt with, and that the brokerage has the proper policies and procedures in place to ensure that all brokers and agents are adequately supervised and that they comply with every requirement under the *MBLAA*.

Suitability for Licensing (Sections 1 – 3, *Regulation 408/07*)

A corporation, partnership or sole proprietorship must be found suitable for licensing as a mortgage brokerage. This is determined by a four-part test which aims to establish lack of suitability:

- Whether having regard to its financial position, the corporation, partnership or sole proprietorship cannot reasonably be expected to be financially responsible in the conduct of its business.
- Whether the past conduct, in the case of a corporation, of any director or officer of the corporation affords reasonable grounds for belief that the business of the corporation will not be carried on in accordance with the law and with integrity and honesty. In the case of a partnership this applies to the conduct of a partner; in the case of the sole proprietorship, this applies to the proprietor him/herself.
- Whether the corporation, partnership or sole proprietorship is carrying on activities that contravene or will contravene the *Act* or the *Regulations* if a license is granted.
- Whether in the case of a corporation a director or officer of the corporation has made a false statement or has provided false information to the FSRA with respect to the application for a license. In the case of a partnership this would apply to a partner. In the case of a sole proprietorship, this would apply to the proprietor him/herself.

A licensed brokerage may obtain a license in either its legal name or both its legal name and a name registered under the *Business Names Act* as per Section 4 of *Regulation 408/07*. Whether the name is legal or not, the FSRA can refuse to issue a license in that name if the FSRA reasonably believes that the name might confuse the public with another licensed brokerage or that the name might be objectionable on any public grounds.

If a brokerage carries on any other business, as per *Regulation 188/08* Sections 56 – 60, it must ensure that it doesn't allow the other business to "jeopardize its integrity, independence or competence when carrying on the business of dealing or trading in mortgages or carrying on business as a mortgage lender."

Standards of Practice (*Regulation 188/08*)

Standards of Practice contain the business rules that a brokerage must follow, in addition to other rules as set out by the *MBLAA* and its *Regulations*. Contravention of the Standards of Practice as set out in *Regulation 188/08* is an offence under the *MBLAA's* section 48.2 and is subject to the fines outlined in section 49 of the *MBLAA*. The following will provide a detailed explanation of the different sections found in the Standards of Practice for mortgage brokerages.

Public Relations

Sections 5 - 9 of *Regulation 188/08* define public relations materials as any advertisement by the brokerage in connection with its business as a brokerage that is published, circulated or broadcast by any means, or any material that a brokerage makes available to the public in connection with its business as a brokerage.

A brokerage must use its authorized name when conducting any business, and it must prominently include its authorized name and license number in all of its public relations materials. If the brokerage is a franchise, it must state that it is independently owned and operated.

If an individual's name is included in the material, his or her title (i.e., broker or agent) must be included. For example, if Bob Smith is a mortgage broker and his name is used in an advertisement, he must include the words, "mortgage broker" or "broker" beside his name, resulting in "Bob Smith, Mortgage Broker," or "Bob Smith, Broker." Abbreviations may also be used.

A brokerage must also provide the license information, if requested, to a person who requests it. This does not mean that a brokerage is required to provide a list of all of its brokers or agents, just those specifically requested by a person.

Complaints Process

The brokerage must have a complaints process so that if an individual makes a complaint to the brokerage in writing, the brokerage must respond in writing, also indicating that if the complainant believes that the brokerage has contravened the *MBLAA* he or she may refer the complaint to the FSRA. All complaints must be documented and handled by one or more authorized individuals.

Customer Relations

Sections 10 – 17 of *Regulation 188/08* require the brokerage to verify the identity of the borrowers, lenders and Investors involved in a mortgage transaction. If it is unable to do so it must advise the other parties in the transaction. A brokerage cannot complete any transaction that it feels is unlawful. If the information provided to the brokerage is suspicious, the brokerage must inform any and all lenders involved in the transaction as soon as possible.

If a brokerage arranges a mortgage through an investor or lender of any type, it cannot make a guarantee to that investor or lender in respect to the mortgage. For example, a brokerage cannot guarantee a specific rate of return to an investor, nor can it guarantee that all payments will be made by the borrower.

Return of Documents (Section 17, *Regulation 188/08*)

A brokerage is required to return any deed, instrument or other document to its owner regardless of whether the brokerage has been asked to return these documents and must do so promptly and without charge when requested in writing.

A brokerage may only use information gathered for the purposes for which it was obtained. Any other use requires the written consent of the person or entity who is the subject of the information.

Information about the Brokerage

Sections 18 and 19 of *Regulation 188/08* require the brokerage to disclose specific information to prospective borrowers. Certain information must be disclosed to *all* prospective borrowers while other information need only be disclosed when requested.

In all cases, a brokerage must disclose, in writing, if it is acting solely on behalf of either the lender or the borrower, or if it is acting on behalf of both without showing preference to either (except in cases where the brokerage is the lender). The brokerage must also disclose, in writing, the number of lenders on whose behalf the brokerage acted as a representative during the previous fiscal year and if it was a lender.

When requested by the borrower, the brokerage must disclose, in writing, when the brokerage was the lender for more than fifty percent of the total number of mortgages (including renewals), and if and when the brokerage used only one lender, and that lender's name, for more than fifty percent of the total number of mortgages (including renewals) during the previous fiscal year.

Fees and Payments

The *MBLAA* and *Regulations* speak to several topics related to fees and other payments: representation of fees and costs, disclosure of fees in writing to a borrower, disclosure of the cost of borrowing (see Chapter 11: Consumer Protection: Disclosure) and accepting payments. Each is described below.

Sections 20 – 23 of *Regulation 188/08* specify that a brokerage is not allowed to make any form of representation that any fees or costs payable to the brokerage in connection with carrying on the business of dealing or trading in mortgages or acting as a mortgage lender are set or approved by any government authority, unless they are in respect to disbursements to register or deposit instruments under the *Land Titles Act* or the *Registry Act*.

A brokerage must disclose, in writing, to a borrower if the brokerage, broker or agent may or will receive a fee or other remuneration in connection with the mortgage or a mortgage renewal, from whom it may or will be received and the basis for calculating the amount. The borrower must acknowledge in writing that he or she has received this disclosure. The same disclosure applies if the brokerage may or will pay any fee or other remuneration to another person or entity in connection with the mortgage or mortgage renewal.

Pause for clarification – Remuneration
Remuneration is the total compensation that is received in exchange for the service that has been provided. Mortgage brokers and agents typically receive remuneration in the form of money, most often as commission, but can also receive non-cash remuneration such as reward points, trips, etc.

As per Sections 37 – 39 of *Regulation 188/08*, a brokerage cannot accept an advance payment from the borrower on transactions where the principal amount of the mortgage is $400,000 (as of January 1, 2016; it was previously $300,000) or less. In addition, a brokerage cannot accept funds from a lender or investor unless in regards to a specific mortgage. In other words, a brokerage cannot accept funds from a lender or investor to be held on deposit or in trust unless those funds are for a specific mortgage.

If funds are received and are considered deemed trust funds (funds that are payable to another party) the brokerage must provide a written statement to the person or entity providing the funds.

Duties in Particular Transactions

Sections 24 – 32 of *Regulation 188/08* require the brokerage to "ensure that any mortgage or investment in a mortgage that it presents for the consideration of a borrower, lender or investor, as the case may be, is suitable for the borrower, lender or investor having regard to the needs and circumstances of the borrower, lender or investor."

In addition, the brokerage must inform the borrower, lender or investor, in writing, as to the "material risks of each mortgage or investment in a mortgage that the brokerage presents for the consideration of the borrower, lender or investor," and obtain written acknowledgment that this disclosure has been made. Neither of these requirements applies to lenders or investors that are members of a designated class of lenders and investors, as defined in the Interpretation section of this *Regulation*.

Disclosure

The *MBLAA* is explicit about requirements related to disclosure. Further to those already mentioned are other disclosure obligations such as disclosure of the brokerage's relationships, potential conflicts of interest, mortgages previously in default and of the cost of borrowing, the latter disclosure being very explicit. Disclosure requirements are discussed in detail in a later chapter.

Policies and Procedures

Sections 40 and 41 of *Regulation 188/08* detail the policies and procedures that a brokerage must have in place. These policies and procedures must address the following:

- the description of the role of the brokerage in relation to borrowers and lenders and its disclosure to borrowers and lenders as required by this *Regulation*
- the verification of the identity of borrowers, lenders and investors in the circumstances

required by this *Regulation*

- the determination of the suitability of a mortgage or investment in a mortgage for a borrower, lender or investor, as the case may be
- the identification of the material risks of a mortgage or investment in a mortgage for a borrower, lender or investor, as the case may be, and their disclosure to the borrower, lender or investor, as the case may be, as required by this *Regulation*
- the identification of potential conflicts of interest between the brokerage or any broker or agent authorized to deal or trade in mortgages on its behalf and a borrower, lender or investor who is represented by the brokerage, and their disclosure to the borrower, lender or investor, as the case may be, as required by this *Regulation*
- the provision of incentives other than money for dealing or trading in mortgages to its brokers and agents by other persons and entities, if the brokerage permits any of its brokers or agents to receive such incentives
- the provision of incentives other than money for dealing or trading in mortgages to brokers and agents who are authorized by another brokerage to deal or trade in mortgages on the other brokerage's behalf, if the brokerage provides incentives to any brokers or agents of the other brokerage

Record Keeping

A brokerage must retain all records as follows:

- records that relate to a mortgage or mortgage renewal agreement, as the case may be, for at least six years after the expiry of the term of the mortgage or renewal or other expiry of the mortgage transaction
- all records that relate to a purchase, sale or trade in a mortgage for at least six years after the trade completion date or other expiry of the transaction *O. Reg. 188/08, s. 48 (2)*
- for at least six years all other records that are required by subsection 46 (1) or that the brokerage is otherwise required to create or maintain under the *Act*. *O. Reg. 188/08, s. 48 (3)*

> ***Pause for clarification – Trade completion date***
> Regulation 188/08 defines the trade completion date as the earlier of:
> a) the date on which an investor, or a brokerage on behalf of an investor, enters into an agreement to trade in the mortgage, or
> b) the date on which the trade in the mortgage is completed.

- records must be kept at its principal place of business in Ontario, if any, or, if the brokerage has notified the FSRA that it keeps records at other specified premises in Ontario, at those premises *O. Reg. 188/08, s. 48 (4)*
- Records may be kept electronically in any location as long as they can be retrieved promptly, if requested.

A brokerage is required to keep a written record of all deemed trust funds that it receives and all transactions relating to the funds as per *Regulation 188/08* sections 49 - 55. These records must be reconciled monthly and signed by the principal broker certifying that they are accurate. If there are any shortfalls the brokerage must immediately notify FSRA. Within ninety days of the end of the brokerage's fiscal year it must prepare and submit an annual reconciliation to FSRA.

A brokerage must also:
- maintain a mailing address in Ontario that is suitable to permit service by registered mail
- maintain an email address
- ensure that only the current versions of approved forms are used by its brokers and agents

Reverse Mortgages

Section 29 of *Regulation 188/08* requires borrowers involved in a reverse mortgage to obtain independent legal advice. This section also details the definition of a reverse mortgage under the *Regulation*.

Compliance Review

A brokerage is responsible for ensuring that all completed mortgage files in a given transaction are reviewed to ensure compliance with the *Act* and *Regulations*.

5.6 The Mortgage Agent License

Regulation 409/07 deals with who is suitable to be a licensed mortgage agent (as well as broker) and the requirements for licensing. Licenses are issued when approved and are then renewed every two years on a fixed date. For example, March 31, 2020 and each two-year period thereafter.

Licenses for agents are renewed as long as the agent satisfies all of the original licensing requirements and if they meet any continuing education requirements that may be instituted by FSRA from time to time.

To become a licensed mortgage agent an individual must:
- be at least 18 years old
- be a resident of Canada
- have a mailing address in Ontario that is not a post office box and that is suitable to permit services by registered mail
- be authorized by a brokerage to deal or trade in mortgages on its behalf
- have successfully completed an approved education program for mortgage agents within two years before he or she applies for the license

A person is deemed to have met the education and experience requirements if the FSRA is satisfied that the individual has a combination of education and experience equivalent to the requirements. The individual may also be exempted from the required education and experience requirements if he or she was licensed as a mortgage agent at any time during the 24 months before applying for the license.

An agent will be deemed unsuitable for a license (as will a broker) if:
- the individual’s past conduct affords reasonable grounds for belief that he or she will not deal or trade in mortgages in accordance with the law and with integrity and honesty
- the individual is carrying on activities that contravene or will contravene the *MBLAA* or its *Regulations*
- the individual has made a false statement in his or her application for a license

Individuals who are remunerated for dealing in mortgages or trading in mortgages in Ontario, as employees or otherwise, are required to have either a mortgage broker's or mortgage agent's license.

The mortgage agent license allows the licensee to deal or trade mortgages on behalf of one licensed mortgage brokerage in Ontario, "under the supervision of a mortgage broker" (section 9, subsection 5). The *MBLAA* does not define what this term means in regard to the number of agents allowed to be supervised by a broker. However, FSRA's Mortgage Agent Qualifying Standards (MAQS), a document that details the knowledge that a mortgage agent must have to obtain a license, includes such items as application oversight as well as other items related to the management of agents.

In addition, in its webinar, FSRA clearly stated that the desired outcome of supervision is the high standards of ethical conduct and business practices and includes hiring the right people, establishing effective policies and procedures, training brokers and agents and monitoring brokers and agents. Furthermore, the *MBLAA* does not deem real estate brokers to be licensed.

With regards to borrower disclosure, the mortgage brokerage is responsible for all disclosure obligations as per the *Act* and *Regulations*.

Steps in obtaining a new mortgage agent license

1. Pass REMIC's FSRA approved mortgage agent course for licensing, also referred to as the mortgage agent licensing course
2. Get hired by a FSRA licensed mortgage brokerage
3. The mortgage brokerage will then apply to FSRA for your license. This step must be completed by the mortgage brokerage.

Costs for obtaining and renewing your license

You will then have to pay for your license to FSRA. FSRA charges the mortgage brokerage and the mortgage brokerage charges you. Here is a breakdown of the costs to FSRA to begin your mortgage career.

Licenses come up for renewal every year (previously every two years), with the next renewal on April 1st. To renew, the fee is $841. To apply for a new license the fee is $941 for a full year, prorated if applying after April 1st, like this: $100 + (# of months to March 31, 2020 x $70.08).[3]

For example, if you applied for a license on April 1, 2020 then you would pay an application fee of $100 plus $841 (12 months to April 1, 2021 x $70.08) = $100 + $841 = $941. If you were already a mortgage agent you wouldn't have to pay the application fee, so renewing the license would cost $841.

Additional costs

Typically, the only additional cost you'll need to pay is your portion of your brokerage's errors and omissions insurance (referred to as E & O). The brokerage will have a master E & O policy

[3] FSRA, https://www.fsrao.ca/sites/default/files/2019-06/fee-rule-2019-001-en.pdf

that you will be covered under. To help pay for that policy the brokerage typically charges every agent and broker to be covered under their policy. This can cost a few hundred dollars per year.

Some brokerages will also have additional fees. These may include registration fees, training fees, marketing fees and so on. Using our list of questions from Chapter 1 will definitely help you understand the differences in brokerages.

Costs for transferring your licenses to another brokerage

There are no additional licensing fees if you decide to leave your current brokerage and get hired by another brokerage, however the new brokerage may have additional fees such as E & O. Because E & O is a policy between the brokerage and insurer and therefore not transferable, you will have to pay E & O to the brokerage if you transfer your license.

Standards of Practice

The mortgage agent is responsible for meeting the Standards of Practice outlined in *Regulation 187/08*. These Standards of Practice apply equally to mortgage agents and are listed below.

First and foremost, neither a licensed broker nor a licensed agent may do anything that jeopardizes the brokerage's license. Sections 4 and 5 of *Regulation 187/08* restrict how a broker or agent may be paid. A broker or agent must be paid directly by the brokerage for any activity related to dealing or trading in mortgages. An exception applies to non-monetary incentives, which may be paid directly to the broker or agent.

Regarding advertising and public relations materials, a broker or agent is not allowed to use any other name other than his or her licensee name and must include his or her brokerage's name and license numbers, prominently displayed, and if the brokerage is a franchise, the materials must clearly indicate that the brokerage is independently owned and operated. A broker or agent must also supply this information to anyone who requests it.

Materials can not contain false, misleading or deceptive information and only the title "Mortgage Broker," "Broker," "Mortgage Agent" or "Agent" (or an abbreviation) may be used.

Finally, the *Regulation* states that a broker or agent must maintain a mailing address suitable for registered mail, and must maintain an email address. *Regulation 193/08* Reporting Requirements For Licensees further states that it is the mortgage agent's responsibility to update FSRA on changes to any of his or her contact information, including the mailing address, email address and the address in Ontario, within five days after the change occurs.[4]

When should a mortgage agent seek assistance from the Principal Broker?

As mentioned in Chapter 1, a mortgage agent must obtain help from his or her Principal Broker (or whomever the brokerage has deemed that support person to be) in regards to compliance related issues, anything pertaining to the brokerage's policies, or legislation that regulates the conduct of the mortgage agent. The following list contains some examples of questions, but

[4] *ONTARIO REGULATION 193/08,* REPORTING REQUIREMENTS FOR LICENSEES, sections 6 and 7

any question about any topic that is compliance related must be directed to the Principal Broker or his or her designated person. A mortgage agent must never rely on the advice of anyone else.

- Suitability: how must an agent determine if a mortgage is suitable for a borrower or investor?
- Complaints: what must an agent do if a consumer has a complaint about him or the brokerage?
- Advertising: is an ad compliant?
- Disclosure: what costs must be included in the cost of borrowing and how is it calculated?
- Disclosure: what fees, types of risks, terms, conflicts, etc. must be included in the borrower and investor/lender disclosures?
- Referral fees: can an agent pay a referral fee to another agent?
- Unknown amounts: how must an agent disclose amounts, such as legal fees, to a borrower or investor if the amount is unknown?

5.7 The Mortgage Broker License

Regulation 409/07 addresses who is suitable to be a licensed mortgage broker and the requirements for licensing. As with the mortgage agent license, a license is issued when approved, and is then renewed every two years on a fixed date. For example, March 31, 2018 and each two-year period thereafter.

Licenses are renewed as long as the broker satisfies all of the original licensing requirements and meets any continuing education requirements that may be instituted by FSRA from time to time.

Just like an agent, a broker will be deemed unsuitable for a license if:

- the individual's past conduct affords reasonable grounds for belief that he or she will not deal or trade in mortgages in accordance with the law and with integrity and honesty
- the individual is carrying on activities that contravene or will contravene the *MBLAA* or its *Regulations*
- the individual has made a false statement in his or her application for a license

To become a licensed mortgage broker an individual must:

- be at least 18 years old
- be a resident of Canada
- have a mailing address in Ontario that is not a post office box and that is suitable to permit services by registered mail
- be authorized by a brokerage to deal or trade in mortgages on its behalf
- have successfully completed an approved education program for mortgage agents
- have been licensed as a mortgage agent for at least 24 of the 36 months immediately before he or she applies for the license
- have successfully completed an approved education program for mortgage brokers and passed the approved qualifying exam within three years before applying for the license

A person is deemed to have met the education and experience requirements if the FSRA is satisfied that the individual has a combination of education and experience equivalent to the requirements.

The individual may also be exempted from the required education and experience requirements if he or she was licensed as a mortgage agent at any time during the 24 months before applying for the license.

This license allows the licensee to deal or trade mortgages on behalf of only one licensed mortgage brokerage in Ontario. A mortgage broker must work for only one specified brokerage, and that brokerage must be licensed.

Just like the agent, a mortgage broker is responsible for adhering to the brokerage's procedures related to compliance and for adhering to the Standards of Practice already described for mortgage brokers.

5.8 The Principal Broker

A principal broker is not a separately licensed position but is a licensed mortgage broker who is designated by the brokerage to be its chief compliance officer. Under the *MBLAA*, the brokerage is licensed, and it must have one licensed mortgage broker designated as the principal broker. This person is responsible for activities as outlined in *Regulation 410/07*, which defines the role of the principal broker, who is eligible to hold this position and the duties of the principal broker.

To be eligible to be the principal broker for a brokerage, the individual must be authorized by the brokerage to deal or trade in mortgages on its behalf and must have the following status in relation to the brokerage:

- if the brokerage is a corporation, he or she must be a director or officer of the corporation
- if the brokerage is a partnership, other than a limited partnership, he or she must be a partner
- if the brokerage is a limited partnership, he or she must be a general partner or a director or officer of a corporation that is a limited partner
- if the brokerage is a sole proprietorship, he or she must be the sole proprietor

The position of principal broker is responsible for ensuring that the brokerage, and all brokers and agents, comply with the requirements of the *MBLAA*, including ensuring that any contraventions of the *Act* are dealt with, and that the brokerage has the proper policies and procedures in place to ensure that all brokers and agents are adequately supervised and that they comply with every requirement under the *MBLAA*.

Very simply, the Principal Broker is responsible for the policies and procedures for determining if an agent or broker is hired, and once hired, how those agents and brokers do business within the brokerage. These policies and procedures have a direct impact on every mortgage agent and broker who is licensed under the brokerage. These include:

1. Hiring requirements
2. Performance review polices
3. Training policies and procedures
4. Supervision of brokers/agents policies

5. Privacy policy and procedures
6. Investor/lender suitability policies
7. Borrower, investor and lender disclosure policies and procedures
8. Conflict of interest policies
9. Identification verification policies
10. Fraud detection and prevention policies
11. Trust fund policies
12. Consumer complaints procedures
13. File submission policies
14. Public relations policies and procedures
15. Company regulatory reporting requirements policies
16. Accounting policies and procedures
17. Credit report policies
18. Required documents policies
19. Compliance manual review policies

5.9 The Mortgage Administrator License

Those involved in the administration of mortgages as defined in the *MBLAA* and *Regulation 406/07* must have a Mortgage Administrator's license. The *MBLAA* itself is vague on what constitutes administering a mortgage; however *Regulation 406/07*, section 1, subsection 1 states that the activity that constitutes administering mortgages is "taking steps, on behalf of another person or entity, to enforce payment by a borrower under a mortgage."

The requirements for obtaining a Mortgage Administrator's license are defined in *Regulation 411/07*, while the obligations to maintain that license are reflected in *Regulation 189/08*, *Mortgage Administrators: Standards of Practice*.

Corporations, partnerships and sole proprietorships wishing to be licensed as a Mortgage Administrator must meet licensing requirements and must pass tests of suitability as per *Regulation 411/07*. Mortgage Administrators have exactly the same licensing eligibility requirements as mortgage agents and brokers and must pass the same tests of suitability with only one additional requirement: that the corporation, partnership or sole proprietorship have a financial guarantee in an amount equal to $25,000. This may be unimpaired working capital or something else acceptable to FSRA.

Standards of Practice for Mortgage Administrators are stated separately in the *Regulations* but parallel those of mortgage brokerages. Naturally, the Standards of Practice of a brokerage refer also to responsibilities related to mortgage agents and mortgage brokers. No such references are found in the *Regulations* for mortgage administrators.

5.10 Summary

The *MBLAA* and its *Regulations* have significant regulatory oversight of the brokerage industry and require brokerages, brokers and agents to be fully aware of their regulatory responsibilities. The principal broker, a position mandated by legislation, requires unprecedented oversight over a brokerage's operations. This individual must institute policies and procedures that will ensure compliance with the *MBLAA* and its *Regulations*, as well as take corrective measures as necessary to modify non-compliant policies and procedures. To effectively achieve these tasks requires an in-depth understanding of the regulatory environment, the *MBLAA* and its *Regulations*.

5.11 External Resources

Financial Services Regulatory Authority of Ontario (FSRA)
The current regulator for the mortgage brokerage industry
Website: www.fsrao.ca

Financial Services Commission of Ontario
The former regulator for the mortgage brokerage industry
Website: www.fsco.gov.on.ca

E-laws
Database of Ontario's statutes and regulations
Website: www.e-laws.gov.on.ca

5.12 Key Terms and Definitions

Administrative penalties
A penalty assessed by the FSRA for less serious contraventions of or failures to comply with the *MBLAA*

Authorized name
The name authorized to be used by FSRA. Typically, this is the name found on a licensee's license

Borrower
The individual responsible for the receipt and repayment of mortgage proceeds

Complaint
A disagreement or statement of dissatisfaction with a brokerage or Administrator. Both must have policies and procedures in place to deal with complaints.

Compliance
Conforming to the *MBLAA* and its *Regulations*

Corporation
A legal business entity created under federal or provincial statutes

Cost of borrowing
The *MBLAA* defines the cost of borrowing as "the interest or discount applicable to the mortgage; any amount charged in connection with the mortgage that is payable by the borrower to the brokerage or lender; any amount charged in connection with the mortgage that is payable by the borrower to a person other than the brokerage or lender, where the amount is chargeable, directly or indirectly, by the person to the brokerage or lender, and; any charge prescribed as included in the cost of borrowing, but does not include any charge prescribed as excluded from the cost of borrowing. It must be disclosed as either a percentage or in dollars and cents depending on the disclosure requirements of the *Regulations*."

Deemed trust funds (also see trust funds)
Funds that are deemed to be payable to another party. These funds must be kept in a separate trust account.

Designated class of lenders and investors
A term used to describe specific lenders and investors that may be exempt from certain requirements under *Regulation 188/08, section 2.(1)* which states,

> "2. (1) For the purposes of this Regulation, a person or entity is a member of a designated class of lenders and investors if the person or entity is a member of any of the following classes:
> 1. The Crown in right of Ontario, Canada or any province or territory of Canada.
> 2. A brokerage acting on its own behalf.
> 3. A financial institution.
> 4. A corporation that is a subsidiary of a person or entity described in paragraph 1, 2 or 3.
> 5. A corporation that is an approved lender under the National Housing Act (Canada).
> 6. An administrator or trustee of a registered pension plan within the meaning of

subsection 248 (1) of the Income Tax Act (Canada).

7. A person or entity who is registered as an adviser or dealer under the Securities Act when the person or entity is acting as a principal or as an agent or trustee for accounts that are fully managed by the person or entity.
8. A person or entity who is registered under securities legislation in another province or territory of Canada with a status comparable to that described in paragraph 7 when the person or entity is acting as a principal or as an agent or trustee for accounts that are fully managed by the person or entity.
9. A person or entity, other than an individual, who has net assets of at least $5 million as reflected in its most recently-prepared financial statements and who provides written confirmation of this to the brokerage.
10. An individual who, alone or together with his or her spouse, has net assets of at least $5 million and who provides written confirmation of this to the brokerage.
11. An individual who, alone or together with his or her spouse, beneficially owns financial assets (being cash, securities within the meaning of the Securities Act, the cash surrender value of a life insurance contract, a deposit or evidence of a deposit) that have an aggregate realizable value that, before taxes but net of any related liabilities, exceeds $1 million and who provides written confirmation of this to the brokerage.
12. An individual whose net income before taxes in each of the two most recent years exceeded $200,000 or whose net income before taxes in each of those years combined with that of his or her spouse in each of those years exceeded $300,000, who has a reasonable expectation of exceeding the same net income or combined net income, as the case may be, in the current year and who provides written confirmation of this to the brokerage.
13. A person or entity in respect of which all of the owners of interests, other than the owners of voting securities required by law to be owned by directors, are persons or entities described in paragraphs 1 to 12. O. Reg. 188/08, s. 2 (1)."

Disclosure
The act of making something evident. There are several disclosure requirements mandated by the *MBLAA* and its *Regulations* with relation to a mortgage being recommended to a borrower, investor or lender by a brokerage.

Disclosure form
A form, prescribed or otherwise, used to provide disclosure to a borrower, lender or investor, as the case may be, in accordance with the *MBLAA* and its *Regulations*

Errors and omissions insurance
Insurance that provides coverage for errors or omissions made by a brokerage, broker, agent or Administrator. This insurance must contain a provision for fraud.

Financial guarantee
A requirement under the *MBLAA* in regard to Mortgage Administrators requiring licensees to have at least $25,000 in unimpaired working capital or in another form as approved by FSRA.

Financial Services Tribunal
An independent, adjudicative body that hears appeals of regulatory decisions by the FSRA

FSRA
The Financial Services Regulatory Authority of Ontario (formerly FSCO). As of June 8, 20198, this is the regulatory body that oversees the mortgage brokerage industry and enforces the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (formerly the *Mortgage Brokers Act*), as well as several other industries and Acts.

Guarantees
In regard to the *MBLAA*, a promise to pay. Guarantees are prohibited under several circumstances including a brokerage, broker, agent or Administrator guaranteeing payment from a borrower to an investor.

Investor (also see Lender)
An individual or entity lending money using a mortgage as security

Lender (also see Investor)
An individual or entity lending money using a mortgage as security

Licensure
Permission granted by an agency of government to an individual to engage in a given profession or occupation

Limited Partnership
An association of two or more partners formed to conduct a business jointly and in which one or more of the partners is liable only to the extent of the amount of money they have invested

MBLAA
The abbreviation of The *Mortgage Brokerages, Lenders and Administrators Act, 2006*, the legislation regulating the activities of mortgage brokerages, lenders and Administrators

Mortgage administrator
An individual or entity that enforces payments by borrowers on behalf of lenders or investors. Mortgage Administrators must be licensed.

Mortgage agent
Individuals who are remunerated for dealing in mortgages or trading in mortgages in Ontario, as employees or otherwise. Mortgage agents are restricted in their abilities by the *MBLAA* and its *Regulations* and must be supervised by a licensed mortgage broker. Mortgage agents must be licensed.

Mortgage broker
Individuals who are remunerated for dealing in mortgages or trading in mortgages in Ontario, as employees or otherwise. A mortgage broker may hold the position of principal broker and may supervise licensed mortgage agents. Mortgage brokers must be licensed.

Mortgage brokerage
Corporations, partnerships, sole proprietorships and prescribed entities that carry on the business of dealing in mortgages, trading in mortgages or lending money on the security of real property

Partnership
A type of business entity in which partners (owners) share with each other the profits or losses of the business undertaking in which all have invested

Policies and Procedures
A policy is a plan or course of action, while a procedure is a step by step process on how to perform a certain task. Under the *MBLAA,* brokerages and Administrators must have a set of documents that describe an organization's policies for operation and regulatory compliance, and the procedures necessary to fulfill the policies

Principal broker
A title held by the licensed mortgage broker responsible for ensuring that the brokerage, and all brokers and agents comply with the requirements of the *MBLAA*, including ensuring that any contraventions of the *Act* are dealt with, and that the brokerage has the proper policies and procedures in place to ensure that all brokers and agents are adequately supervised and that they comply with every requirement under the *MBLAA*. There may be only one principal broker per brokerage who must be identified to FSRA.

Proprietor
A sole owner of an unincorporated business, also called a sole proprietor

Public register of licensees
A registry required to be maintained by FSRA that provides access to licensee information

Public relations
As defined in *Regulation 188/08*, any advertisement by the brokerage in connection with its business as a brokerage that is published, circulated or broadcast by any means, or any material that a brokerage makes available to the public in connection with its business as a brokerage.

Regulated activities
As defined by the *MBLAA*, any activities that require a license which are currently listed as dealing or trading in mortgages and mortgage lending

Simple referral
A term used to describe the act of referring a potential borrower to a potential lender, or vice versa. This person does not need to be licensed if he or she informs the other party, in writing, that a fee will be received for the referral, the nature of the relationship between the parties, and as long as the only other information provided is the name, address, telephone number, fax number, email address or website address of the individual being referred.

Sole proprietorship (also see Proprietor)
A sole owner of an unincorporated business, also called a proprietor

Standards of Practice
Regulation 188/08, which applies to mortgage brokerages, *Regulation 187/07*, which applies to mortgage agents and brokers, and *Regulation 189/08*, which applies to mortgage administrators constitute the Standards of Practice under the *MBLAA*. These *Regulations* detail the business rules that licensees must follow to comply with the *MBLAA* and its *Regulations.*

Trade completion date
Regulation 188/08 defines the trade completion date as the earlier of:
a) the date on which an investor, or a brokerage on behalf of an investor, enters into an agreement to trade in the mortgage, or
b) the date on which the trade in the mortgage is completed.

Trust account
A bank account held by a brokerage or Administrator for the purposes of keeping money held on behalf of clients separate from the funds of the professional or her business

Trust fund (or account) reconciliation
A written record of all deemed trust funds received, and all transactions relating to the funds, summarized and checked for accuracy.

Trust funds (also see deemed trust funds)
Funds that are deemed to be payable to another party. These funds must be kept in a separate trust account.

Vendor take-back (VTB)
Where the seller of the property provides all or some of the financing to the purchaser in order to sell the property. The arranging of a VTB by a real estate salesperson is an exempted activity under the *MBLAA* as long as certain conditions are met.

5.13 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

True or False Questions

1. As of January 2009, a brokerage must disclose to a borrower if one of its agents will receive a fee from a lender in connection with the mortgage renewal.

2. Borrowers are entitled to the following information, only if they ask: brokerage name and license number.

3. It is a good idea for a brokerage to have a complaints process, but this is not required by law.

4. The FSRA has the authority to refuse to grant a license to a brokerage if the FSRA thinks the name might confuse the public with another existing brokerage.

5. A sole proprietorship must establish its eligibility for licensure as a mortgage brokerage whereas a corporation does not.

6. Under certain circumstances, the FSRA may suspend a broker's license without warning.

7. No changes may be made to the *Regulations* without going through the formal process of receiving Royal Assent.

8. The Financial Services Commission is only concerned with one sector, the mortgage brokerage industry.

9. Standards of Practice are guiding principles that businesses are encouraged to implement.

10. Regulatory decisions by the FSRA are final, based on the powers conferred upon the position.

11. As per the *MBLAA*, there are currently three different licenses in the mortgage brokerage industry.

12. The FSRA (or its designate) may visit a brokerage within the FSRA registry to examine documents and records.

13. The principal broker designation was created by the *MBLAA* to address compliance issues within the brokerage.

14. The role of the brokerage may be defined as "taking steps, on behalf of another person or entity, to enforce payment by a borrower under a mortgage."

15. A mortgage agent may work only for one brokerage whereas a mortgage broker may be employed by several brokerages at the same time.

Short Answer Questions

1. What are the educational requirements to obtain a mortgage agent's license?

2. What is/are the difference(s) between a mortgage agent and mortgage broker?

3. Describe the duties and responsibilities of the principal broker.

4. What administrative penalties may be imposed on a brokerage, broker or agent?

5. What is the difference between an offence under the *MBLAA* and an administrative penalty?

6. List the circumstances in which an individual would be deemed unsuitable to be granted a mortgage broker's license.

7. Describe the complaints policy that a brokerage must have to comply with the *MBLAA* and its *Regulations*.

8. What information must be included in every public relations item?

9. List the items that must be disclosed to a borrower in a disclosure document.

10. What amount of errors and omissions insurance must a brokerage have to comply with the *MBLAA*?

11. What is the amount of time that records of a mortgage transaction are required to be kept by the brokerage?

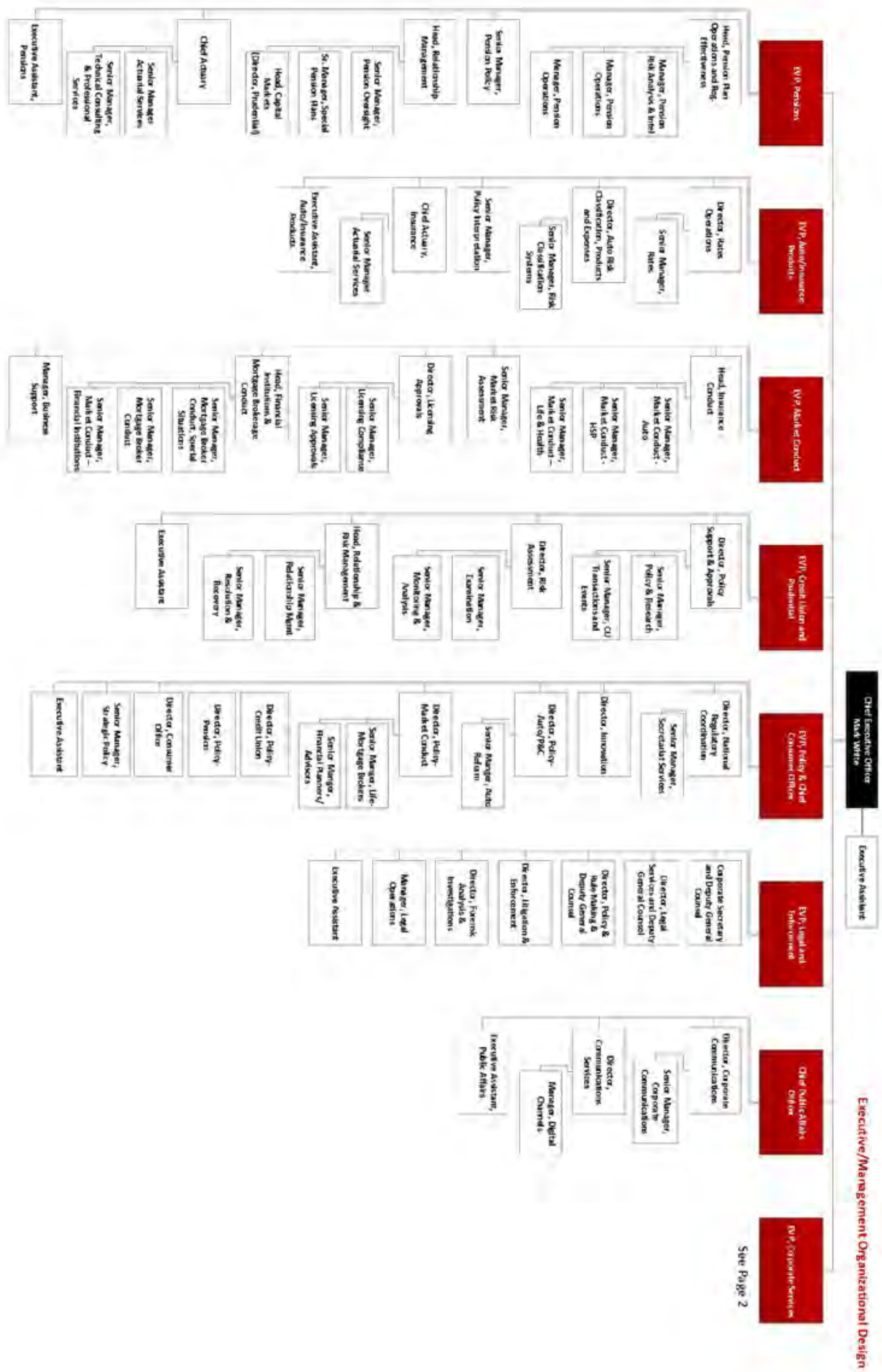
12. What types of funds must be deposited into a trust account?

13. What information must be provided to a potential private lender before he or she can commit to funding a mortgage?

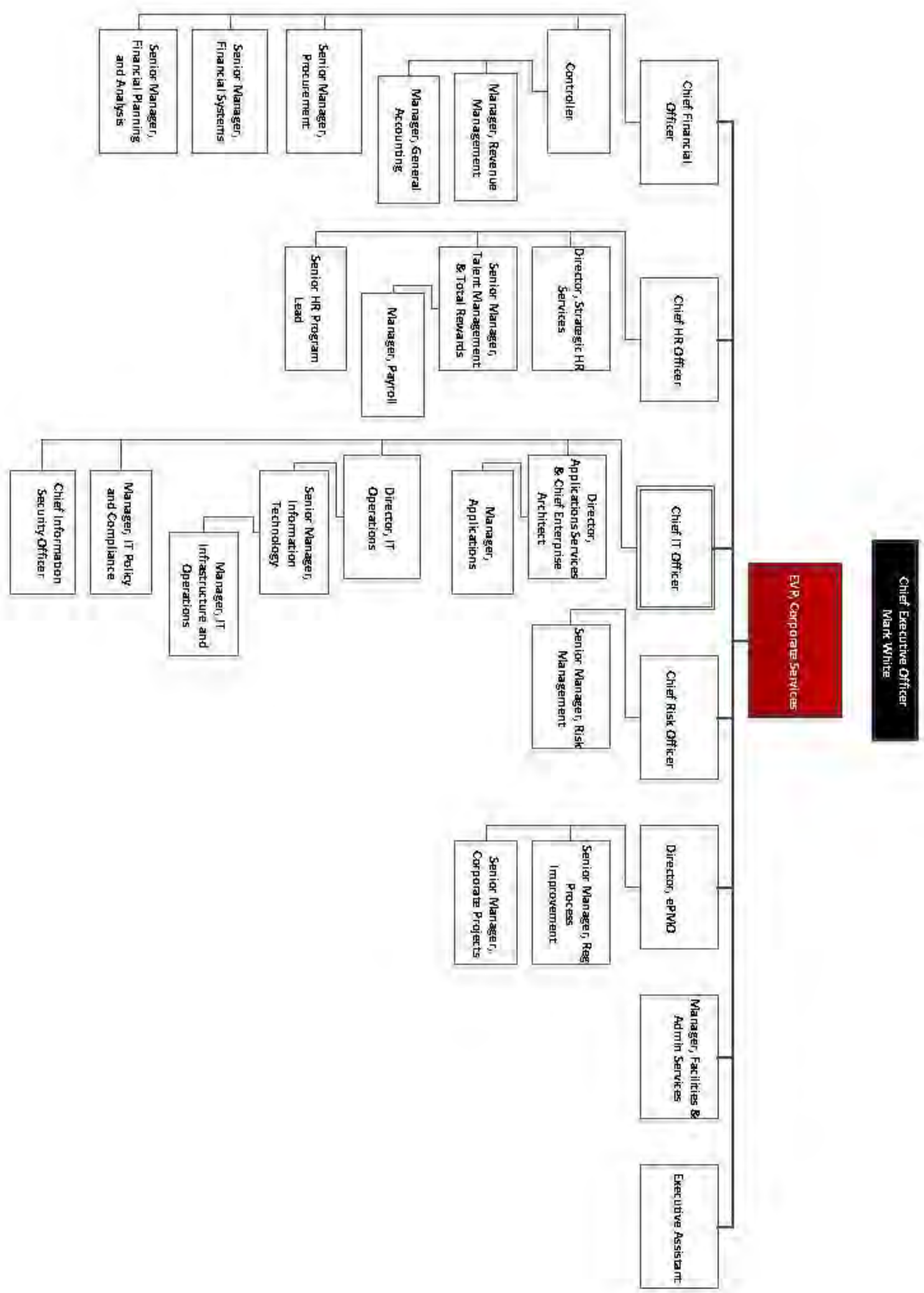
14. What titles (i.e., broker, agent, etc.) must/can be used by brokers and agents in advertising materials?

Appendix 1: FSRA Organization Chart as of November 8, 2019

Figure 18 – FSRA Organization Chart as of November 8, 2019[5]



[5] FSRA, http://www.fsrao.ca/media/566/download



Chief Executive Officer
Mark White
EVP, Corporate Services
Chief Financial Officer
Controller
Manager, Revenue Management
Manager, General Accounting
Senior Manager, Procurement
Senior Manager, Financial Systems
Senior Manager, Financial Planning and Analysis
Chief HR Officer
Director, Strategic HR Services
Senior Manager, Talent Management & Total Rewards
Manager, Payroll
Senior HR Program Lead
Chief IT Officer
Director, Applications Services & Chief Enterprise Architect
Manager, Applications
Director, IT Operations
Senior Manager, Information Technology
Manager, IT Infrastructure and Operations
Manager, IT Policy and Compliance
Chief Information Security Officer
Chief Risk Officer
Senior Manager, Risk Management
Director, ePMO
Senior Manager, Reg Process Improvement
Senior Manager, Corporate Projects
Manager, Facilities & Admin Services
Executive Assistant

Chapter 6: Transaction Overview

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Explain who the clients are in a brokered transaction
- ❑ Discuss the role of the agent as advisor
- ❑ Explain the expectations that are made by the borrower and lender
- ❑ Summarize the steps in a brokered transaction

Introduction

Brokering a mortgage in Ontario can be both financially and personally rewarding, when done properly. The mortgage agent will obtain the appreciation of the borrower and receive handsome remuneration at the completion of the transaction.

However, like any profession, ours has a set of standard procedures that must be followed to achieve successful completion of a transactio6 n. This chapter will discuss the mortgage agent's role in the process and the basic steps in the transaction. Regardless of whether you are a licensed mortgage agent or licensed mortgage broker, the process of brokering a mortgage is the same.

6.1 Who is the Client?

Brokering a mortgage transaction involves several key participants in the mortgage industry. Before the process of brokering a mortgage transaction, can be examined, it is important to answer a basic question: Who is the client?

Let us begin answering this question by revisiting the definition of a mortgage agent as discussed previously.

Mortgage Broker / Agent

A practicing professional who assesses a borrower's financial goals with respect to real estate financing and after detailed analysis provides solutions to meet those goals by acting as an intermediary with the appropriate lending source. In determining the "appropriate lending source," two facts are assumed: one, that the client is appropriate for the lender and two, that the lender is appropriate for the client.

Therefore, by this definition a mortgage agent has two clients: the borrower and the lender. Let's explore this further by describing in more detail why the lender and borrower are both clients.

Borrower

A mortgage agent finds the appropriate lender for his or her borrower; therefore, the borrower is obviously a client. Mortgage agents promote that they will obtain the best mortgage for a borrower, implying that they work *for* the borrower. While in some cases a mortgage agent will charge a fee directly to the borrower, in the vast majority of cases agents are compensated by the lender in the form of a finder's fee or commission. This could potentially result in a mortgage agent getting a borrower a mortgage with a lender because the lender pays a higher finder's fee and not because it is in the best interests of the borrower.

If, however, the mortgage agent follows the definition of a mortgage agent illustrated above as well as adheres to the four borrower expectations in the section entitled, "The Role of the Mortgage Agent as Advisor," the mortgage agent will undoubtedly act in the best interests of the borrower in all cases.

Lender
Once a mortgage agent has decided on the most appropriate lender for his or her borrower, the agent must ensure that the borrower meets all of the lender's guidelines. In other words, the agent must ensure that the borrower is appropriate for that lender. Therefore, since the agent has a duty to the lender, the lender is also the client, whether or not the lender is paying the agent a finder's fee or commission, or the agent is charging a fee directly to the borrower.

6.2 The Role of the Mortgage Agent as Advisor

Why do lenders deal with mortgage agents?

You might think that since the mortgage agent finds the borrower, the lender doesn't have to pay the costs associated with obtaining that borrower, such as advertising and marketing, having branch offices, etc., and therefore dealing with mortgage agents is more profitable for a lender. While that is certainly the case, it is only true when mortgage agents meet the following set of basic expectations. If a broker fails to meet these expectations, then the lender will most likely stop dealing with that broker since the brokered transactions will become unprofitable.

Lender Expectations

These expectations can be summarized as:

1. Provide borrowers who are suitable for the lender
2. Provide appropriate protection against fraud
3. Facilitate the transaction to its successful completion (funding).

These three expectations form the cornerstone of the relationship between the lender and the brokerage community.

The best way to ensure that these expectations are consistently met is to adopt them as core values or philosophies that are applied to every transaction.

To meet these expectations, they must first be explained.

1. Providing borrowers that are suitable for the lender
The lender's first expectation is that the mortgage agent will only send an application on behalf of a borrower that fits the lender's lending criteria. Lending criteria include such things as income and employment requirements, property requirements, credit requirements and so on. This means that the mortgage agent must know and understand the lender's lending criteria and be able to accurately assess the borrower to determine if they meet those criteria.

Unfortunately, a typical lender complaint is that some mortgage agents send them applications for products that they do not have. This type of error can erode the confidence that lenders have in the brokerage community.

2. Providing appropriate protection against fraud
Lenders have been suffering from an increase in mortgage fraud over the past several years. Although not technically a mortgage agent's legal responsibility, it is a mortgage agent's ethical and moral responsibility to make reasonable attempts to protect the lender from fraud.

In many brokerages' set of Best Practices it is deemed necessary for the mortgage agent to review all documentation received from the borrower for accuracy and consistency. This means identifying any signs of potential fraud, such as poorly written or typed income verification as well as verifying income and identity.

More information on fraud prevention can be found in the chapter, Mortgage Fraud.

3. Facilitating the transaction to its successful completion
A lender expects that a mortgage agent has submitted an application to that lender because he or she has determined that lender to be the most appropriate for the borrower. In addition, the lender expects that, if approved, the mortgage transaction will close. That requires the mortgage agent to ensure that the borrower is committed to completing the transaction and understands what is required of him or her to conclude it.

A lender also expects that a mortgage agent will be available to assist in ensuring the transaction closes if there is anything that the mortgage agent is required to accomplish such as meeting outstanding conditions.

The mortgage agent's other client, the borrower, also begins by having a set of expectations in regard to the mortgage agent.

Borrower Expectations

These expectations can be summarized as:
1. Act in the borrower's best interests
2. Completely analyze the borrower's needs
3. Make appropriate recommendations based on the borrower's needs
4. Facilitate the transaction to its successful completion (funding).

These four expectations form the cornerstone of the transaction. By ensuring that these expectations are met, the mortgage agent will develop a strong relationship with the borrower and ensure that the industry as a whole is well represented.

The best way to ensure that these expectations are consistently met is to adopt them as core values or philosophies that are applied to every transaction.

To meet these expectations, they must first be explained.

1. Act in the borrower's best interests
The borrower's first expectation is that the mortgage agent will at all times act in the best interests of the borrower. This expectation is crucial to the borrower and is vital to the success of the transaction. Acting in the best interests of the borrower can best be defined as putting the borrower's needs and concerns first and foremost above others involved in the transaction, limited only by ethical, moral and legal restrictions.

This has the effect of ensuring that the mortgage obtained for the borrower is both financially *best* for them and suits their other needs and goals, such as providing prepayment privileges that the client believes are important to them, a term that that best reflects their goals, and so on.

The philosophy of always doing what is best for the client differs from always doing what is *suitable* for the client. For example, mortgage agents have made the case that if a borrower has poor credit, they may deserve a mortgage; however, they may not deserve the best rates.

Example
Brian was referred to a mortgage agent, Cynthia, by a past client who felt that Cynthia had provided excellent service and advice. Brian has explained to Cynthia that he has had credit problems in the recent past. After taking Brian's application and performing the required analysis, Cynthia has determined that she can obtain a mortgage for Brian from two different sources.

The first source will offer Brian a 5-year fixed rate mortgage with a rate of 6.5% compounded semi-annually over a 25-year amortization with monthly payments. The finder's fee to Cynthia would be 50 bps.

The second source will offer Brian a 5-year fixed rate mortgage with a rate of 6.55% (.05% higher than the first option) compounded semi-annually over a 25-year amortization with monthly payments. The finder's fee to Cynthia would be 75 bps. All other terms and conditions of these two mortgage options are the same.

Cynthia now has a decision to make. Which option does she offer to Brian?
Cynthia may consider that for only a .05% increase in the rate she will earn an extra $500 compared to the lower rate option. She may further believe that Brian will accept either suggestion that she makes since he was referred to her and has full trust in her.

What option should she provide to Brian?
Hopefully the decision is clear. Cynthia should offer Brian the lower rate mortgage even though the finder's fee she earns will be less because *her interests must come second to Brian's.* That is the core belief behind always acting in the borrower's best interests.

This was a fairly simple, straight forward example but it is important to point out that there are many products in the mortgage market today that will pay the mortgage agent a higher finder's fee if he or she is able to sell their client a higher rate. By subscribing to the philosophy that a mortgage agent must always do what is in the best interests of the borrower the solution is always obvious.

> ***Success Tip – Act in the best interests of the client***
> By always doing what is in the best interest of the client, you will find that your referral business increases over time. Even though you may make less money on a single transaction, you will grow your business through word of mouth referrals, resulting in increased earnings in the future. A practical reason for doing the right thing!

2. Completely analyze the borrower's needs
Taking a mortgage application and finding the right lender and product for the borrower is not possible unless the mortgage agent has detailed knowledge of a borrower's needs. This is different from simply asking the borrower what type of mortgage they would like.

To completely analyze a borrower's needs requires that the mortgage agent assist the borrower in determining what those needs are. That is an important distinction from simply having the borrower express what they believe their needs to be to the mortgage agent.

The mortgage agent must determine the other factors that are important to the borrower. Some of these factors will include:

- The borrower's risk tolerance. This can determine whether a variable rate product is suitable for the borrower.
- The borrower's intentions with regards to how long they intend to live in this home. This can determine whether a long- or short-term mortgage is suitable.
- The borrower's debt expectations. In other words, does the borrower think they may need to take equity out of their property in the future by refinancing it? This can determine whether a closed or open mortgage is suitable.
- The borrower's saving habits. This can determine whether the borrower requires more aggressive prepayment privileges.

> ***Success Tip – Service is the key***
> Differentiate yourself from your competition by providing more service. Part of this service may include a full financial check-up. Have you heard of agents completing budgets for their borrowers? Probably not, and if you had you would most likely remember them. *That is truly a differentiator!*

3. Make appropriate recommendations based on the borrower's needs
If the mortgage agent embraces the above philosophies, then this borrower expectation is a natural extension. By completing a full analysis of their needs and being determined to do what is in their best interests, the mortgage agent will make the appropriate recommendation, provided that they have the requisite knowledge to determine what that recommendation should be.

This means that, to be able to make an appropriate recommendation based on the borrower's needs, the mortgage agent must be fully versed on all of the lenders available and their products.

Not only does the mortgage agent have to be aware of products available to them, but they must also take reasonable steps to be aware of products offered through lenders not dealing with the mortgage brokerage industry. This may include major banks or any other lender. This is a critical point because a mortgage agent cannot make an appropriate recommendation if they are unaware of all of the mortgage products available to the borrower.

Taking reasonable steps to ensure that the mortgage agent has this information may seem like an overwhelming task, but it simply refers to ensuring that the mortgage agent knows products to which the borrower should have reasonable access.

Success Tip – Stay up to date on lender's products
Review lender marketing materials and communications daily to ensure that you have the most up to date information on lenders' products and attend trade shows and lender presentations whenever possible. By doing so you will be able to confidently recommend products to the borrower.

For instance, if there is a small credit union that doesn't deal with mortgage agents and only services a small, local community that has just lowered their rates for the next two weeks, a mortgage agent might not be aware of this. Nor could they be expected to be aware of this.

If, on the other hand, a major bank that does not deal with brokers has done the same, the mortgage agent should be aware of this. In this manner he or she can provide what they truly believe to be the most appropriate recommendation to the borrower.

4. Facilitate the transaction to successful completion
A borrower further expects and has the right to expect that the mortgage agent will facilitate the transaction to a successful completion. In other words, the mortgage agent will be by their side until the transaction closes.

Successful mortgage agents will advise the client of all of the steps in the transaction and stay in touch with them throughout, even when the mortgage agent is no longer involved. For example, once he or she has fulfilled the lender's conditions there is nothing else for the mortgage agent to do except wait for the transaction to close.

However, successful mortgage agents will follow up with the borrower to ensure that required appointments have been scheduled and preparations have been made. Not only will this provide the borrower with added security and peace of mind but will ensure that the mortgage agent is aware of any issues that arise, allowing him or her to assist in solving the issue before the transaction is jeopardized.

Conclusion
Some of the concepts discussed in this section may, upon closer examination of the brokerage industry, seem to go beyond what many mortgage agents deem necessary. However, by going beyond what most are doing, a mortgage agent is destined to differentiate themselves from their competition and exceed their clients' expectations.

That is truly the path to success in this industry.

Success Tip – Adopt the four borrower expectations

Adopt the four borrower expectations as your four Core Values or Philosophies and write them down. Keep them with you at all times and make certain that your clients know that you subscribe to them. In so doing you will exceed your clients' expectations in virtually every transaction.

6.3 The Steps in a Brokered Transaction

A brokered mortgage transaction has a set of typical steps. We'll begin by listing them and then describe each one individually.

1. Attracting a client
2. First contact
3. The initial consultation
4. File creation and management
5. Application analysis: Borrower income and GDS/TDS ratios
6. Application analysis: Borrower Credit
7. Application analysis: The property and LTV ratio (includes ordering an appraisal if applicable)
8. Choosing a lender
9. Submitting the application
10. Obtaining the commitment
11. Preparing disclosure documents
12. Presenting the commitment and disclosure documents
13. Meeting conditions
14. Instructing the lawyer
15. The lawyer/client meeting
16. Funding the transaction
17. File submission to the brokerage
18. Receiving commissions
19. Record keeping

The following is a description of each of these steps.

1. Attracting a Client

Attracting a client refers to any activity that result in a mortgage agent obtaining a potential borrower. This can be achieved by marketing, advertising, or referral.

2. First Contact

This is the first time that the potential borrower and the mortgage agent have contact, be it on the phone, through email or face to face.

3. The Initial Consultation

The Initial Consultation is the step in which the agent completes the borrower's application and determines the needs of the borrower. At this stage the agent has not completed a detailed analysis to determine the options available to the borrower but has a firm understanding of what the borrower wishes to accomplish.

4. File Creation and Management
The mortgage agent creates the borrower's file, typically in both paper format and using his or her origination software.

> ***Pause for clarification- Origination software***
> **Origination software** is the computer program that the mortgage agent uses to input the borrower's application. This software is designed to calculate required ratios, pull a credit bureau report, electronically submit the application to a lender, as well as provide other functions for the mortgage agent.

5. Application Analysis: Borrower Income and GDS/TDS Ratios
The mortgage agent analyses the borrower's income to determine the amount of the mortgage for which the borrower can qualify based on the available borrower documentation and the income ratios, the GDS and TDS, both of which are explained in detail in a later chapter.

6. Application Analysis: Borrower Credit
The mortgage agent will obtain a credit report using his or her origination software. The industry jargon for this is referred to as "pulling a credit report". The mortgage agent will then analyze it. This analysis will determine which lenders may approve the application.

7. Application Analysis: The Property and LTV Ratio
The mortgage agent begins a preliminary analysis of the property to determine which lender will accept this property type and the maximum loan amount that can be approved based on the value of the property, referred to as the loan to value or LTV. The LTV is explained in detail in a later chapter. Depending on the type of the transaction, an appraisal (a valuation of the property to be mortgaged) may be required.

> ***Pause for clarification - Appraisal***
> An **appraisal** is a report created by a certified appraiser (the individual conducting the appraisal) to determine a dollar value of the property and describe its condition.

8. Choosing a lender
Based on the analysis completed so far, the mortgage agent will now decide on an appropriate lender to which to submit the application. The mortgage agent requires significant knowledge regarding the numerous lenders' guidelines to determine the appropriate lender for the borrower.

9. Submitting the Application
Using the origination software, the mortgage agent electronically submits the application. If the lender cannot accept electronic submissions, the mortgage agent may be required to print the application using the origination software and fax it to the lender. There is no legal requirement on how an application is submitted to a lender. It is solely up to the lender on how it will accept a mortgage application: by email, fax, paper format or electronically via the origination software.

10. Obtaining the Commitment
If approved, the lender will send the mortgage agent a commitment letter. A commitment letter is an offer from the lender to the borrower to fund the mortgage based on the borrower's ability to meet certain conditions that are listed in the commitment letter.

11. Preparing Disclosure Documents
In every brokered transaction in Ontario, the mortgage agent must provide the borrower with a borrower disclosure. This document discloses the terms of the mortgage as well as the associated costs involved in it being obtained. Typically, this document is produced by the origination software based on the lender's commitment letter in addition to other information from the borrower's application.

12. Presenting the Commitment and Disclosure Documents
The mortgage agent must then present the commitment letter, borrower disclosure, and an amortization schedule to the borrower for signing. The mortgage agent must leave a copy of both the amortization schedule and signed borrower disclosure with the borrower. Once complete, the signed commitment letter is sent by the mortgage agent to the lender.

Pause for clarification – Amortization schedule

An **amortization schedule** is a printout of all of the mortgage payments during the term, including the amount of interest and principal per payment and the outstanding mortgage balance after each payment is made.

13. Meeting Conditions
In the lender's commitment letter, there will be a list of conditions that must be met before the mortgage can be funded. One of the many conditions may be to provide the lender with appropriate income verification. The commitment letter will typically describe what documentation is considered acceptable to the lender. It is up to the mortgage agent to advise the borrower of the conditions and assist the borrower in meeting the conditions to ensure that the mortgage is funded.

14. Instructing the Lawyer
Once satisfied that all of the conditions have been met, the lender will send instructions to the lawyer who is closing the transaction on behalf of the lender. Certain lenders will dictate the lawyer who will be used to close the transaction while others will allow the borrower to choose his or her own lawyer. It is important to note that while the borrower pays the lawyer's fee, the lawyer is actually working primarily on behalf of the lender.

15. The Lawyer/Borrower Meeting
The lawyer will contact the borrower and arrange for an appointment for the borrower to sign the closing documents at the lawyer's office. The lawyer will also inform the borrower of the documents required to be brought with the borrower to this meeting. Once the lawyer has completed the appropriate tasks, funds will be requested from the lender for deposit into the lawyer's trust account.

16. Funding the Transaction
Once the lawyer has completed the appropriate tasks, the mortgage will be registered, and the funds will be disbursed by the lawyer from the lawyer's trust account.

17. File Submission to the Brokerage
Before an agent will receive his or her commission the completed mortgage file must be submitted to the brokerage for a compliance review. This will ensure that the transaction complied with applicable legislation and that all appropriate documents are in the file. The brokerage will then store this file. Based on legislation the regulator has the right to inspect these files for compliance.

18. Receiving Commissions
Upon receipt of the required documentation from the lawyer indicating that the transaction has been successfully funded, the lender will forward the finder's fee or commission to the brokerage. This fee must be payable to the mortgage brokerage. Under no circumstances can this fee be paid to the mortgage agent or broker.

In the case where there is no finder's fee, the mortgage agent will have charged the borrower a fee for arranging the mortgage. This fee is typically taken from the mortgage advance on closing and is sent to the mortgage agent's brokerage by the lawyer. The mortgage agent's brokerage will then pay the mortgage agent the finder's fee based on the contract that the mortgage agent has with the brokerage.

19. Record Keeping
By Regulation the brokerage is required to keep certain documentation on file for a set number of years. These files may be periodically audited by FSRA. It's also a good practice for the agent to make electronic copies of the file documents and keep them securely stored in case needed in the future.

6.4 Key Terms and Definitions

Advertising
A paid, controlled message through a non-personal medium. Types of advertising include publicity, public relations, product placement, sponsorship, and sales promotion.

Advisor
An expert who provides objective advice. A mortgage agent, for example, acts as an advisor to a borrower.

Application
A form used to record information about a potential borrower's state of affairs, including financial, credit and employment

Budget
An estimate of income and spending

Commission (from a lender)
A commission or fee paid to a mortgage brokerage by a lender. This fee is usually based on a certain number of basis points multiplied by the mortgage amount.

Commission (from a brokerage)
The amount paid to the broker or mortgage agent who completed the transaction. This is typically based on a percentage of the commission or finder's fee paid by the lender to the mortgage brokerage.

Commitment letter
A document illustrating an offer by a lender to a borrower, including the terms and conditions of that offer

Conditions (relating to a Commitment Letter)
These are the requirements of the lender that must be met before the mortgage will be funded

Disclosure documents
These are the documents prescribed under the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (formerly the *Mortgage Brokers Act*) that must be provided to the borrower (and the investor in the case of a private transaction) before the mortgage can be funded. These documents include the Investor / Lender Disclosure for Brokered Transactions, the Investor / Lender Disclosure Statement for Brokered Mortgages on Renewal, and the borrower disclosure.

Finder's fee
A commission or fee paid to a mortgage brokerage by a lender. This fee is usually based on a certain number of basis points multiplied by the mortgage amount.

Marketing
Presenting products or services to potential customers in a fashion that positively promotes the product or service and makes customers eager to buy or use those products or services

Referral
A client or customer who has been advised by a third party to use the product or service of another

Remuneration
A payment or reward provided to someone for a product or service rendered

6.5 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Discuss the expectations that lenders make regarding their business dealings with a mortgage agent.

2. Discuss the expectations that borrowers make regarding their expectations of a mortgage agent.

3. If a finder's fee is 85 bps, how much would a lender pay the mortgage brokerage on a $350,000 mortgage transaction?

4. Discuss the positives and negatives of creating a budget for the borrower.

5. What step(s) in the mortgage transaction do you feel is/are the most important and why?

Chapter 7: Insurance in the Mortgage Industry

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Explain the purpose and benefits of mortgage default insurance
- ❑ Discuss the history of CMHC and the introduction of mortgage default insurance in Canada
- ❑ Describe the current programs offered by default insurers
- ❑ Discuss the benefits of mortgage creditor and life insurance
- ❑ Describe the differences between mortgage creditor life insurance and term life insurance
- ❑ Discuss the benefits of and need for property insurance
- ❑ Discuss the benefits of title insurance
- ❑ Describe the covered and excluded risks of title insurance
- ❑ Explain the purpose and benefits of errors and omissions insurance

Introduction

Insurance and the mortgage industry have never had as significant a relationship as they do in today's mortgage market. Lenders are protected by default and title insurance while borrowers are protected by creditor/life insurance as well as property and title insurance. Mortgage agents, brokers and brokerages find their protection in errors and omissions insurance.

While the several types of insurance provide far different coverage for their respective policyholders, it is a truism that insurance is providing significant protection for a changing market, especially from the vantage point of the mortgage borrower who is more prone to mortgage fraud than ever before.

This chapter will explore the various forms of insurance available and their impact on the multi-billion-dollar Canadian mortgage industry.

7.1 Mortgage Default Insurance

What is Mortgage Default Insurance?

Mortgage default insurance is an insurance policy between the insurer and the lender that will compensate the lender for losses suffered on an insured loan. It's important to note that mortgage default insurance does not compensate the borrower.

Background

The Central Mortgage and Housing Corporation, a Crown Corporation now known as Canada Mortgage and Housing Corporation (CMHC) through the *National Housing Act, 1954* (*NHA, 1954*) established mortgage default insurance in Canada in 1954. The overriding goal of the *NHA, 1954* was to increase the supply of mortgage funds available in the mortgage market, because, as of the end of the Second World War, there was a significant increase in family formation and immigration and therefore the need for new housing. Previous legislation that attempted to meet this need was found to be insufficient and in need of reform.

The basic structure that CMHC created for default insurance is still in use today.
In 1963, the Mortgage Insurance Company of Canada (MICC), a private insurer, entered the Canadian market. The industry continued its expansion in 1973 with the formation of two other companies that eventually merged in 1978 to form the Insmor Mortgage Insurance Company.

1981 saw the merger of Insmor and MICC, with the new company retaining the MICC name. GE Capital Mortgage Insurance Canada entered the default insurance market in 1995 and in so doing acquired the mortgage insurance portfolio of MICC, leaving the market with two insurers: CMHC and GE Capital Mortgage Insurance Canada, later referred to as GEMIC. In 2005 GEMIC underwent structural changes and was renamed Genworth Financial Mortgage Insurance Company of Canada, commonly referred to as simply Genworth.

As of 2006, CMHC dominated the mortgage default insurance market, owning approximately 70% of it compared to 30% by Genworth Financial. Also, in 2006 the AIG United Guaranty Mortgage Insurance Company Canada, commonly referred to as simply AIG, the largest general insurance company in the United States, entered the Canadian market.

On April 16, 2010, a Canadian private investor group, comprised of the Ontario Teachers' Pension Plan and National Mortgage Guaranty Holdings Inc., acquired AIG United Guaranty Mortgage Insurance Company Canada. This transaction created the only 100% Canadian-owned private mortgage insurance company, known as Canada Guaranty Mortgage Insurance Company ("Canada Guaranty")

How Mortgage Default Insurance Works

As previously stated, mortgage default insurance is a policy between the insurance company, CMHC, Genworth or Canada Guaranty, and the lender. It is designed to compensate the lender if the lender suffers a loss on an insured mortgage. The insurance company charges the mortgage default insurance premium to the lender.

However, the lender typically passes that premium on to the borrower. Normally the lender will add the premium to the total loan amount and the borrower will pay it back to the lender over the life of the mortgage, however the borrower could also pay that amount in cash to the lender. This normally doesn't happen since the borrower is using all of their funds for the down payment.

If the borrower goes into default (normally by failing to make his or her mortgage payment), the lender must undertake steps to collect the defaulted payments. If the lender fails to collect these payments and has to power of sale the property, one of two outcomes will occur. One possible outcome is if the lender sells the house for more than is owing to it. In this scenario it must give that profit to the homeowner. The homeowner and the lender are then done with one another.

The other possible outcome is if the lender sells the house for less than is owing to it. In this scenario the lender suffers a loss. Since the mortgage is default insured, the lender can now make a claim to the insurance company to recover that loss. The insurance company then pays the lender and therefore the lender has no longer suffered a loss. In return for paying the claim, the lender assigns any debts payable to it by the borrower to the insurer.

In other words, the money that the lender was owed by the borrower is now owed to the insurance company. The insurer may then take legal action against the borrower to recover the claim that it paid to the lender. If you ever happen to see CMHC, Genworth or Canada Guaranty as a creditor in a bankruptcy proceeding or a consumer proposal, it is most likely because of this type of situation.

Benefits to the lender
Allows the lender to make loans in excess of 80% loan to value and recover insured losses by making a claim to the insurer.

Benefits to the borrower
Allows the borrower to receive a high ratio mortgage with favourable terms and a favourable interest rate.

Default Insurance Programs

The following sections on CMHC, Genworth and Canada Guaranty detail their current default insurance programs available through today's lenders. While offered by these insurers, not all lenders offer these insured products. For example, CMHC offers mortgage loan insurance products on various property types including manufactured or mobile homes and many more, including rental and retirement homes. However, not all lenders will offer mortgages for these purposes.

The information provided below is directly from the respective insurer. The current maximum loan to value for purchasing of an owner occupied property is 95% (in some cases the down payment may be borrowed, for example using CMHC's non-traditional down payment option). As of the fall of 2016 default insurance is no longer available for refinancing.

The minimum down payment requirement for mortgage loan insurance depends on the purchase price of the home. For a purchase price of $500,000 or less, the minimum down payment is 5%. When the purchase price is above $500,000, the minimum down payment is 5% for the first $500,000 and 10% for the remaining portion. Mortgage loan insurance is available only for properties with a purchase price or as-improved/renovated value below $1,000,000

CMHC

The following figure illustrates the standard CMHC premiums and is provided as sample information only. Information is subject to change. Specific product information can be found at www.cmhc.ca

Figure 19 – CMHC Premiums as of November, 2019[1]

Loan-to-Value Ratio	Premium on Total Loan	Premium on Increase to Loan Amount for Portability
Up to and including 65%	0.60%	0.60%
65.01% to 75%	1.70%	5.90%
75.01% to 80%	2.40%	6.05%
80.01% to 85%	2.80%	6.20%
85.01% to 90%	3.10%	6.25%
90.01% to 95% Traditional down payment	4.00%	6.30%
90.01% to 95% — Non-Traditional Down Payment[2]	4.50%	6.60 %

Success Tip – Purchase plus improvements program

Become familiar with the ***Purchase Plus Improvements*** program. This program, offered by all three insurers, can assist real estate salespersons to sell homes that need immediate repairs that buyers might not otherwise be interested in purchasing. Help your real estate salesperson sell more homes and he or she will help you fund more mortgages!

Success Tip – 100% financing? It exists!

CMHC offers up to 95% ltv financing for the purchase of 1-2 units, but the down payment may be borrowed. This means that your client can get 100% financing on their purchase.

Genworth Financial[3]

The following figure illustrates the standard Genworth premiums and is provided as sample information only. Information is subject to change. Specific product information can be found at www.genworth.ca

[1] CMHC, http://www.cmhc-schl.gc.ca/en/co/moloin/moloin_005.cfm
[2] CMHC, https://eppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/cmhc/pdfs/factsheets/cmhc-purchase-fact-sheet.pdf
[3] Genworth Financial, www.genworth.ca

Figure 20 – Genworth's Standard Premium as of November, 2019[4]

Standard Premium Rate Chart			Includes the following products
LTV	Premium Rate	Top-up Premium	• Homebuyer 95 Program • Borrowed Down Payment Program* • Family Plan Program • Progress Advance Program • New to Canada Program • Purchase Plus Improvements Program • Vacation/Secondary Home Program (Type A) Note: For Borrowed DP Program to 95% ltv the rate is 4.50% and portability/top-up is 6.60%
Up to 65%	0.60%	0.60%	
65.01% - 75%	1.70%	5.90%	
75.01% - 80%	2.40%	6.05%	
80.01% - 85%	2.80%	6.20%	
85.01% - 90%	3.10%	6.25%	
90.01% - 95%	4.00%	6.30%	

Canada Guaranty

The following figure illustrates the standard Canada Guaranty premiums and is provided as sample information only. Information is subject to change. Specific product information can be found at www.canadaguaranty.ca

Figure 21 - Canada Guaranty Standard Premiums as of November, 2019[5]

Canada Guaranty Premiums						
	Standard Premium Chart		Low-Doc Advantage™ (Self-employed)		Rental Advantage™	
Loan-to-Value Ratio	Single	Port Top-up	Single	Port Top-up	Single	Port Top-up
≤ 65%	0.60%	0.60%	1.50%	3.00%	1.45%	3.15%
65.01 - 75%	1.70%	5.90%	2.60%	6.50%	2.00%	3.50%
75.01 - 80%	2.40%	6.05%	3.30%	7.00%	2.90%	4.30%
80.01 - 85%	2.80%	6.20%	3.75%	7.50%		
85.01 - 90%	3.10%	6.25%	5.85%	9.00%		
90.01 - 95%	4.00%	6.30%				
Flex 95 Advantage™	4.50%	6.60%				

[4] Genworth Financial, http://genworth.ca/en/lenders/premium-rate-table.aspx
[5] Canada Guaranty, https://www.canadaguaranty.ca/downloads/CG_Premium_Rates_handout_March_17_2017_En.pdf

Default Management Programs (also known as "workout options")

Both CMHC and Genworth Financial provide mortgage default management programs that are designed to assist borrowers who get into financial difficulty and have trouble making their scheduled mortgage payments.

Typically, these programs are provided through the lender in conjunction with the insurer and are designed to provide a solution. These options can include:

- Special Payment Arrangements
  A lender may make arrangements with the borrower to recover payment arrears over the shortest period, as long as it is within the borrower's financial ability. For example, with a CMHC policy a lender may do this with amounts up to $10,000 *without* CMHC's prior approval.
- Reamortization
  A lender may increase the amortization of a mortgage when the default is due to the payments no longer being affordable for the borrower. For example, with a CMHC policy a lender may extend the amortization up to 30 years *without* CMHC's prior approval.
- Capitalization
  This procedure allows the lender to add the amount of arrears to the loan amount. For example, with a CMHC policy, a lender may increase the loan amount up to $20,000 one time during the borrower's ownership *without* CMHC's prior approval.
- Other options
  Lenders may have additional options that can be approved by the insurer before implementation.

More information may be found on the insurers' websites or by contacting them directly.

7.2 Mortgage Creditor and Life Insurance

What is Mortgage Creditor Insurance?

There are two types of mortgage creditor insurance.

- The first is typically a life insurance policy provided to a borrower by an institutional lender.
- The second is a life insurance policy provided to a borrower through a third party, such as the Mortgage Protection Plan (MPP), which is not affiliated with an institutional lender

Both types of mortgage creditor insurance are designed to pay the institutional lender upon death of the insured.

Lender's Mortgage Creditor Insurance

This type of insurance is obtained by the borrower from the lender, usually in the branch of the lender when they apply for the mortgage. This type of policy is very convenient for the borrower to obtain and the insurance premium is usually included in the mortgage payment, making it virtually invisible to the borrower. This type of policy offered by lenders is a group policy, meaning that all borrowers are lumped together in the same category. For example, smokers and non-smokers alike are combined in the same age category, often resulting in premiums that may not accurately reflect the condition of the borrower's health.

In addition, this type of insurance is post underwritten, meaning that the borrower simply has to answer three basic health questions in the application for coverage. If the borrower answers no to all of the questions, he or she is typically approved. If the borrower answers yes to any of the questions, he or she must supply additional details along with the application. The lender may then decide what steps, if any, must be taken for it to approve the borrower's application for insurance.

If the borrower dies and a claim is made by the borrower's spouse, estate, etc., the insurance company will then underwrite the application. This means that the insurance company will now review how those three questions were answered and research the borrower's past medical records to ensure that the answers were answered accurately. If they were not, the insurer may decline to pay the claim. If a borrower decides to switch lenders at some point, the borrower will then have to reapply for insurance with the new lender. This could result in higher premiums due to the borrower's increased age and/or changes in his or her medical condition.

The coverage provided by mortgage creditor insurance is also a factor to consider. This type of policy is often referred to as declining term insurance. This means that the amount of the coverage declines as the outstanding balance of the mortgage is repaid by the borrower. However, the premiums remain constant. Regarding continued coverage, mortgage creditor insurance will typically expire when the mortgage is paid off or when the borrower reaches 70 years of age, resulting in a loss of coverage for the policy holder.

Finally, mortgage creditor insurance has only one beneficiary: the lender. This simply means that whatever the financial needs of the survivor(s), the insurance pays the lender, not the surviving family member(s).

Third Party Insurance

In comparison, the Mortgage Protection Plan, which insures over 110,000 people for life insurance and in excess of 40,000 for disability insurance is portable, meaning that this policy can be taken with the borrower to a new lender.

The Mortgage Protection Plan's characteristics vary from typical mortgage creditor insurance by including a total disability option, being independent of the lender, and offering a 60-day refund on premiums if the policy holder decides to cancel his or her policy.

This type of plan is only available through a mortgage agent, so the average borrower does not have access to it.

What is Life Insurance?

In this section, term life insurance, which is a life insurance policy that is in force for a contracted number of years at which time it then comes up for renewal, will be referred to as life insurance. This type of insurance contrasts with whole life insurance that requires the insured to make payments for a set number of years, however the coverage continues for the entirety of the policyholder's life. This insurance is often more expensive than term insurance and is not similar enough to mortgage creditor insurance for an accurate comparison.

Life insurance is a policy purchased by an individual that will pay his or her beneficiaries in the event of death of the insured. This type of policy is designed to replace the financial value of the person who passed away and coverage is normally related to income, not debt. Life insurance can only be obtained through a licensed life insurance broker or agent and part of the process is determining the amount of coverage required based on the individual's unique set of circumstances. This may result in the policyholder requiring more insurance than would otherwise be provided by mortgage creditor insurance.

Life insurance is pre-underwritten, meaning that the individual policy holder must go through a health questionnaire that allows the insurer to determine if coverage is warranted and to set the premium based on the individual, not a group. This is referred to as pre-underwriting as opposed to mortgage creditor insurance that is post-underwritten.

The net result is that the policyholder can be assured that upon death the insurer will pay his or her claim quickly. In essence, a life insurance company has two years from the date of approval to dispute a policyholder's claim on their insurance application. If they do not the insurance company no longer has any recourse, meaning that the insurer cannot refuse to pay the insured's claim.

Life insurance has level premiums that are valid for the term of the policy and the amount of coverage remains constant. When the policy comes up for renewal the premium will most likely increase, unless the policyholder has improved medically. Normally this is not the case and even if it were, the policyholder would now be older and require higher premiums due to age.

Success Tip – Partner with a professional

Partner with a ***qualified life insurance professional*** and make him or her your insurance representative. Tell your client that "your insurance representative" will contact them to discuss their insurance needs. You will assist your clients and get referral business from your insurance representative. A great way to grow your business!

Mortgage Creditor Insurance vs. Term Life Insurance

The following figure provides a visual comparison between mortgage creditor insurance and term life insurance.

Figure 22 – Mortgage Creditor vs. Term Life Insurance

	Mortgage Creditor Insurance	**Term Life Insurance**
Underwriting	Post-underwritten	Pre-underwritten
Convenience	Quick and easy to qualify	May require medical investigation, lengthening the process
Portability	None	Independent of a lender
Premiums	Level	Level
Amount of Initial Coverage	Determined by the amount of the mortgage	Determined by the insured
Protection on default/illness	If the borrower defaults or cannot make his or her mortgage payment, the insurance will cease as the	As long as the insured can pay the insurance premium, the insurance will continue, regardless of whether the

	insurance is tied to the mortgage payment	mortgage payment cannot be made.
Amount of Continuing Coverage	Decreases	Constant
Expiry	When the mortgage is paid or upon transfer to a new lender	At the end of the term
Beneficiaries	Lender	Named by the insured
Number of Death Benefits	One, the outstanding balance of the mortgage	If two homeowners are insured and there is a common disaster where both are killed, two death benefits are paid.
Speed of Claim Payment	Can take up to several months due to insurer investigation	Paid within days

What insurance is best for your Client?

The general consensus is that term life insurance is a better option for the borrower than mortgage creditor insurance for several of the reasons noted above. However, better coverage is only applicable when the term insurance is in force. On average, only about 20% of mortgage agents' clients actually take mortgage creditor insurance. Quite often, this is due to the borrower indicating that he or she currently has adequate insurance or that he or she feels that insurance is not required under his or her circumstances. Since the mortgage agent is not a licensed life insurance representative, he or she cannot determine whether those statements are accurate.

In addition, even if the borrower indicates that he or she will take term life insurance instead of mortgage creditor insurance, the borrower may not see a life insurance agent quickly enough to ensure that there is adequate insurance in force as soon as the mortgage begins. In many cases the borrower simply forgets or puts off seeing the life insurance agent and ends up not being properly insured.

One option to ensure that the client is properly protected is to suggest that the borrower take the insurance provided by the Mortgage Protection Plan or the creditor life insurance policy and then meet with a life insurance agent at his or her convenience. While this does not address the issues noted earlier regarding the differences in coverage, it does ensure that the borrower is covered immediately. Another sound business practice is to obtain the borrower's permission to have your insurance agent (an insurance agent that you know and trust) initiate the contact with the borrower. This reduces the potential of the borrower forgetting or neglecting to contact an insurance agent on his or her own.

In addition, current legislation requires that the mortgage agent or broker offer insurance to the borrower. If the borrower declines, the agent or broker should have the borrower sign a waiver declining the insurance. This will protect the agent or broker if at some point in the future there is a question as to whether the insurance was ever offered. This can be especially important if a homeowner dies during the mortgage and a spouse or other survivor sues the mortgage agent or broker for not offering insurance during the application phase.

These steps are of vital importance. They will ensure that, if the borrower dies, his or her family will be adequately protected, which should be an overriding concern for every mortgage agent.

7.3 Property Insurance

What is Property Insurance?

Property insurance is a policy of insurance that provides coverage for the homeowner against covered risks.

Why is it necessary?

Basic insurance to cover the replacement of the building (normally the house) and other structures on the property is vital to lenders and is a requirement of the Standard Charge Terms. This insurance protects the insured against loss, and by extension protects the lender's security for the loan. Lenders require that the insurance policy have a provision that assigns the proceeds first to the lender. The lender can then decide whether to replace the building, which is typical, or use the proceeds to pay off the mortgage.

If the borrower fails to pay the insurance premium the lender has the right to pay the premium on the homeowner's behalf or replace the policy (some insurance companies will not accept a premium payment from anyone but the insured). The homeowner owes the lender the costs involved in either instance.

Types of Insurance

Home insurance
This type of policy is for the homeowner and is designed to protect not only the physical building, but all the things in the homeowner's house as well. A standard house insurance policy will ensure that if something like fire, vandalism or theft occurs the homeowner will be protected and his or her valuables will be replaced. It is also possible for a homeowner to be held liable for accidents that people have while on the property which necessitates the need for liability insurance.

Most home insurance policies carry standard coverage. The following list summarizes this coverage.

- Building Coverage
  All risk coverage insures the building for the most common types of losses. When there is All Risk coverage in place, the building is insured for everything, unless it is specifically excluded from the policy (e.g., intentional damage to the property by the owner would not be covered).

- Named-Perils Coverage
  This includes a list of the most common types of things covered under the insurance policy. Named-Perils include fire, theft and water damage. Everything is listed very clearly in the policy contract, so the policy owner has a complete and thorough understanding of what the insurance policy covers. Named-Perils building coverage is very rare since it limits the amount of coverage.

- Contents
  All-risk contents coverage insures belongings inside the house for the most common types of losses. When the policy owner has All Risk coverage, the contents are insured for everything, unless it is specifically excluded from the policy.

A standard house policy provides for the Actual Cash Value (ACV) replacement of belongings. This means that the policy owner only receives the value of the item, less depreciation. For example, if the policy owner purchased a TV 5 years ago for $1,500, he or she might only get $500 for it if it was destroyed in a fire. Even though it may cost $1,800 to replace that same TV today, the insurance would still only give the policy owner $500.

Many people choose to add the Replacement Value option to their content's coverage. Replacement value coverage means that the contents of the policy owner's house are insured for the amount it costs to replace them. When the owner replaces the item with a similar kind and quality, within a specified time, the insurer will pay what it cost to replace the item, not what it was actually worth in its used state. This means if a 5-year-old TV was lost in a fire, the owner would get the full amount it would cost to replace it, even if that is more than was originally paid for the TV.

- Detached Private Structure
  This type of coverage applies to structures that exist on the property but are not connected to the primary residence. For example, a detached garage could be included under this coverage.

- Additional Living Expenses
  If the owner is forced to leave the house because of a loss, this coverage pays for reasonable and necessary expenses to temporarily live away from home. Hotel and food costs are the type of expenses that would be covered under such circumstances.

- Personal Liability
  Liability is a legal responsibility. Liability Insurance provides protection from having to pay damages to people, if the owner has been found responsible for unintentionally injuring them or damaging their property.

Example
If someone is injured on the insured's property, the owner may be responsible for damages. For example, if someone slips on the front steps of this property, breaks an arm, and cannot go to work, the owner could be held responsible for the person's lost wages. This insurance coverage would pay the injured person those damages up to the policy's maximum covered amounts.

Another benefit of liability insurance is that it protects the policy owner anywhere in the world. For example, if the policy owner was golfing and his or her golf club accidentally flew out of his or her hands, and struck and injured another player, liability insurance would cover this accident.

- Voluntary Payments for Medical Expenses
  This covers medical costs if someone accidentally injures him or herself as a result of your personal activities or the way you have maintained your building. It also covers injuries experienced by resident employees, such as nannies or housekeepers, while working for you.

You don't have to be found liable to make a claim under this coverage, but some limits do apply and may be different from company to company.

- Voluntary Payments for Damage to Property
  The accidental physical damage to the property of others is covered. This may occur as a result of personal activities or the way the policy owner's building is maintained or used. Pets or animals that are owned or cared for by the policy owner may also cause damage. This type of coverage would also include the intentional acts of other insured individuals under a certain age (set by the individual provider).

- Rental Loss Insurance
  In the case where the insured property is being used as a rental, it is prudent to obtain this type of addition to the standard policy. This addition (or rider as it is referred to) will protect the insured against loss of income due to covered perils. For example, if the home burns down, the standard policy will cover its replacement. However, if it was being used as a rental, the standard policy will not cover replacing the lost income from the renter while the property is being rebuilt. This insurance coverage does.

Condominium Insurance
When a purchaser buys a condominium, the purchaser owns the "unit" and a share in the common areas of the condominium -- the roof, basement, elevator, heating room, lobby, swimming pool, parking garage, etc. An owner may be held responsible for harm caused to any part of the building or to others who live or visit the condominium complex. A condominium insurance policy can remove some of the financial worries of condominium ownership.

This insurance policy provides coverage for the owner's personal property, structural improvements to the unit and additional living expenses if the owner is the victim of fire, theft, or other disaster listed in the policy. The owner will get liability protection to protect him or her from harm caused to any part of the building or to others who live in or visit the condominium complex. An important feature of this insurance policy is loss assessment. The condominium owner shares responsibility with others in the building for common property. Loss assessment protects the owner from damage to these common areas.

A "master policy" is purchased and provided by the condominium board. This covers the common areas shared with others in the building like the roof, basement, elevator, heating room, lobby, swimming pool, parking garage, etc. for both liability and physical damage.

Sometimes the condominium corporation is responsible for insuring the individual condominium as it was originally built, including standard fixtures. In this case, the condominium unit owner would only be responsible for insuring personal property as well as any alterations the current owner or a previous owner have made to the original structure of the condominium, like remodeling the kitchen or bathtub. In other cases, the condominium corporation is responsible for insuring only the bare walls, floor, and ceiling. The owner would be responsible for insuring personal property plus things like the kitchen cabinets, built-in appliances, plumbing, wiring and bathroom fixtures.

Limitations In House Insurance, Condo Insurance or Tenants Insurance Policy Coverage
With standard house insurance, condo insurance or tenants insurance policies there are limitations regarding theft coverage for jewellery, furs, silverware, business property, bicycles,

money, etc. If the homeowner owns any of these items, he or she would be required to purchase additional insurance to cover them.

Paying a House Insurance, Condo Insurance, or Tenants Insurance Deductible
When an insured makes a claim, the homeowner always pays a small portion of the claim, while the insurance company pays the rest. The portion paid by the homeowner is called the deductible. The amount of the deductible affects the price of the insurance policy. The higher the deductible, the less the cost of the insurance premium.

7.4 Title Insurance

What is Title Insurance?

Title insurance is a policy of insurance that provides coverage for the title-related risks associated with real estate transactions. It is designed to cover the unpredictable or undetectable issues such as forgery, fraud, missing heirs, etc. that can affect rights of ownership. Because it is insurance, a title insurance policy moves the risk associated with title from the homebuyer, the lending institution or the lawyer, to the title insurer.
If there is a problem with title that only becomes known after closing, the title insurer may rectify the problem or compensate the title insurance policyholder, provided the type of problem that surfaces is covered by the title insurance policy.

Types of Policies

Title Insurance policies can typically be broken down into two basic categories:

- **Lender Policy**
  This policy is normally taken at the request of the lender upon closing of a refinancing transaction. These policies may provide coverage to both the lender and the homeowner, which is recommended.
- **Homeowner's Policy**
  This policy is normally taken by the new homeowner when purchasing a property; however, title insurance can be purchased at any time during the homeowner's ownership of the property.

A Title Insurance policy typically **protects** against the following risks:

- Defence of title
- Fraud and forgery (including title fraud, the registration of a fraudulent mortgage, etc)
- Unenforceability of the insured mortgage
- Defects that would have been revealed by an up to date Survey
- Errors in the Survey
- Legal services, including lawyer negligence, lawyer fraud, lawyer death, disbarment or retirement
- Defects in title such as liens, executions, adverse claims, encroachments, unregistered easements, mortgages and other encumbrances
- Unmarketability of title
- Hydro, tax, water and gas arrears
- Executions against prior owners
- Condominium status certificates

- Septic system violations
- Work orders, non-conforming zoning
- Restrictive covenants
- Municipal work orders and permits
- Unregistered hydro easements
- Other risks covered by the policy.

A Title Insurance policy will typically **not protect** against the following risks:
- Title issues that arise *after* the policy date that were not present *before* (other than fraud and other covered risks)
- Title defects that the homeowner was aware of and to which the homeowner agreed
- Title defects that the homeowner was aware of and about which the homeowner did not inform the insurer
- Environmental hazards, unless noted on title
- Legality or rents
- Fire retrofit compliance
- Costs of moving fences or boundary walls
- Losses from failing to make a claim in a timely fashion
- Other exclusions included in the policy.

Solicitor's Opinion on Title vs. Title Insurance – A Comparison

Pause for clarification – "Solicitor's Opinion on Title"
A "Solicitor's Opinion on Title" is a report by the lender's real estate lawyer outlining the condition of the title of the mortgaged property.

The Issue	Solicitor's Opinion on Title	Title Insurance
The services provided by the Solicitor	• Performs required searches on title • Facilitates the closing • Provides a Letter of Opinion on title	• Applies for a title insurance policy on behalf of the homeowner
Costs	• Legal fees • Disbursements	• Legal fees • Disbursements • Title Insurance Policy • Total costs are typically less due to fewer searches required.
Protection	• Lawyer's Malpractice Insurance which typically covers lawyer negligence	• Lawyer negligence (depending on the policy) • Title defects • Fraud, forgery • Other protection as described in Types of Policies section above

Restrictions	• Homeowner must prove lawyer's negligence • Typical coverage maximum is $1 million	• Refer to Types of Policies section above • Coverage maximum up to policy amount
Who is covered?	• Typically, only the homebuyer	• Homebuyer, buyer's spouse and children, whomever receives title upon homebuyer's death
After Closing	• Solicitor's opinion covers issues up to closing	• Based on policy coverage includes items after closing
Making a claim	• Must show Solicitor negligence • May have to sue the Solicitor • Solicitor must have valid malpractice insurance for a claim to be made	• Homebuyer makes a claim directly to the insurer for covered risks
Errors not made by the Solicitor	• No coverage as Solicitor's insurance only covers him or her	• Does not matter who makes the error as long as the risk is covered
Fraud	• No coverage	• Full retroactive coverage, including fraud committed by Solicitor
Surveys	• Generally, an up to date survey is required for an Opinion on Title	• Generally, no survey is required

The Cost of Title Insurance

Title Insurance typically costs between $500 and $600 but can go significantly higher from there depending on the type of policy, the property type and the value of the property. This is a *one-time* premium. Try the First Canadian title insurance calculator at https://quote.fct.ca/ or the Stewart Title insurance calculator at https://www.stepsonline.ca/Transaction/PremiumCalculator to estimate the cost.

Making a Claim on a Title Insurance Policy

To make a claim on a title insurance policy the insured (the homeowner) must complete a statement of loss and submit it to the title insurer promptly. The title insurer will provide assistance in completing the required documentation.

The History of Title Insurance

The first title insurance company, the Law Property Assurance and Trust Society, was formed in Pennsylvania in 1853. Title Insurance was developed in the United States and until the early 1990s was not available in Canada. Virtually all real estate transactions in the United States currently carry title insurance, while its popularity is continuing to grow in Canada.

As can be seen by the following chart, the popularity of title insurance has risen dramatically over the past decade, increasing from $148 million in premiums in 2007 to over $281 million in 2015, while premiums themselves have only increased by an average of $50[6]. The percentage of losses has fluctuated over the past nine years, with the highest rates of losses made just after the mortgage market collapse in 2007. However, it is of note that 2015 represented the third highest rate of loss in this nine-year period.

Figure 23 – Title Insurance – Net Premiums and Net Losses[7]

	Net premiums earned	Net losses incurred	Loss ratio%
2007	$148,067,000	$37,833,000	25.55
2008	$200,528,000	$66,185,000	33.01
2009	$183,862,000	$56,302,000	30.62
2010	$201,608,000	$48,552,000	24.08
2011	$213,048,000	$48,132,000	22.59
2012	$218,243,000	$47,721,000	21.87
2013	$240,590,000	$50,262,000	20.89
2014	$256,507,000	$74,167,000	28.91
2015	$281,766,000	$86,195,000	30.59

Providers of Title Insurance

As of 2019, there are currently five Insurance companies licensed in Ontario to provide title insurance[8]:

- Chicago Title Insurance Company
- FCT Insurance Company Ltd (First Canadian Title)
- Lawyer's Professional Indemnity Company (LawPro)
- Stewart Title Guaranty Company
- Travelers Guaranty Company of Canada

Success Tip – Suggest title insurance to your clients

Every homeowner can benefit from the protection that ***title insurance*** provides against fraud. Contact your past clients and suggest that they take out a policy. And don't forget to ask them about their current financing needs; they may need to refinance their mortgage or consolidate debt. Another way to increase your business *now*!

[6] FSCO, https://www.fsco.gov.on.ca/en/insurance/Documents/aoda-residential-title-insurance-2015.pdf,
[7] Canadian Underwriter, Statistical Issue 2012, page 51 and Statistical Issue 2016, page 47, www.canadianunderwriter.ca
[8] FSCO, http://licensingcomplaintofficers.fsco.gov.on.ca/LicClass/eng/lic_companies_class.aspx

7.5 Errors and Omissions Insurance

What is Errors and Omissions Insurance (E&O)?

Errors and Omissions insurance is an insurance policy that covers the professional from claims made against him or her due to negligence in the form of errors committed in a transaction. Insurance policies prior to 2008 did not have a fraud provision. Therefore, if the mortgage agent was to commit fraud and the borrower suffered a loss, he or she could not receive compensation from the broker's errors and omissions policy.

Under the *Mortgage Brokerages, Lenders and Administrators Act, 2006* it is mandatory that all licensed brokerages have a policy in place that not only protects against errors and omissions but fraud as well. The purpose behind this requirement is to bring the brokerage community in line with other professions and provide protection for consumers.

The brokerage will have a master policy with the insurer, and the brokers and agents working for the brokerage will be covered under this master policy. In other words, individual brokers and agents do not have their own policy rather they are covered under the brokerage's master policy.

Example
Alexandra, a licensed mortgage agent, made a mistake with one of her clients, Paulette. Paulette had decided to use another mortgage agent instead of Alexandra. To keep Paulette's business, Alexandra told Paulette that she was going to provide her with a free home warranty that covered such things as furnace and HVAC repairs, among others. When Paulette was signing the lender's commitment, she did not check off the box taking the lender's home warranty program because Alexandra had said she was getting a free one from her.

Alexandra never reviewed the commitment letter with Paulette, so she never saw that Paulette waived the lender's home warranty program. Unfortunately, this was a misunderstanding. The lender's free home warranty was the one that Alexandra was referring to when she told Paulette about it, but since Paulette waived it, she was never enrolled. Six months later Paulette's furnace broke down and Paulette was told it would cost $8,000 to repair it. Not knowing what to do, Paulette called Alexandra. Alexandra told her to call the lender to make a claim.

When Paulette called the lender, she was told that there was no policy. Once Paulette figured out what had actually happened, she decided to sue Alexandra since Alexandra made the mistake. In this case the E & O provider settled the lawsuit before it went to court, paying for Paulette's furnace repairs.

Errors & Omissions Insurance Requirements[9]

As FSRA states, "All mortgage brokerages and administrators are required by law to carry errors and omissions (E&O) insurance in a form approved by the FSRA, with extended coverage for fraudulent acts. This E&O insurance must cover a minimum of $500,000 in respect of any one

[9] FSCO, https://www.fsco.gov.on.ca/en/mortgage/eoinsurance/Pages/default.aspx

occurrence and $1 million in respect of all occurrences in a given year. The legal requirements about E&O insurance are in *Ontario Regulations 188/08* and *189/08* under the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (*MBLAA*).

The FSRA has approved the policies of several E&O insurance providers. For a list of these providers, including contact information, refer to FSRA's E&O insurance providers page (https://www.fsco.gov.on.ca/en/mortgage/eoinsurance/Documents/approved-eo-providers.html)

Since E&O insurance is a licensing requirement, the law requires all mortgage brokerages and administrators to have E&O insurance at all times, whether or not they are doing business, without exception. If a mortgage brokerage's or administrator's E&O insurance policy is cancelled or not renewed FSRA must be immediately notified. Failure to comply with this requirement may result in an administrative monetary penalty and/or revocation of the licence."

7.6 Key Terms and Definitions

Approved lender
A lender approved by CMHC

Beneficiary
The person or entity who receives the payment of the amount of insurance after the death of the insured. Creditor insurance names the lender as the beneficiary.

Business for self
Another term for an individual who is self-employed

Capitalization
The act of adding mortgage arrears or other costs associated with a mortgage to the principal amount. For example, capitalizing a lender's fee means that this fee would be added to the mortgage principal and amortized.

Chattel loan/mortgage
A purchaser borrows funds for the purchase of movable personal property (the chattel) from the lender. The lender then secures the loan with a mortgage against the chattel.

Claim
A legal action to obtain money, property or the enforcement of a right protected by law against another party. An insurance claim is a claim made under the terms of the insurance contract.

CMHC
Canada Mortgage and Housing Corporation (CMHC), created through the *National Housing Act, 1954* (*NHA, 1954*) established mortgage default insurance in Canada in 1954 and is the largest provider of default insurance in Canada.

Common areas
Common areas are the areas of a condominium building that are common to all unit owners, but not owned by them. For example, a swimming pool, gym, etc. Each unit owner pays a monthly fee to maintain these areas.

Condominium
The whole collection of individual home units along with the land upon which they sit. Individual home ownership is composed only of the air-space within the boundaries of the home, as defined by a document known as a Declaration, filed on record with the local governing authority.

Condominium corporation
A Corporation without share capital, created under the *Condominium Act* for the purposes of administering the operation, maintenance and repair of the common elements and assets of the condominium. The Corporation is guided by a Board of Directors consisting of the building's unit owners.

Condominium status certificate
A document containing information regarding the operational, legal, and financial status of the

condominium corporation. This document can contain the declaration, by-laws, rules and regulations, insurance information, reserve fund balance, other financial disclosures, legal description of the unit and management contract (if applicable). It may also include information about any legal filings or judgments against the condominium. A buyer should always review the status certificate.

Deductible
In relation to an insurance contract, this is the insured's share of the claim. The insured pays the deductible and the insurance company pays the remainder of the claim.

Default management
Programs in place by mortgage default insurers that allow the lender to assist the borrower in resolving mortgage arrears

Depreciation
Depreciation refers to the fact that certain assets, normally physical assets, can lose value over time. The amount of depreciation is calculated based on an item's original purchase price or economic value, its anticipated life expectancy and its residual value at a future point in time.

Disbarment
A revocation of a lawyer's ability to practice law

Disbursements
Amounts payable. In mortgage financing, disbursements typically relate to amounts paid from the mortgage proceeds.

Down payment
An amount of a purchaser's money provided to the vendor from his or her own resources (not included in a mortgage loan). Under certain programs this amount may be borrowed.

E&O (Errors and omissions insurance)
Insurance that provides coverage for errors or omissions made by a brokerage, broker, agent or Administrator. This insurance must contain a provision for fraud.

Easement
A right for the benefit of the dominant tenement over that of the servient tenement that is normally registered on title. Easements have several legal requirements and will "run with the land," or be passed from owner to owner.

Encroachments
When a piece of real property hangs from one property over the property line of another's. The structure that encroaches might be a tree, garage, fence, part of a building, or other fixture.

Environmental hazards
Any situation or state of events which poses a threat to the surrounding environment. This may be caused by chemicals leaking into the soil, ruptured gas tanks at a gas station, etc.

Executions
A "Writ of Execution" filed with the sheriff in the district in which the debtor lives or owns land.

This allows a plaintiff who has successfully obtained a judgment against a debtor in court to enforce the judgment.

Extended amortization period
An amortization that exceeds the standard amortization of 25 years

Fire retrofit
The *Municipal Act* and *Planning Act* permit one apartment in most detached houses, semi-detached houses and some types of row houses as long as minimum health and safety requirements can be met. The requirements for fire safety in such units are regulated under one of two provincial regulations, either the Building Code or Section 9.8 of the Fire Code. The requirements for a legal second unit can be summed up with these four points: there must be a fire separation between each unit; there has to be a way for occupants to escape from each unit; each unit must have smoke alarms; the units must meet electrical safety standards.

Grossing up taxable income
The process of adding deductions originally taken from an individual's income back to that income

Group policy
An insurance policy that groups together certain policyholders based on general criteria

Home Buyers' Plan (HBP)
A program that allows a first-time home buyer to withdraw up to $35,000 in a calendar year from his or her registered retirement savings plans (RRSPs) to buy or build a qualifying home. A first-time home buyer is considered to be an individual who has not owned real property within four years prior to purchasing the current property.

Home insurance
Insurance to protect the home owner against covered risks and perils

Insurance policy
A policy that, in return for the payment of a premium or premiums, provides insurance coverage to the insured

Liability
An obligation of an individual or other entity to compensate for past occurrences that have caused injury or loss to another

Lien
Security against a property, either real or personal, for a debt

Life insurance
A policy of insurance that provides financial compensation to a beneficiary upon the death of the insured

Malpractice insurance (Lawyer's)
Insurance that provides coverage for acts of negligence or malpractice by a lawyer. This will compensate the injured party.

Master insurance policy (Condominiums)
Typically found with condominium buildings, this policy outlines the coverage for the entire building.

Mobile home / Manufactured home
A large trailer or transportable prefabricated structure that is situated in one particular place and used as a permanent living accommodation.

Mortgage Brokerages, Lenders and Administrators Act, 2006
The legislation that governs the mortgage brokerage industry in Ontario. This legislation is enforced by FSRA and replaces the previous *Mortgage Brokers Act.*

Mortgage Brokers Act
The legislation predating the *Mortgage Brokerages, Lenders and Administrators Act, 2006.* This legislation governed the mortgage brokerage industry in Ontario until July 1st, 2008 and was enforced by FSRA.

Mortgage creditor insurance
Insurance that provides coverage to the insured so that, in the case of the insured's death or other covered risk, payment is made to the lender

Mortgage creditor life insurance
Insurance that provides coverage to the insured so that, in the case of the insured's death or other covered risk, payment is made to the lender

Mortgage default insurance
An insurance policy which protects the insured (the lender) against losses suffered by the default of the borrower

Mortgage fraud
The deliberate omission of information, use of misstatements or misrepresentations to obtain, purchase or fund a mortgage loan

National Housing Act
The legislation that created mortgage default insurance in 1954

Non owner-occupied property
A property that is rented

Non-permanent resident
Non-permanent residents (NPRs) are persons who have been legally granted the right to live in Canada on a temporary basis under the authority of a temporary resident permit, along with members of their family living with them

Owner-occupied property (O/O)
A property that is occupied by the owner

Portability
The ability to transfer something such as a mortgage or insurance to another property, or

transfer mortgage creditor insurance coverage to another lender

Premium
An amount paid in return for insurance coverage

Principal residence
The place in which an individual normally resides

Private insurer
A non-governmental insurance company

Property insurance
Insurance that protects the insured against losses to the property due to fire and other covered perils

Reamortization
The process of changing the amortization on a current mortgage

Refinance
The process of paying off a current mortgage and replacing it with another

Rental property
A property used solely for the process of renting to generate income for the owner

Replacement value
The cost to replace an item in today's dollars

Restrictive covenant
A restriction of use placed on title of the servient tenement for the benefit of the dominant tenement

RRIF
A Registered Retirement Income Fund (RRIF) is a fund purchased by an individual from a carrier. It is purchased using money from an RRSP, a PRPP, an RPP, an SPP, or from another RRIF. The carrier then makes payments to the owner of the RRIF. A lender can use RRIF income as part of a borrower's income for qualification purposes.

RRSP
A Registered Retirement Savings Plan is a savings plan that is registered with Canada Revenue Agency and allows the individual to defer taxes, generally until retirement.

Second home
A second home is a vacation property such as a cottage or other property, not used as a principal residence. It is possible to get a 95% ltv mortgage to purchase a second home, as long as it is owner occupied or for family members to live rent-free (other conditions do apply). The Home Buyers Plan is not eligible for this type of purchase.

Self-directed RRSP
A type of RRSP (Registered Retirement Savings Plan) whose owner determines the asset mix

held in the trust

Self-employed borrower
A mortgage borrower whose income is derived from self-employment activities

Septic system
A domestic wastewater treatment system (consisting of a septic tank and a soil absorption system) into which wastes are piped directly from the home. Bacteria decompose the waste, sludge settles to the bottom of the tank, and the treated effluent flows out into the ground through drainage pipes.

Solicitor's Letter of Opinion
A report by the lender's real estate lawyer outlining the condition of the title of the mortgaged property

Survey
A document that determines the boundaries of a property. More information can be found at the Association of Land Surveyors, https://www.aols.org/faq/2002-09-26-15

Tenant
An individual renting a property

Term life insurance
A life insurance policy with a specified term or amount of time that the policy will be in place

Title
A term that refers to the ownership of a property. If something is registered "on title" it means that it is officially registered against the ownership of the property through the Land Titles Office, where property ownership is recorded

Title defects
Any problem that "clouds" the property's title. A title defect can be a lien, a person or entity that may have had interest in the property and never surrendered it, or any number of other situations making the title less than perfect

Title insurance
An insurance policy that provides protection against errors in title such as survey errors, zoning infractions and property encroachments. It can also protect the homeowner against fraud.

Underwriting
The process that a product or service provider uses to assess the eligibility of a customer to receive its products such as mortgage financing, insurance or other credit to a consumer

7.7 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. How has mortgage default insurance improved the mortgage market?

2. Who are the current mortgage default providers in Ontario?

3. What is/are the main benefits of mortgage default insurance to a) the borrower? b) the lender?

4. How can a borrower currently in default be assisted by the lender and the mortgage default insurer?

5. How does title insurance benefit a) the borrower? b) the lender? c) the real estate lawyer?

6. What type of insurance would you suggest to a purchaser of a condominium?

7. When was title insurance first introduced?

8. Discuss the main differences between mortgage creditor life insurance and term life insurance.

9. Which companies are currently licensed to provide title insurance in Ontario?

10. Without errors and omissions insurance, what might the consequences be to a mortgage broker who commits an error and is sued by a client?

Chapter 8: Calculating a Mortgage Payment

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Describe the components of a mortgage payment
- ❑ Calculate the payment required to repay a mortgage based on different interest rates, mortgage amounts, payment frequencies and amortization periods

Introduction

A mortgage is considered cash flow. A borrower receives a lump sum of cash from the lender and repays it over time.

From the lender's perspective the lender purchases a stream of payments with a balloon payment (the outstanding balance) due at the end of the term. For example, if a lender lends a borrower $500,000 the lender expects to receive a stream of payments in return for that loan. That stream of payments will contain a portion of the $500,000 lent, referred to as the principal, as well as the appropriate amount of interest for each payment. In the lender's point of view the interest is its income for lending the cash.

From the borrower's perspective the borrower receives a lump sum of cash and must repay it via a stream of payments (referred to as the mortgage payments) that contain both principal and interest. In the borrower's point of view the interest is the cost of borrowing the cash.

In today's mortgage brokerage industry, virtually all mortgage agents use mortgage origination software. This software performs the calculations required to determine a borrower's mortgage payment and various other financial components of a mortgage without the broker having to perform these calculations manually.

However, as today's mortgage agent is a professional, it is necessary for him or her to know more about the financial components of a mortgage than the average consumer. By doing a simple search on the internet, a consumer can find numerous different types of online mortgage calculators that will calculate a payment, accelerate a payment, provide an amortization schedule, calculate prepayment penalties and so on.

Therefore, to know more than the average consumer in today's information age, the mortgage agent must have a solid understanding of how a mortgage payment is calculated, including the effects that changing different components of a mortgage have on the mortgage payment.

We illustrate the process to calculate a mortgage payment using several different methods: the HP10BII, Sharp EL-738 and Texas Instruments BAII Plus calculators as well as the old-fashioned way; algebra.

You can also use the internet to find thousands of online mortgage calculators. In addition, once you are licensed you will have access to software that can calculate these payments for you, so you won't need to use a calculator. However, knowing how to use a calculator can be a great back up if you don't have access to software or online resources. You only need to know one of these methods, but all are here so that you have a choice.

8.1 The Components of a Mortgage Payment

We will begin our journey of calculating a mortgage payment by analyzing the different components of a payment. There are six components present in each mortgage payment, and without 5 of them a mortgage payment cannot be calculated. They are:

1. Present Value (PV)
For the purposes of mortgage finance, the present value is the monetary value of a loan at a specific point in time. Typically, the present value is the total loan amount (the total amount being borrowed) and is used when calculating the mortgage payment required to repay either the interest only (as discussed in chapter 3), or both the interest and principal.

2. Future Value (FV) (and Outstanding Balances)
For the purposes of mortgage finance both the future value and outstanding balance is the monetary value of a loan at a future point in time. The main difference is simply that the future value is the value of the mortgage as an asset to the lender, while the outstanding balance is what is owing at a point in time by the borrower. For our purposes the future value and outstanding balance will typically be the same number.

The future value will be the same as the present value in an interest only mortgage (as discussed in chapter 3), and it will be an amount less than the present value in a partially amortized mortgage at the end of the term, and zero in a fully amortized mortgage. The future value is calculated by subtracting principal repayments from the present value.

In an interest only mortgage only payments of interest are made to the lender, so there is no principal reduction. This results in the future value being the same as the present value.

3. Amortization Period
The amortization period tells us how long it will take to fully repay the mortgage amount. The amortization period is expressed in years. A fully amortized mortgage is one in which there is no term, and a partially amortized mortgage is one in which there is a term.

4. Interest Rate
The interest rate tells us how much the lender is receiving in interest in return for providing the mortgage amount.

5. Compounding Frequency
The compounding frequency tells us how often the annual rate of interest compounds, which in turn tells us the precise amount of interest that is being charged. This exact amount must be known to be able to calculate the mortgage payment.

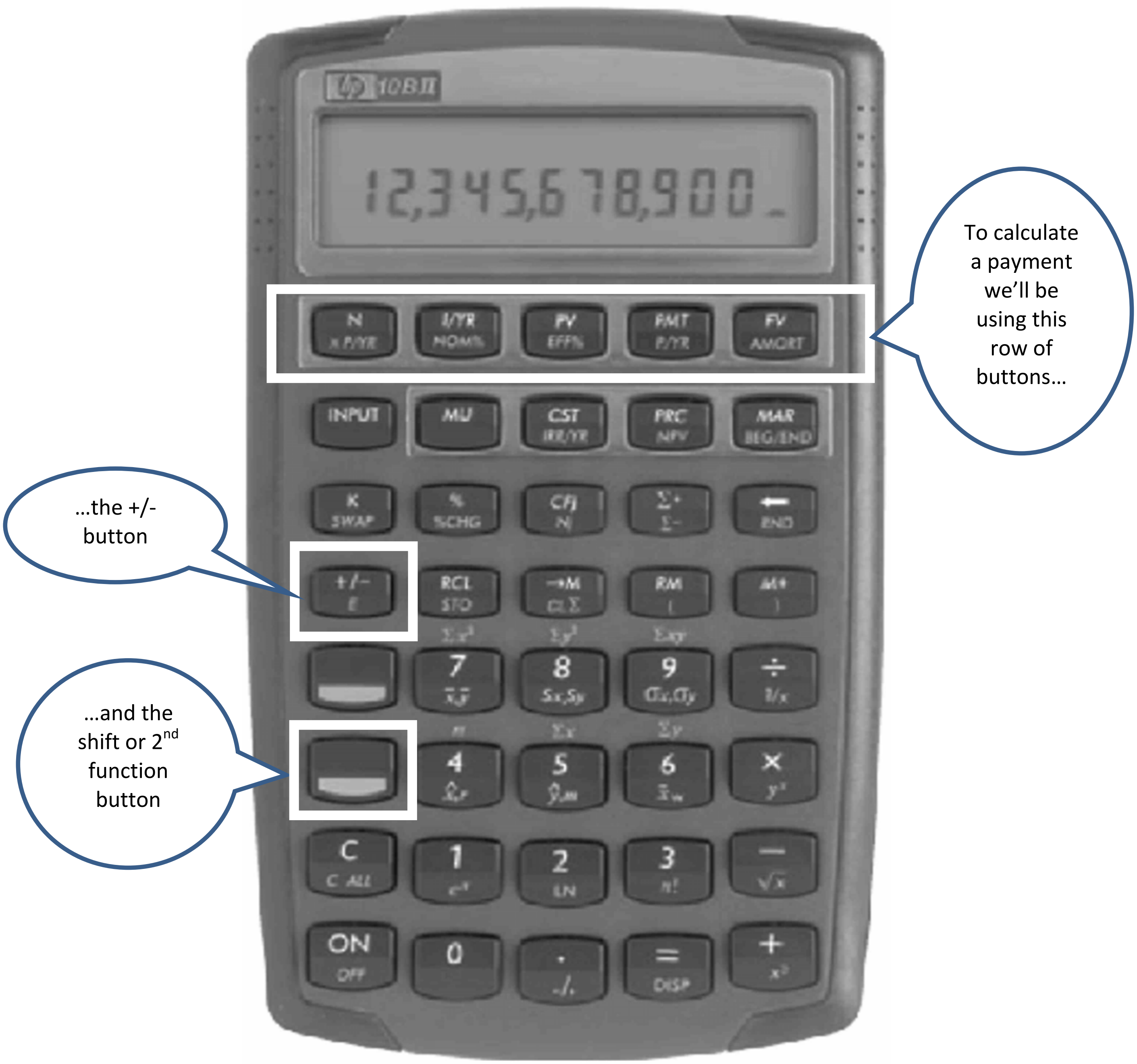
6. Payment
Once you know the previous 5 components, you can calculate the payment. The payment tells us exactly how much money is required to be paid to the lender in each payment period. A payment period would be equal to a month if the mortgage had monthly payments, a week if

the mortgage had weekly payments, and so on. In an amortized mortgage the payment consists of a blend of principal (the amount borrowed) plus interest for that particular payment period.

8.2 Using the HP10BII

The HP10BII has several functions that allow us to explain the components of a mortgage payment without having to resort to algebra to calculate a payment. The following figure is a picture of the calculator.

Figure 24 – HP10BII Calculator

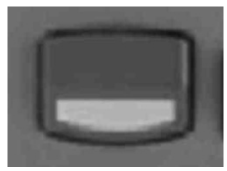


Our focus will rest primarily on the top row of the calculator, focusing on the top five buttons. A few other keys will be used as well but these five are the keys you will need to use most often.

As you can see, the top row's five buttons have white letters on the top and gold letters on the bottom. This means that these keys or buttons have two functions each. One of the key's functions is accessed by using the white portion of the button and the other by using the gold portion of the button.

To use the white portion, all the user must do is press the key. This is in contrast to using the gold portion of the key. To access this function the user must first press the second function key. This key is the third button from the lower left-hand corner of the calculator and looks like this:

Figure 25 – HP10BII Shift/2nd Function Key



As calculations are performed, each button required will be clearly indicated. Nothing will be left to chance.

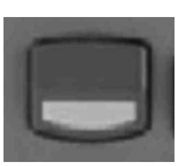
Turning the Calculator ON
The first step in our process begins with turning on the calculator. Locate the ON key at the lower left-hand corner of the calculator. The key looks like this:

Figure 26 – HP10BII ON/OFF Key

Press the ON key. Your display should now read 0.00. If it doesn't, don't worry; simply follow the rest of the directions and you will end up with the proper display.

Setting the Calculator to a Floating Decimal Place
The calculator comes pre-programmed with the display set to show a number to two decimal places. To perform mortgage calculations, a floating decimal place is required. A floating decimal place means that the calculator will display a number to however many decimal places are required without rounding the number.

To accomplish this, press the following keys:



The Shift Key to access the second function keys. Once you've pressed this key, simply press the next key.

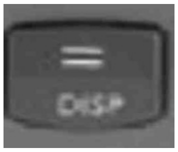


Figure 27 – HP10BII Display Key

The Display Key. This is the second function under the = sign on the button located on the bottom row, the 4th key on the right of the ON button.

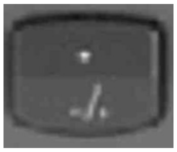


Figure 28 – HP10BII Decimal Key

The Decimal Key. This is the first function on this button. This key is located on the bottom row, the 3rd key on the right of the ON button.

Your display should now read 0 (no decimal point after the zero). If your display reads anything but a single 0 please repeat the above steps.

Your calculator is now ready to be used in the following sections.

Converting an Interest Rate with the HP10BII

Because the calculator provides the payment per compounding period, the interest rate must first be converted to its equivalent interest rate per compounding period. For example, if calculating a monthly mortgage payment when the rate for the mortgage is J2=6% without converting the rate, the calculator would produce a payment per semi-annual period. This is not the desired calculation.

Therefore, a rate conversion must first be performed to convert the semi-annual interest rate to its monthly equivalent interest rate.

To accomplish this task using the HP10BII financial calculator, the following keystrokes will be used.

Figure 29 – HP10BII NOM% Key

The NOM% button is the first key that will be used for an interest rate conversion. It is located on the top row, the second button from the left. NOM% refers to the annual rate of interest.

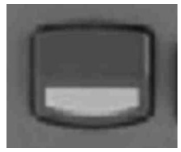
Figure 30 – HP10BII P/YR Key

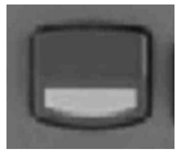
The P/YR button is the second key that will be used for an interest rate conversion. It is located on the top row, the second button from the right. P/YR refers to the number of compounding periods per year.

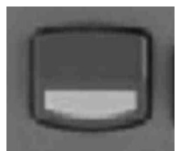
Figure 31 – HP10BII EFF% Key

The EFF% button is the third key that will be used for an interest rate conversion. It is located on the top row, the third button from the left and right (the middle button). EFF% refers to the annual rate of interest with one compounding period.

Let's look at an example to convert the interest rate of J2=6% to its equivalent J1 rate. To perform this task the following buttons will be pressed:

6  

2  

What you should now see on your display is 6.09. Remember to press the keys exactly as shown and do not press any other keys. If you have followed the above keystrokes you will get 6.09 on your display.

Pause for clarification – "E" in your display

If you ever get an answer on your calculator's display that looks similar to this:

9.1234567 E-2

this means that you must move the decimal place two places to the left, or the number of places indicated by the number following the E. In this example the actual answer would be .091234567

To ensure that you are performing the necessary steps, always write the keystrokes on paper as you complete them. It is therefore necessary to stop using pictures and begin using the appropriate notation. The following chart illustrates the process. From this point forward, the inputting will be written on the left, the keys that are pressed will be written in the middle and the displayed output on the right.

INPUT	KEYSTROKES	OUTPUT
6	SHIFT NOM%	6
2	SHIFT P/YR	2
	SHIFT EFF%	6.09

Writing the previous example would therefore look like this:

6 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 6.09

Example 1
Let's look at another example.
The interest rate is J2=4.5% and the J1 equivalent rate needs to be calculated. This problem would be solved using the following format:

4.5 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 4.550625

Therefore, the J1 rate is 4.550625%

Pause for clarification – Rounding interest rates
Interest rates are ***NEVER*** rounded. Write the entire rate as it appears on your display. Rounding the rate would have the effect of changing the rate that is charged on the mortgage.

Example 2
J2=5%, what is the J1 equivalent?

5 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 5.0625

Therefore, the J1 rate is 5.0625%.

Now that converting an interest rate to its J1 equivalent has been mastered it is necessary to take this one step further. As mentioned earlier, the calculator will provide a payment per compounding period. By converting a rate to its J1 equivalent, in other words a rate with one compounding period per year, the calculator will provide an annual mortgage payment. How many mortgage payments are annual? Virtually none! Therefore, a conversion to match the frequency of the payment must be completed.

Example 3
Bob wishes to take a mortgage that has a rate of J2=6% with monthly payments. What is the equivalent annual rate with monthly compounding?

Solution:
The following are the steps that must be completed:

STEP	KEYSTROKES	MEANING
Step 1: Input the current rate	6 SHIFT NOM%	The rate is 6% annually.
	2 SHIFT P/YR	There are 2 compounding periods per year.
Step 2: Convert to its J1 equivalent	SHIFT EFF%	This is the J1 rate. A rate must always be converted to the J1 rate before it can be converted to another frequency.
Step 3: Convert to the required rate	12 SHIFT P/YR	We input the number of compounding periods that the new equivalent rate has.
	SHIFT NOM%	We solve for the new rate.

These steps will be written as follows:

6 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 6.09

12 SHIFT P/YR

SHIFT NOM% 5.92634643744

Therefore J12 = 5.92634643744%

Example 4
Mary wishes to take a mortgage that has a rate of J2=4% with weekly payments. What is the equivalent annual rate with weekly compounding? In this example the payments are weekly which means that the rate must be converted to its weekly equivalent. Since there are 52 weeks in a year 52 must be inputted as the number of annual compounding periods.

Solution:

4 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 4.04

52 SHIFT P/YR

SHIFT NOM% 3.96203408856

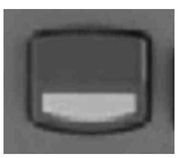
Therefore J52 = 3.96203408856%

By this point you should be comfortable performing a rate conversion. This is necessary to convert the rate stated by the lender into its equivalent rate with the same number of compounding periods as the payment frequency. If you are still having difficulty, begin this section again and complete the examples and the Review Questions on rate conversions until you are confident enough to move to the next section. These calculations are the necessary first step in being able to calculate a mortgage payment.

Calculating a Mortgage Payment with the HP10BII

Before we can use the buttons required to calculate a mortgage payment, we need to review what they are, where they are and what they look like. Take a moment to review the following chart and find the keys on your calculator.

Figure 32 – HP10BII Keys Used for Calculating a Mortgage Payment

The HP10BII Keys Used for Calculating a Mortgage Payment		
KEY OR BUTTON	**HOW IT IS WRITTEN ON PAPER**	**MEANING**
	SHIFT	Allows access to the second function of a key
	SHIFT NOM%	By pressing SHIFT first, you access the NOM% key which is where the annual interest rate is inputted.
	SHIFT P/YR	By pressing the SHIFT key, you access the P/YR key which is where the number of compounding frequencies per year is inputted.
	PMT	The PMT key represents the periodic payment. This is the last button pressed when solving for a mortgage payment.
	SHIFT EFF%	By pressing the SHIFT key, you access the EFF% which provides the J1 rate as an answer.

	N	The N key represents the number of compounding periods in total (the number of years multiplied by the number of compounding periods per year).
	+/-	The +/- key changes a value to a negative amount and is used right before the PV key.
	PV	The PV key represents the present value or the mortgage amount. It must always be preceded by the +/- key.
	FV	The FV key represents the future value. It will always be 0 when calculating a mortgage payment.

In converting an interest rate the foundation for calculating a mortgage payment has been laid. The next step is to examine the process of calculating a mortgage payment, which is outlined in the following chart.

Figure 33 – Calculating a Mortgage Payment – Keystrokes

STEP	KEYSTROKES	MEANING
Step 1: Input the current rate	SHIFT NOM%	We input the annual rate
	SHIFT P/YR	We input the compounding frequency
Step 2: Convert to its J1 equivalent	SHIFT EFF%	We convert to the J1 equivalent. We must always convert to the J1 rate before we can convert to anything else.
Step 3: Convert to the required rate	SHIFT P/YR	We input the number of compounding periods that the new equivalent rate has.
	SHIFT NOM%	We solve for the new rate.
Step 4: Input the mortgage amount	(Mortgage amount) +/- PV	We input the mortgage amount followed immediately by the +/- key, then the PV button.
Step 5: Input the number of compounding periods in total	(Number) N	We input the number of years multiplied by the number of compounding periods per year followed immediately by the N button.

Step 6: Input the Future Value	0 FV	The future value will always be zero. Input 0 followed immediately by the FV button.
Step 7: Solve for the payment	PMT	We press the PMT button and view the results on the display.

Pause for clarification – "BEGIN" in your display

If you're following the steps exactly and your mortgage payment is still off by a few dollars or cents, check to make sure that your display is NOT showing **BEGIN**. If it is your calculator is calculating interest at the beginning of the period, not the end. This is not correct. To fix this press the SHIFT key then the Beg/End key (the key on the second row from the top, far right)

Example 1

Mr. Borrower has been approved for a mortgage on his home in the amount of $200,000. The payments are monthly based on an amortization of 25 years and an interest rate of J2=6%. What is his monthly payment?

Solution:

6 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 6.09

12 SHIFT P/YR

SHIFT NOM% 5.92634643744

200,000 +/- PV

0 FV

25 X 12 N

PMT 1,279.61324735

Pause for clarification – Rounding a mortgage payment

For practical purposes **mortgage payments** are ***always*** rounded ***up*** to the ***next highest cent***. For example, a mortgage payment of $1,279.6100111 would actually be $1,279.62. Recall, however, that interest rates are *never* rounded!

Therefore, the rounded payment is $1,279.62

Example 2
Mrs. Homeowner has been approved for a mortgage on her home in the amount of $420,000. The payments are weekly based on an amortization of 30 years and an interest rate of J2=4.5%. What is her weekly payment?

Solution:

4.5 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 4.550625

52 SHIFT P/YR

SHIFT NOM% 4.45202652104

420,000 +/- PV

0 FV

30 X 52 N

PMT 488.004417673

Therefore, the rounded payment is $488.01

Success Tip - N
In the above example the amortization is ***30 years*** with ***weekly payments***. That means that you must input 30 x 52 as the N. Always remember that the N is the ***total number of compounding periods multiplied by the total number of years***.

Example 3
Malik is obtaining a second mortgage to pay off his credit card debt. He has been approved for a mortgage in the amount of $32,500. The payments are monthly based on an amortization of 15 years and an interest rate of J2=9.55% with a one-year term. What is his payment?

Solution:

9.55 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 9.77800625

12 SHIFT P/YR

SHIFT NOM% 9.36535833066

32,500 +/- PV

0 FV

15 X 12 N

PMT 336.737552619

Therefore, the rounded payment is $336.74

> ***Pause for clarification – Term's effect on a mortgage payment***
> In the above example there is a one-year term. The term does not affect the blended payment as the payment is calculated based on completely repaying the mortgage over the entire amortization period of the loan.

Calculating an Interest Only Mortgage Payment

The difference between a blended mortgage payment and an interest only mortgage payment is that an interest only mortgage payment doesn't contain any principal. That means that the amount that you borrow will be the amount that you owe at the end of the term. This also means that interest only mortgages are not amortized because there is no principal reduction.

Example 1
John is obtaining a $14,500 second mortgage from a private lender. The rate is 14.5% compounded semi-annually with monthly payments of interest only. The term of the mortgage is 1 year. Because it is an interest only mortgage there is no amortization.

Solution:

14.5 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 15.025625

12 SHIFT P/YR

SHIFT NOM% 14.08044164941

14,500 +/- PV

14,500 FV

the future value is the same as the present value because no principal is being repaid

12 N

we're using 12 N because this mortgage is for one year

PMT 170.1386699303

Therefore, the rounded payment is $170.14

8.3 Using the SHARP EL-738

Example: We are borrowing $400,000 at a rate of 6.5% compounded semi-annually (J2), with monthly payments. What is the monthly payment?

- Before using, set the calculator to display 9 decimal places by pressing SETUP 0 0 9
- After this you should see 0.000000000 on your display.

STEP	KEYSTROKES	MEANING	What you see on your display
Step 1: **Clear** the Calculator	2ndF CA	Sets the calculator to its default values	0.000000000
Step 2: Input the **number of payments** per year	2ndF P/Y 12 ENT	We tell the calculator how many payments there are annually. Monthly is 12; Bi-weekly is 26; Weekly is 52	P/Y = 12.000000000
Step 3: Input the **number of compounding periods** per year	▼ 2 ENT	Press the down arrow key first. Your display will now show C/Y= Then we input the number of compounding periods per year. For example, a semi-annual rate has 2 compounding periods. An annual rate has 1 compounding period. A monthly rate has 12 compounding periods.	C/Y = 2.000000000
Step 4: **Quit** the C/Y input	ON/C	By pressing the ON/C button we leave the C/Y input. We can now enter the rest of the mortgage information.	0.000000000
Step 4: Input the **total** number of payments in the **entire amortization**	25 X 12 = N	We input the number of years multiplied by the number of compounding periods per year followed immediately by the N button.	ANS=N 300.0000000
Step 5: Input the **mortgage amount**, known as the Present Value or PV	400000 +/- PV	We input the mortgage amount followed immediately by the +/- key, then the PV button.	(-400000)=PV -400,000.0000

Step 6: Input the annual **interest rate**	6.5 I/YR	We input the annual rate.	6.5=I/Y 6.500000000
Step 7: Input the **amount owing at the end of the amortization,** known as the Future Value or FV	0 FV	The future value will always be zero. Input 0 followed immediately by the FV button.	0=FV 0.000000000
Step 8: Solve for the **payment**	COMP PMT	We press the PMT button and view the results on the display.	PMT= 2679.295144
Step 9: **Round** the payment up	Rounding up means that the second decimal place will always go up to the next highest cent. In this example 2679.295144 becomes $2,679.30		

Using the SHARP EL-738 to calculate equivalent interest rates

Example: J2=6%. What is its J12 equivalent?

STEP	**KEYSTROKES**	**MEANING**	**What you see on your display**
Step 1: **Clear** the Calculator	2ndF CA	Sets the calculator to its default values	0.000000000
Step 2: Input the **number of compounding periods per year**	2 (x,y)	Tells the calculator the first of the variables, the compounding frequency	2,_ 0.000000000
Step 3: Input the **rate**	6 2ndF EFF	Converts the rate of J2=6% to its J1 equivalent, which is the effective annual rate	2,6 > EFF 6.090000000
Step 4: Input the effective annual rate	12 (x,y)	Tells the calculator the first of the variables, the compounding frequency	12,_ 0.000000000
Step 5: Input the new number of compounding periods and solve for the APR	6.09 2ndF APR	Converts the rate of J1=6.09% to its J12 equivalent	2,6 > EFF 5.926346437

8.4 Using the Texas Instruments BAII Plus

Example: We are borrowing $400,000 at a rate of 6.5% compounded semi-annually (J2), with monthly payments. What is the monthly payment? Before beginning you need to set your calculator to a floating decimal place. Press 2nd FORMAT 9 ENTER

STEP	**KEYSTROKES**	**MEANING**	**What you see on your display**
Step 1: **Clear** the Calculator	2nd CLR TVM	2nd is the first button on the second row from the top; CLR TVM is the upper function of the last button on the second row from the top; NOTE: the P/Y and C/Y will be reset to 1, which is their beginning value	0
Step 2: Input the annual **interest rate (I/Y)**	6.5 I/Y	We input the annual rate.	I/Y = 6.5
Step 3: Input the **number of payments** per year (P/Y)	2nd P/Y 12 ENTER	We tell the calculator how many payments there are annually. Monthly is 12; Bi-weekly is 26; Weekly is 52	P/Y = 12
Step 3: Input the **number of compounding periods** per year (C/Y)	↓ 2 ENTER	A semi-annual rate has 2 compounding periods. An annual rate has 1 compounding period. A monthly rate has 12 compounding periods.	C/Y = 2
Step 4: Leave the C/Y Mode	2nd QUIT	By pressing the 2nd QUIT buttons we leave the C/Y input. We can now enter the rest of the mortgage information.	0
Step 5: Input the **total** number of payments in the **entire amortization (N)**	25 X 12 = N	We input the number of years multiplied by the number of compounding periods per year followed immediately by the N button.	N = 300
Step 6: Input the **mortgage amount**, known as the Present Value or PV	400000 +/- PV	We input the mortgage amount followed immediately by the +/- key, then the PV button.	PV = -400,000

Step 7: Input the **amount owing at the end of the amortization,** known as the Future Value or FV	0 $\boxed{\text{FV}}$	The future value will always be zero. Input 0 followed immediately by the FV button.	FV = 0
Step 8: Solve for the **payment (PMT)**	$\boxed{\text{CPT}}$ $\boxed{\text{PMT}}$	We press the CPT then the PMT button and view the results on the display.	PMT = 2,679.295144
Step 9: **Round** the payment up	Rounding up means that the second decimal place will always go up to the next highest cent. In this example 2679.295144 becomes $2,679.30		

Using the Texas Instruments BAII Plus to convert an interest rate

Example: J2 = 4.5%. What is the J12 equivalent?
We enter the rate, then convert to its J1 equivalent, then convert to its J12 equivalent

STEP	**KEYSTROKES**	**MEANING**	**What you see on your display**
Step 1: **Switch to the conversion mode**	$\boxed{\text{2nd}}$ $\boxed{\text{ICONV}}$	2nd is the first button on the second row from the top; ICONV is on top of the 2 button	Doesn't matter
Step 2: **Clear** the calculator's conversion mode	$\boxed{\text{2nd}}$ $\boxed{\text{CLR WORK}}$	2nd is the first button on the second row from the top; CLR WORK is the upper function of the button on the lower left-hand side of the calculator.	NOM= 0
Step 3: Input the effective **annual interest rate (NOM)**	4.5 $\boxed{\text{ENTER}}$	You will see the NOM= in the left hand side of your display. We input the annual interest rate.	NOM= 4.5
Step 4: Input the **number of compounding periods per year (C/Y) of the rate now**	↓↓ 2 $\boxed{\text{ENTER}}$	You will see the C/Y= in the left-hand side of your display. The rate has 2 compounding periods, so we enter 2 compounding periods in C/Y	C/Y= 2.
Step 5: Convert to the effective annual interest rate	↑ $\boxed{\text{CPT}}$	You will see the EFF= in the left-hand side of your display. We press the CPT button (top left button) to	EFF= 4.550625

		calculate the effective rate.	
Step 6: Enter the number of compounding periods we want to convert to	↓ 12 $\boxed{\text{ENTER}}$	You will see the C/Y= in the left-hand side of your display. We're converting to J12, so we enter 12 compounding periods in C/Y	C/Y= 12.
Step 7: Convert to the new interest rate	↓ $\boxed{\text{CPT}}$	You will see NOM= in the left-hand side of your display. We press the CPT button (top left button) to calculate the new nominal rate	NOM= 4.45838349

8.5 Calculating a Mortgage Payment using Algebra

Calculating a mortgage payment using algebra is a simple process, as long as you know algebra. If you don't, we suggest using one of the prescribed financial calculators. Algebra is not taught in this course so if you don't already know it, it is not recommended that you try to learn it here.

To calculate a mortgage payment, we need to be familiar with three algebraic concepts.

1. Variables
2. Exponents
3. Multiplication

1. Variables

The first concept you need to know to calculate a mortgage payment using algebra is the concept of variables or placeholders. In algebra, we're able to use arithmetic to solve for an unknown using those variables. In arithmetic, we're able to add, subtract, divide and multiply numbers that we have been given.

For example,

$$2 + 3 = 5$$

In this example we use the knowledge we've learned as a child to add two numbers that we've been given using arithmetic. But in algebra we're asked to work with unknowns.

For example,

$$x + 3 = 5.$$

In this equation, x represents an unknown number. "X" is a commonly used variable, but you can use any letter or symbol as a variable. The concept is to make both sides of the equals sign balance. To do this we are going to move the numbers that we know to one side of the equal sign, and the variable to the other side.

We rewrite this equation like this:

$$X = 5 - 3$$

Because the number 3 on the left-hand side of the original equation is a positive number, when we move it to the right-hand side of the equation we change it to a negative. In other words when we go from one side of the equation to the opposite side of the equation, we make the number its exact opposite.

Now we can use simple arithmetic to solve this equation.

$$X = 5 - 3$$

Therefore, $x = 2$

2. Exponents

The next concept you need to know to calculate a mortgage payment is exponents.
The exponent of a number says how many times to use the number in a multiplication.

In 8^2 the "2" says to use 8 twice in a multiplication, so

8^2 means that we must multiply 8 twice. In other words, 8 x 8

$$\text{Therefore } 8^2 = 8 \times 8 = 64$$

3. Multiplication
I'm sure you already know how to multiply two numbers, but I want to make sure you are clear on how multiplication is expressed in algebra. For example, if you see 5x, that means 5 times x.

If you see (5 + 3)(9 -3), this means that you do the work within the brackets first. In this case you will add 5 plus 3, then subtract 9 minus 3. Next, because the brackets are side by side, you must multiply the answers together. This is what it looks like:

$$(8)(6) = 48$$

In calculating a mortgage payment, the equation requires you to do some arithmetic in a couple of sets of brackets that are side by side, just like the example above. So, you need to know that once you've done that arithmetic you must multiply them.

The steps in calculating a mortgage payment using algebra.

There are two steps in calculating a mortgage payment using algebra.

1. Convert the interest rate
2. Calculate the payment

It's now time to learn how to use algebra to calculate a mortgage payment using our three concepts and two steps from above.

1. Convert the interest rate
Let's learn how to convert an interest rate with an example. Our borrower wants a mortgage with monthly payments, but the lender is quoting the rate with semi-annual compounding. To be able to calculate the monthly mortgage payment we must first convert the semi-annual interest rate to its monthly equivalent.

In this example the semi-annual rate 6% is expressed as J2 = 6%, where J means the rate is annual and 2 is the number of compounding periods per year. Therefore, the question we must answer first is, "what is the equivalent J12 rate?" The first step in this process is to calculate the i_{mon}. i_{mon} is the monthly interest rate. Once we know that we can multiply it by 12 to get the annual interest rate with monthly compounding.

To solve this problem, we begin with our unknown, the amount of interest per month, on the left and the known, the amount of semi-annual interest per year, on the right.

$(1 + i_{mon})12 = (1 + i_{semi})^2$

Note: Because we are trying to find for the amount of interest per compounding period, we must convert the annual rate of 6% to its rate per compounding period. That means we must divide the rate by the number of compounding periods per year. In this example the rate is 6%

with two compounding periods per year (because it is semi-annual) therefore we must divide it by 2.

$(1 + i_{mon})12 = ((1 + (6\%/2))^{2}$

$(1 + i_{mon})\ 12 = (1 + 3\%)^{2}$

Note: We are working in decimals, but 3 is a percentage so we convert it to a decimal by dividing by 100. Therefore 3/100 is .03

$(1 + i_{mon})\ 12 = (1 + .03)^{2}$

$(1 + i_{mon})\ 12 = (1.03)^{2}$

Note: In our next step we need to get rid of the exponent for our unknown, imon. Therefore, we take the exponent 12, divide it by itself so that it cancels itself out. However, whenever we do something to one side of the equation, we must do it to the other side. Therefore, we divide 2 by twelve on the right side of the equation. So, our next step looks like this:

$(1 + i_{mon})12/12 = (1.03)^{2/12}$

Note: Because 12/12 equals 1 we can remove the 1 from our next step since any number to the exponent of 1 is equal to itself or stays the same.

$1 + i_{mon} = (1.03)^{1/6}$

Note: Since we don't know what the imon is we can't add 1 to it. Therefore, we move it to the right side of the equation where the numbers that we do know reside. When we move a number from one side to the other, we change its polarity. So, the positive number 1 now becomes a negative on the right side of the equation.

$i_{mon} = (1.03)^{1/6 - 1}$

$i_{mon} = (1.03)^{.1666666666667 - 1}$

$i_{mon} = 1.004938622031 - 1$

Note: The following answer will be used as the interest rate per period when calculating a mortgage payment.

$i_{mon} = .004938622031$ (this is the periodic interest rate)

Now that we know the imon we can calculate the J12 rate.

$J12 = i_{mon} \times 12$

J12 = .004938622031 x 12

J12 = .0592634643744

To express J12 as an interest rate we must multiply it by 100.

Therefore,

J12 = .0592634643744 x 100

J12 = 5.92634643744

2. Calculate the payment

Continuing with our previous example, we can add the additional variables required to calculate a mortgage payment. In addition to the periodic rate, we need the loan amount (PV) and the number of payments in total (n). In this example we are using a loan amount of $100,000 amortized over 25 years so the (n) will be 25 x 12 = 300

PMT= periodic payment
PV = present value
r = periodic interest rate
n = total number of payments (years x number of periods per year)

PMT = PV(r(1 + r)^{n} / (1+r)^{n} – 1)

PMT = 100,000(.004938622031(1 + .004938622031)^{300} / (1 + .004938622031)^{300} – 1)

PMT = 100,000(.004938622031(1.004938622031)^{300} / (1.004938622031)^{300} – 1)

PMT = 100,000(.004938622031(4.383906018449) / (4.383906018449 – 1))

PMT = 100,000(.0216504548445 / 3.383906018449)

PMT = 100,000(.0063980662366)

PMT = 639.80662366

PMT = 639.81

Therefore, the monthly payment is $639.81

8.6 Advanced Mortgage Calculations

Please Note: The following calculations are not required for testing purposes on the final exam. They are here for your information and to assist you if you wish to calculate additional components of a mortgage for your client.

Accelerating a Mortgage

By accelerating a mortgage, the borrower is increasing the size of the mortgage payment. The following example illustrates how to calculate the amount saved by accelerating a mortgage.

Example
A client has come to you for advice. She requires a mortgage in the amount of $350,000. You have informed her that you can obtain this mortgage based on a rate of 4.9%, compounded semi-annually, not in advance, amortized over 25 years with a 5-year term and monthly payments. She would like to know what the regular payment is in this scenario, and how much she would save if she decided to accelerate this mortgage with weekly payments.

Solution

The first step that must be undertaken is the calculation of the mortgage payment.

4.9 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 4.960025

12 SHIFT P/YR

SHIFT NOM% 4.85071533217

350,000 +/- PV

0 FV

25 x 12 N

PMT 2,015.73894058

Pause for clarification – Using the "+/-" Key
When inputting the present value we use the "+/-" key to make the mortgage amount a negative number. This results in the payment being a positive number. If you do not use the "+/-" key the payment will be a negative number. This is important in the next example because when entering a changed payment amount you must enter it as a positive number if you've used the "+/-" key as instructed above. If you haven't, you will need to enter the changed payment as a negative!

Therefore, the regular monthly payment in this scenario is $2,015.74. At the end of the amortization of this mortgage she will have paid $604, 722 ($2,015.74 x 300 payments). However, the mortgage has a term of 5 years and it will not renew on the exact terms of the current term. It is therefore necessary to calculate how much she will owe at the end of the first 5 years of the mortgage to realistically determine how much money she will save by accelerating this mortgage. To accomplish this requires the learning of a new process: calculating the outstanding balance of a mortgage.

Calculating the Outstanding Balance (OSB) of a Mortgage

The process of calculating an outstanding balance (OSB) of a mortgage at a point in time provides the mortgage agent the information required to calculate the amount saved by accelerating a mortgage payment. To accomplish this task requires using two additional keys: the INPUT function and the AMORT function.

The INPUT function is located on the first button on the left-hand side of the second row from the top. The AMORT function is the second function of the FV button used in previous calculations and is located at the far right of the top row. To access the AMORT function, the user must first press the SHIFT key.

Using the previous example, the outstanding balance will be calculated at the end of its five-year term (sixty monthly payments). The calculation is performed using the following process.

Pause for clarification – Important note about the HP10BII +

If you are using the HP10BII + (not the HP10BII) you need to change the calculator from a floating decimal place to a fixed decimal place. To do this press SHIFT, DISP 9. This will set the calculator to 9 decimal places. If you don't do this you will see the word RUNNING on your display when completing step 3.

STEP 1: Calculate the mortgage payment

4.9 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 4.960025

12 SHIFT P/YR

SHIFT NOM% 4.85071533217

350,000 +/- PV

0 FV

25 x 12 N

PMT 2,015.73894058

STEP 2: Input the properly rounded mortgage payment.

2,015.74 PMT

STEP 3: Calculate the outstanding balance at the end of the term.
The following keystrokes are required to accomplish this task, where 12 represents the number of periods per year and 5 represents the number of years in the term:

12 x 5 INPUT SHIFT AMORT

Once those keys are pressed "60 – 60" should be displayed. It is now necessary to press the "=" button. Once pressed, "Amort" should appear at the top left of the display, "PRIN" should appear below it and 762.43802562 should appear below that. "Amort" represents "Amortization," "PRIN" represents "principle" and the number represents the total principal paid in period 60 – 60, which represents the sixtieth payment.

By pressing the "=" button a second time "INT" replaces "PRIN" and 1,253.30197428 replaces the previous number. This number represents the amount of interest paid in the sixtieth payment. By pressing the "=" button a third time, "BAL" appears, replacing "INT" and "-309,287.166263" replaces the previous number. This number represents the outstanding balance remaining on the mortgage after the sixtieth payment has been made (in other words at the end of the 5-year term).

This process is written like this:

12 x 5 INPUT SHIFT AMORT = = = -309,287.166263

Therefore, in this scenario, at the end of the five-year term the client will owe $309,287.17.

Pause for clarification - Rounding outstanding balances
Outstanding balances are always rounded off. This means that if the 3rd decimal place is 5 or higher, the 2nd decimal place increases by one; if it is 4 or lower the 2nd decimal place remains the same.
Example:
An outstanding balance of $400,000.123 is $400,000.12 because the 3rd decimal place is 3 (which is 4 or lower).
An outstanding balance of $400,000.126 is $400,000.13 because the 3rd decimal place is 6 (which is 5 or higher)

It is now necessary to calculate the outstanding balance at the end of five years based on an accelerated payment. To accelerate this mortgage the monthly payment is divided by four.

$2,015.74 / 4 = $503.935

The accelerated mortgage payment must now be inputted into the calculator. This will be done by re-entering the mortgage with a weekly payment.

4.9 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 4.960025

52 SHIFT P/YR

SHIFT NOM% 4.84319177322

350,000 +/- PV

0 FV

25 x 52 N

PMT 464.449035727

The accelerated payment is now entered by completing the following keystrokes:

503.94 PMT

Now that the new payment has successfully been inputted, the outstanding balance at the end of the term can be calculated using the following keystrokes, where 52 represents the number of periods per year and 5 represents the number of years in the term:

52 x 5 INPUT SHIFT AMORT = = = -297,675.736723

Therefore, the amount owing at the end of the first five years using an accelerated payment is $297,675.74. This equates to a difference of $11,611.43 ($309,287.17- $297,675.74). However, the client wishes to know the amount that she will save over the first five years by accelerating the payment, and this amount does not represent the savings. This is because the payment has been increased and the extra money paid during the term of the mortgage must be subtracted from the savings.

Therefore, under the monthly payment scenario the client would pay $120,944.40 during the five-year term ($2,015.74 x 60) and under the weekly accelerated payment scenario the client would pay $131,024.40 ($503.94 x 260). Therefore, the client is actually paying $10,080 more under the accelerated scenario during the same period ($131,024.40 - $120,944.40). This amount must be deducted from the difference between the two outstanding balances.

$11,611.43 - $10,080 = $1,531.43

Therefore, the client would have a net savings of $1,531.43 over the first five years of her mortgage by using an accelerated weekly payment.

Example
Based on borrowing $400,000 over 25 years at a rate of J2=5% with monthly payments and a five-year term, calculate the savings realized during the term of the mortgage by accelerating the mortgage payment.

Solution

Step 1: Calculate the payment of the monthly mortgage	5 SHIFT NOM% 2 SHIFT P/YR SHIFT EFF% 5.0625 12 SHIFT P/YR SHIFT NOM% 4.94869855817 400,000 +/- PV 0 FV 25 x 12 N PMT 2,326.41994015
Step 2: Input the new payment	2,326.42 PMT
Step 3: Calculate the OSB of the monthly mortgage	12 x 5 INPUT SHIFT AMORT = = = -354,030.024726
Step 4: Calculate the accelerated payment	2326.42 / 4 = 581.605
Step 5: Convert the rate to its weekly equivalent	5 SHIFT NOM% 2 SHIFT P/YR SHIFT EFF% 5.0625 52 SHIFT P/YR SHIFT NOM% 4.94086835724
Step 6: Change the amortization to weekly	52 x 25 N
Step 7: Input the accelerated payment	581.61 PMT
Step 8: Calculate the OSB of the accelerated mortgage	52 x 5 INPUT SHIFT AMORT = = = -340,590.299687

Step 9: Using the information calculated in the above equation, calculate the total savings of the accelerated mortgage.

Savings = (OSB of mthly mtg – OSB of weekly mtg) – (Total weekly pmts – Total mthly pmts)
Savings = (354,030.02 – 340,590.30) – [(581.61 x 260) - (2,326.42 x 60)]
Savings = $13,439.72 – ($151,218.60 - $139,585.20)
Savings = $13,439.72 - $11,633.40
Savings = $1,806.32

Therefore, the net amount saved over the term of this mortgage, by using accelerated payments, is $1,806.32.

Calculating the prepayment penalty on a partially open mortgage

In chapter 3 we learned about the different prepayment penalties. In this section we explore the process of calculating these penalties. Let's begin with an example.

Barbara, the borrower, has an outstanding mortgage amount of $145,533.80. On the 36th payment, she has decided to repay the entire amount of the outstanding mortgage. The lender has the option of charging Barbara 3 months' interest as a penalty or the interest rate differential, whichever one is higher.

Therefore, the current rate of interest for a similar mortgage from the lender must be known to determine which penalty the lender will charge the client. For this illustration, it will be assumed that the lender's current posted rate on its 2-year term mortgage is 6% compounded semi-annually, not in advance.

Her current rate of interest is 7.15% compounded semi-annually, with monthly payments, a 25-year amortization and a 5-year term. The amortization and term are not required for the 3-month interest calculation, however in the IRD calculation the term is required for calculating the number of months remaining in Barbara's mortgage with her current lender and the amortization is required when calculating the outstanding balance at the end of the term.

3 Months' Interest Penalty

The formula used to determine 3 months' interest penalty is:

Penalty = Outstanding Balance of the Mortgage x (Rate / 12 months) X 3 months

The rate must be converted to its monthly equivalent (J12) since a semi-annual rate cannot be divided by twelve. The rate will then be divided by 100 to convert the interest rate to a decimal. For example, J12 = 7.04576428197 is actually .0704576428197 when used in a formula.

Penalty = $145,533.80 x [(7.04576428197 (equivalent monthly rate / 100))] / 12 x 3

Penalty = ($145,533.80 x .0704576428197) / 12 x 3

Penalty = $145,533.80 x .00587147023 X 3

Penalty = $145,533.80 x .0176144107

Penalty = $2,563.4921243

Penalty = $2,563.49

Therefore, the penalty that Barbara would have to pay based on 3 months' interest penalty equates to $2,563.49.

Interest Rate Differential

The interest rate differential penalty must be calculated to determine what Barbara's penalty will be. For the following illustration, the Rate Differential refers to the difference between Barbara's rate and the current rate.

The formula used to determine the interest rate differential penalty is:

Penalty = (Rate Differential / 12 months) x (the number of months remaining in Barbara's mortgage) x (Outstanding Balance)

First, the rate differential must be converted to its monthly rate, as was done in the 3 months' interest penalty calculation. The rate of 7.15% compounded semi-annually minus the rate of 6% compounded semi-annually leaves a difference of 1.15%, compounded semi-annually. That rate is then converted to its monthly equivalent of 1.1472544339. When converted to its decimal equivalent, the number is .01147254439.

$$\text{Penalty} = (.011472544339) / 12 \times (60 - 36) \times \$145{,}533.80$$

$$\text{Penalty} = .000956045366 \times 24 \times \$145{,}533.80$$

$$\text{Penalty} = \$3{,}339.28596149$$

$$\text{Penalty} = \$3{,}339.29$$

Therefore, the penalty under the interest rate differential scenario is $3,339.29.

Conclusion
In this scenario, Barbara would be charged the interest rate differential of $3,339.29 since it is the higher of the two penalties that the lender has the option of charging.

8.7 Conclusion

In this chapter you have learned how to calculate a basic mortgage payment. A financial calculator can also be used to:

- Calculate the outstanding balance of an interest accruing or reverse mortgage
- Display the principal and/or interest portion of a payment
- Display the total amount of principal and/or interest paid in a stream of payments (for example, in a term)
- Calculate the Cost of Borrowing
- Calculate the Present Value of an investment
- Calculate the Future Value of an investment
- Calculate the payment required to obtain a Future Value
- Calculate the interest rate charged on a mortgage where it is not known
- Calculate the rate of interest required to obtain a Future Value, and
- Several other functions which are more advanced and are typically taught in mortgage financing courses; however, keep in mind that you can use this calculator for many functions other than simply calculating a mortgage payment.

Using the calculator to calculate a mortgage payment can also be quite advantageous when meeting a client outside of your office and if you do not have your laptop. In this manner you can calculate the payment for a client and truly demonstrate your professionalism!

Success Tip – Practice!

While these calculations probably seem very complicated, the old saying, "Practice makes perfect" definitely applies to using the financial calculator. By practicing these calculations you can master using the HP10BII and confidently perform these calculations for the benefit of your client!

8.8 Key Terms and Definitions

Amortization period
The total amount of time required to fully repay a mortgage

Compounding frequency
The number of times per year in which an interest rate is charged. Typical compounding frequencies include semi-annually and monthly.

EFF%
The J1 rate or the annual interest rate with only one compounding period

Equivalent interest rate
A rate that is equal to another. Two rates are said to be equal if, for the same amount borrowed over the same period of time, the same amount is owed at the end of that period

Floating decimal place
The calculator provides the answer on the display to the number of decimal places the number requires without rounding.

FV
The future value also referred to as the outstanding balance at a given point in time

HP10BII
The financial calculator used to compute several mortgage calculations

Interest rate
The rate at which interest, which is a fee paid to the lender for borrowing money, is calculated

Interest rate conversion
The process of converting a rate to its equivalent with a different frequency of compounding

Mortgage amount
The amount of money borrowed, also referred to as the present value

N
The key on the HP10BII representing the total number of compounding periods required to repay a mortgage

NOM%
The key on the HP10BII representing the annual rate of interest

Outstanding balance
The same as the future value, this is the amount owed at a given point in time.

P/YR
The key on the HP10BII representing the total number of compounding periods per year

PMT
The key on the HP10BII representing the payment or the amount required to be repaid per compounding period

PV
The key on the HP10BII representing the Present Value, also referred to as the mortgage amount

Rounded payment
A payment that has been properly rounded. A mortgage payment is rounded up to the next highest cent unless otherwise indicated.

Term
A period of time in which the mortgage contract is in force. After this period of time the mortgage must be fully repaid or renegotiated.

8.9 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Note: This question does not apply to the Sharp or Texas Instruments calculators.
   Your client has asked you which interest rate is lower: 6% compounded semi-annually or 5.93% compounded monthly. Which rate is lower?

2. Note: This question does not apply to the Sharp or Texas Instruments calculators.
   Perform the following rate conversions:
   a. J12 = 7%. What is the J4 equivalent?
   b. J4 = 3.2%. What is the J12 equivalent?
   c. J12 = 3%. What is the J2 equivalent?
   d. J365 = 18%. What is the J1 equivalent?

3. Your client has asked you to tell her the amount of her mortgage payment based on the following proposed mortgage: $295,500 mortgage amortized over 35 years with an interest rate of 4.25% compounded semi-annually, not in advance, with weekly payments and a 3-year term. What is her proposed payment?

4. Calculate the payment for the following mortgages:
   a. $470,000 mortgage, 25-year amortization, monthly payments, 3-year term, J2=6%
   b. $350,000 mortgage, 40-year amortization, bi-weekly payments, 5-year term, J2=5.57%
   c. $20,000 second mortgage, 15-year amortization, monthly payments, 15-year term, J2=14%
   d. $1,250,000 mortgage, 35-year amortization, weekly payments, 5-year term, J2=3.75%

5. Your client does not qualify for an institutional mortgage, so you have arranged a private second mortgage for him. The mortgage amount is $34,500 and the interest rate is 13% compounded semi-annually. The monthly payments are interest only for one year. What is the amount of the proposed mortgage payment? (Hint: the present value and the future value are the same because there is no principal being repaid)

Chapter 9: Marketing: The Impact of Legislation and Regulations

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Discuss the impact of legislation and regulations on the marketing activities of mortgage agents
- ❑ Discuss the impact of industry guidelines on the marketing activities of mortgage agents

Introduction

The activities available to attract a client are numerous, and many are impacted by legislation and other industry guidelines. Legislation and industry guidelines are designed to prevent such practices as misleading advertising, the bait and switch (providing a consumer with an attractive offer to obtain him or her as a client but being unable to provide the product or service at the indicated price), false advertising and so on.

The following legislation, regulations and industry guidelines must be understood and complied with by all in the industry.

9.1 Legislation and Regulations

Mortgage Brokerages, Lenders and Administrators Act, 2006 (*MBLAA*)

Advertising and marketing, referred to by the *MBLAA* (the legislation) and its *Regulations* as public relations materials, is discussed in four specific locations: section 27 of the *MBLAA*, sections 7 to 9 of *Regulation 187/08*, sections 5 to 7 of *Regulation 188/08* and sections 18 to 20 of *Regulation 191/08*.

The sections of *Regulation 187/08* and *Regulation 188/08* deal with the use of names in public relations materials as well as a prohibition on the usage of false, misleading or deceptive information.

Public Relations Materials: Agents and Brokers

To begin, *Regulation 187/08* defines the term "public relations materials" as:

(a) any advertisement by the broker or agent in connection with his or her status as a licensee or his or her dealing or trading in mortgages that is published, circulated or broadcast by any means, or

(b) any material that a broker or agent makes available to the public in connection with his or her status as a licensee or his or her dealing or trading in mortgages. *O. Reg. 187/08, s. 1 (2).*

Pause for clarification – Examples of public relations materials

Here are some examples of what are considered public relations materials:

- Business cards
- Newspaper ad, whether it is a classified ad or display ad
- A sign (i.e on a building or vehicle)
- Billboard or poster
- Bench ad
- A promotional email
- Radio ad
- Magazine ad
- Flyer or Brochure
- Website
- An ad placed on a website
- An advertorial (an article that is an advertisement)

This *Regulation* also regulates the use of an agent's and broker's name in the following sections of *Regulation 187/08.*

Use of licensee name

7. A mortgage broker or agent shall not deal or trade in mortgages in a name other than his or her licensee name. *O. Reg. 187/08, s. 7*.

This means that a broker or agent can only do business by using their name as it is registered with FSRA. FSRA does allow an agent or broker to be registered in his or her full legal name as well as an also known as, so that if your legal name is, for example, William and you are known as Bill, you can do business using either name.

Use of name, etc., in public relations materials

8. (1) In all of his or her public relations materials, a mortgage broker or agent shall disclose his or her licensee name and the authorized name and licence number of the brokerage on whose behalf he or she is authorized to deal or trade in mortgages, and the names and numbers must be clearly and prominently disclosed. *O. Reg. 187/08, s. 8 (1).*

(2) If the authorized name of the brokerage is, or includes, a franchise name that the brokerage is permitted to use under a franchise agreement, the public relations materials must clearly indicate that the brokerage is independently owned and operated. *O. Reg. 187/08, s. 8 (2).*

(3) In the public relations materials, at least one reference to the broker or agent must include one of the following titles and the materials may also include an equivalent title in another language:

1. When referring to a broker, the title "mortgage broker", "broker", "courtier en hypothèques" or "courtier" or an abbreviation of any of those titles.
2. When referring to an agent, the title "mortgage agent", "agent" or "agent en hypothèques" or an abbreviation of any of those titles. *O. Reg. 187/08, s. 8 (3).*

Prohibition re public relations materials

9. A mortgage broker or agent shall not include false, misleading or deceptive information in his or her public relations materials. O. Reg. 187/08, s. 9.

Summary: What MUST be included in all Public Relations Materials of Agents and Brokers

To summarize, the following must be included in all public relations materials that an agent or broker is using.

1. Brokerage name (if a franchise state that it is independently owned and operated)
2. Brokerage license number
3. Agent or Broker Name as registered with FSRA
4. Agent or Broker title – for example, mortgage agent or mortgage broker

No other information is required; however additional information may be included. For example, an agent may wish to include a brokerage address, contact information, etc.

Public Relations Materials: Mortgage Brokerages

Regulation 188/08 defines "public relations materials", in relation to a brokerage as:
(a) any advertisement by the brokerage in connection with its business as a brokerage that is published, circulated or broadcast by any means, or
(b) any material that a brokerage makes available to the public in connection with its business as a brokerage;
This *Regulation* also regulates the use of the brokerage's name in the following sections of *Regulation 188/08.*

Use of authorized name
5. A brokerage shall not carry on business in a name other than its authorized name. *O. Reg. 188/08, s. 5.*

Use of name, etc., in public relations materials
6. (1) A brokerage shall disclose its authorized name and its licence number in all of its public relations materials and the name and number must be clearly and prominently disclosed. *O. Reg. 188/08, s. 6 (1).*
(2) If the authorized name of a brokerage is, or includes, a franchise name that the brokerage is permitted to use under a franchise agreement, the public relations materials must clearly indicate that the brokerage is independently owned and operated. *O. Reg. 188/08, s. 6 (2).*

(3) If, in its public relations materials, a brokerage identifies a broker or agent by name, the brokerage shall use the name in which the broker or agent is licensed. *O. Reg. 188/08, s. 6 (3).*

(4) If, in its public relations materials, a brokerage refers to a broker or agent, the materials must include at least one reference to the broker or agent that includes one of the following titles, and the materials may also include an equivalent title in another language:
1. When referring to a broker, the title "mortgage broker", "broker", "courtier en hypothèques" or "courtier" or an abbreviation of any of those titles.
2. When referring to an agent, the title "mortgage agent", "agent" or "agent en hypothèques" or an abbreviation of any of those titles. *O. Reg. 187/08, s. 8 (3).*

Misleading, Deceptive and False Advertising

As section 9 of *Regulation 187/08* states, "A mortgage broker or agent shall not include false, misleading or deceptive information in his or her public relations materials." To fully understand the scope of this section requires a fuller understanding of the terms misleading, deceptive and false. Misleading can be defined as deceptive or tending to create a false impression. Misleading advertising occurs when a representation related to a product *or service* is deceptive, materially false or misleading in order to persuade the consumer to buy it.

Deceptive can be defined as the act of convincing another to believe information that is not true, or not the whole truth as in certain types of half-truths, while false can be defined as *deliberately* deceptive. False advertising is the use of false or misleading statements in advertising. As advertising has the potential to persuade people into commercial transactions that they might otherwise avoid, many governments around the world use regulations to control misleading, deceptive or false advertising.

Brokerages must be keenly aware of the definitions of the terms used in this *Regulation*, especially in this climate of financial turmoil and the increase of oversight of lending and brokering practices. Several other jurisdictions have already deemed phraseology currently used by *some* Ontario brokerages as deceptive or misleading. For example, the Australian Securities and Investment Commission penalized a brokerage for using the phrases, "independent and impartial" and "we work for most of the lenders," when this was proven factually incorrect. The context is an important factor when advertising. These same statements may be considered true when made by one brokerage and false when made by another.

The following is a list of potential terms, phrases and scenarios that may also be deemed to be misleading, deceptive or false, depending on the context in which they are used.

"Have access to all / work with all lenders"
While the broker/agent making this statement may believe it to be true, does he or she know for certain that his or her brokerage in fact has access to all of the lenders in the industry? In most cases this statement will be factually incorrect since both the Bank of Montreal and the Royal Bank of Canada do not deal directly with brokers.

"Access to over 50 lenders"
Is this true? The question that must be asked before using this statement is how many lenders did the brokerage actually use in the previous year? The *MBLAA* and its *Regulations* require this answer to be disclosed to borrowers when requested. If the brokerage didn't use in excess of 50 lenders in the previous year, why would its representative make this statement? In other words, what is the goal of this statement?

In most cases the goal of this type of statement is to convey to the consumer that the brokerage can shop for the best mortgage for him or her by having access to a vast number of lenders. If the number 50 is factually incorrect the brokerage may be using misleading terminology in its advertising. It should ensure that all of its public relations material accurately reflects the number of lenders that it has actually used and whenever this is not the case the materials should be amended.

"No job? No credit? No problem!", "Good credit, bad credit or no credit...all are approved!", "Guaranteed approval"
These are all statements designed to get a consumer with difficulty in obtaining a mortgage to contact the brokerage, broker or agent. While the argument can be made that anyone can be approved as long as they have enough equity, regardless of their circumstances, these

statements could be considered misleading, deceptive or false because they imply that *everyone* will be approved regardless of their circumstances, which is clearly not possible.

"Lowest rates in town"
This statement implies that this brokerage has the lowest rates for everyone. Unless a brokerage can prove this statement to be factual, it can be considered misleading, false or deceptive. Consider what the brokerage would have to do to prove this statement. This would require being able to state without doubt that it knows all of the other rates that every brokerage and lender offer and that it has the lowest of them all. While possible, it is not probable, and the brokerage would most likely not be able to prove this statement.

Quoting teaser or discounted rates without advising of other costs or details
For example, quoting a rate of 1%, which may be a three month teaser rate, without indicating that the rate increases after those three months would likely be considered misleading, deceptive or false, as would an advertisement that offered a rate of 1% but didn't disclose the fact that to obtain this rate required the borrower to pay to buy down the rate.

The U.S. Federal Trade Commission (FTC) at one point in 2007 stated that more than 200 companies had been warned about "potentially deceptive" mortgage advertisements. The FTC slammed advertisers for highlighting teaser rates and low payment options without explaining the harsh reality of these loans to consumers.

Quoting payments based on extended amortizations that appear to be less expensive than regular amortized mortgage
A way to make payments appear lower than they would traditionally appear is to use an extended amortization. If the payment is in fact based on an amortization period in excess of 25 years and it is not disclosed in the advertisement it may be considered misleading since the payment is most likely the primary selling point of the advertisement. The British Columbia Registrar of Mortgage Brokers included this example in an information bulletin to the BC mortgage brokerage industry[1].

Bait and switch
This is a term that reflects when a brokerage attracts consumers by advertising a certain product at a rate lower than the market rate, but never actually provides that rate. For example, an advertisement may boast a rate of 2% to qualified borrowers (the bait). However, the brokerage may never actually arrange a mortgage at that rate because either no consumer can meet the qualifications for that product, *or* it doesn't actually exist. The consumer is then offered a higher rate in line with prevailing market rates (the switch).

Personal Information Protection and Electronic Documents Act (PIPEDA)[2]

The *Personal Information Protection and Electronic Documents Act* (PIPEDA) is federal legislation passed in 2001 and fully implemented on January 1, 2004. While some provinces have passed

[1] Registrar of Mortgage Brokers, British Columbia, Bulletin MB 06-002, http://www.fic.gov.bc.ca/pdf/mortgagebrokers/MB-06-002.pdf
[2] OMAFRA, http://www.omafra.gov.on.ca/english/rural/facts/05-049.htm

their own privacy legislation, Ontario has not, so the federal legislation applies here. Increasingly, organizations and businesses rely on personal information to connect with their customers and members. Respecting and protecting customers' and members' privacy is part of good customer and member relations.

The purpose of the Act is "to establish, in an era in which technology increasingly facilitates the circulation and exchange of information, rules to govern the collection, use and disclosure of personal information in a manner that recognizes the right of privacy of individuals with respect to their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances."

PIPEDA requires that you:

- obtain the clear consent of an individual before you collect, use or disclose personal information about that individual
- use the information only for the purposes for which you have consent
- protect the information from unauthorized access and use
- keep the information up to date and correctly filed so that decisions are based on correct information
- destroy information when you no longer need it for the original purpose and
- implement accountability mechanisms in your organizations to ensure compliance with the above.

What Is Personal Information?

The Act aims to protect information about an individual, including information such as:

- age, name, income, ethnic origin, religion or blood type
- opinions, evaluation, comments, social status or disciplinary actions
- credit records, employment history and medical records.

Personal information does not include the name, title, business address or telephone number of an employee of an organization.

For many organizations, this means that the information collected to establish eligibility for membership, programs, donor histories, personnel files of staff and volunteers may be considered personal information.

Canada's Anti-Spam Legislation (CASL)

Canada's new anti-spam law was passed in December 2010 and, following a Governor in Council order, it entered into force on July 1, 2014. The law will help to protect Canadians while ensuring that businesses can continue to compete in the global marketplace.

On January 15, 2015, sections of the Act related to the unsolicited installation of computer programs or software came into force. The following, provided by Innovation, Science and Economic Development Canada is reproduced with the permission of the Minister of Industry, [2017][3].

[3] Government of Canada, http://fightspam.gc.ca/eic/site/030.nsf/eng/h_00039.html

Canada's Anti-Spam Legislation generally prohibits companies from:

- sending commercial electronic messages to an electronic address, without your consent (permission). This includes emails, social networking accounts and text messages;
- alteration of transmission data in an electronic message, in the course of a commercial activity, which results in the message being delivered to a different destination without your express consent;
- installing computer programs, in the course of a commercial activity, without the express consent of the owner or user (e.g., an authorized employee) of the computer system;
- promoting products or services online using false or misleading representations;
- collecting personal information by accessing a computer system or electronic device illegally (i.e., in violation of federal law, such as the Criminal Code of Canada); and
- collecting or using electronic addresses using computer programs without your permission (this is known as 'address harvesting').

There are three government agencies responsible for enforcement of the law. The law allows:

- The Canadian Radio-television and Telecommunications Commission (CRTC) to issue administrative monetary penalties for violations of the anti-spam law.
- The Competition Bureau to seek administrative monetary penalties or criminal sanctions under the Competition Act.
- The Office of the Privacy Commissioner to exercise powers under the Personal Information Protection and Electronic Documents Act.

As of June 7, 2017, the sections that deal with the private right of action have been suspended.

More information may be found at http://fightspam.gc.ca

9.2 Industry Guidelines

The Canadian Code of Advertising Standards

The Canadian Code of Advertising Standards was created by the advertising industry in 1963 to promote the professional practice of advertising. This Code is regularly updated by Advertising Standards Canada, (ASC), which was founded in 1957. This not-for-profit, self-regulatory body regulates the advertising industry and handles consumer complaints related to advertising.

The Code promotes truth, honesty, fairness, and accuracy in advertising and is comprised of fourteen clauses that set the criteria for acceptable advertising. The following is a condensed version of those clauses:

1. Accuracy and Clarity

Advertisements must not contain inaccurate or deceptive claims, statements, illustrations or representations, either direct or implied, with regard to a product or service. In assessing the truthfulness and accuracy of a message, the concern is not with the intent of the sender or precise legality of the presentation. Rather, the focus is on the message as received or perceived, i.e. the general impression conveyed by the advertisement.

2. Disguised Advertising Techniques

No advertisement shall be presented in a format or style that conceals its commercial intent.

3. Price Claims
No advertisement shall include deceptive price claims or discounts, unrealistic price comparisons or exaggerated claims as to worth or value.

4. Bait and Switch
Advertisements must not misrepresent the consumer's opportunity to purchase the goods and services at the terms presented.

5. Guarantees
No advertisement shall offer a guarantee or warranty, unless the guarantee or warranty is fully explained as to conditions and limits and the name of the guarantor or warrantor is provided, or it is indicated where such information may be obtained.

6. Comparative Advertising
Advertisements must not unfairly discredit, disparage or attack other products, services, advertisements or companies, or exaggerate the nature or importance of competitive differences.

7. Testimonials
Testimonials, endorsements or representations of opinion or preference, must reflect the genuine, reasonably current opinion of the individual(s), group or organization making such representations, and must be based upon adequate information about or experience with the product or service being advertised, and must not otherwise be deceptive.

8. Professional or Scientific Claims
Advertisements must not distort the true meaning of statements made by professionals or scientific authorities.

9. Imitation
No advertiser shall imitate the copy, slogans or illustrations of another advertiser in such a manner as to mislead the consumer.

10. Safety
Advertisements must not without reason, justifiable on educational or social grounds, display a disregard for safety by depicting situations that might reasonably be interpreted as encouraging unsafe or dangerous practices, or acts.

11. Superstition and Fears
Advertisements must not exploit superstitions or play upon fears to mislead the consumer.

12. Advertising to Children
Advertising that is directed to children must not exploit their credulity, lack of experience or their sense of loyalty, and must not present information or illustrations that might result in their physical, emotional or moral harm. Child-directed advertising in the broadcast media is separately regulated by the *Broadcast Code for Advertising to Children*, also administered by ASC. Advertising to children in Quebec is prohibited by the *Quebec Consumer Protection Act*.

13. Advertising to Minors
Products prohibited from sale to minors must not be advertised in such a way as to appeal particularly to persons under legal age, and people featured in advertisements for such products must be, and clearly seen to be, adults under the law.

14. Unacceptable Depictions and Portrayals
It is recognized that advertisements may be distasteful without necessarily conflicting with the provisions of this clause; the fact that a particular product or service may be offensive to some people is not sufficient grounds for objecting to an advertisement for that product or service. Advertisements shall not:
(a) condone any form of personal discrimination, including that based upon race, national origin, religion, sex or age;
(b) appear in a realistic manner to exploit, condone or incite violence; nor appear to condone, or directly encourage, bullying; nor directly encourage, or exhibit obvious indifference to, unlawful behaviour;
(c) demean, denigrate or disparage any identifiable person, group of persons, firm, organization, industrial or commercial activity, profession, product or service or attempt to bring it or them into public contempt or ridicule;
(d) undermine human dignity; or display obvious indifference to, or encourage, gratuitously and without merit, conduct or attitudes that offend the standards of public decency prevailing among a significant segment of the population.

Pause for clarification – Advertising Standards Canada
More information on **Advertising Standards Canada** can be found by visiting www.adstandards.com

Advertising Tips – Competition Bureau of Canada

When a brokerage is developing policies and procedures that ensure its public relations materials are compliant, it may wish to include some of the following advertising tips from the Competition Bureau of Canada.

Do:

- Do avoid fine print disclaimers. They often fail to change the general impression conveyed by an advertisement. If you do use them, make sure the overall impression created by the ad and the disclaimer is not misleading.
- Do fully and clearly disclose all material information in the advertisement.
- Do avoid using terms or phrases in an advertisement that are not meaningful and clear to the ordinary person.
- Do, when conducting a contest, disclose all material details.
- Do ensure that your sales force is familiar with these "Dos and Don'ts." Advertisers may be held responsible for representations made by employees.

Don't

- Don't confuse "regular price" or "ordinary price" with "manufacturer's suggested list price" or a like term. They are often not the same.

- Don't use "regular price" in an advertisement unless the product has been offered in good faith for sale at that price for a substantial period of time, or a substantial volume of the product has been sold at that price within a reasonable period of time.
- Don't use the words "sale" or "special" in relation to the price of a product unless a significant price reduction has occurred.
- Don't run a "sale" for a long period or repeat it every week.
- Don't increase the price of a product or service to cover the cost of a free product or service.
- Don't make a performance claim unless you can prove it, even if you think it is accurate. Testimonials usually do not amount to adequate proof.
- Don't sell a product above your advertised price.
- Don't unduly delay the distribution of prizes when conducting a contest.
- Don't forget that no one actually needs to be misled for a court to find that an advertisement is misleading.

9.3 Key Terms and Definitions

Advertising Standards Canada (ASC)
This not-for-profit, self-regulatory body founded in 1952, regulates the advertising industry and handles consumer complaints related to advertising.

Bait and switch
Providing a consumer with an attractive offer to obtain him or her as a client but being unable to provide the product or service at the indicated price

Database marketing
Database Marketing is the function of warehousing potential and existing client information in an electronic medium that allows the user to assemble or list these clients in groups that can be marketed to.

Marketing
Presenting products or services to potential customers in a fashion that positively promotes the product or service and makes customers eager to buy or use those products or services

Mortgage agent
Individuals who are remunerated for dealing in mortgages or trading in mortgages in Ontario, as employees or otherwise. Mortgage agents are restricted in their abilities by the *MBLAA* and its *Regulations* and must be supervised by a licensed mortgage agent. Mortgage agents must be licensed.

Standards of Practice
Regulation 188/08, which applies to mortgage brokerages, *Regulation 187/07*, which applies to mortgage brokers and agents, and *Regulation 189/08*, which applies to Mortgage Administrators constitute the Standards of Practice under the *MBLAA*. These *Regulations* detail the business rules that licensees must follow to comply with the *MBLAA* and its *Regulations.*

Testimonials
An endorsement in writing, verbally or electronically by a client

The Canadian Code of Advertising Standards
The Canadian Code of Advertising Standards was created by the advertising industry in 1963 to promote the professional practice of advertising

9.4 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. What is a "Bait and Switch"?

2. What does the Canadian Code of Advertising Standards promote?

3. What does the *Mortgage Brokerages, Lenders and Administrators Act, 2006* prohibit regarding advertising?

BONUS MATERIAL
Chapter 10: Getting Your First Client

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Discuss the importance of and differences between a mission and vision statement
- ❑ Discuss the importance of different types of business cards
- ❑ Explain networking and how to be successful at it
- ❑ Explain the marketing of intangibles
- ❑ Discuss the benefits of testimonials
- ❑ Illustrate how to differentiate oneself from the competition
- ❑ Explain database marketing
- ❑ Discuss various methods of obtaining referrals
- ❑ Explain the importance of the initial telephone call
- ❑ Discuss the benefits of a call script
- ❑ Use a call script in an incoming and outgoing telephone conversation

Introduction

Please Note: The following topics are designed to assist you in obtaining your first client. However, this chapter is not included in the course's final examination.

In the mortgage brokerage industry, there are two vital components to success: attracting a client and being able to achieve that client's financing needs. Without a client a mortgage agent's technical expertise in mortgage financing is useless. Today's mortgage brokerage industry is comprised of over nine thousand mortgage agents in Ontario, all of whom are vying for the consumers' attention.

Some do this extremely well, but it takes most several years to obtain a level of success that equates to a comfortable lifestyle. This is due in large part to a lack of understanding that in the mortgage brokerage industry the majority of work that is performed is sales-related. The ability to obtain a mortgage broker's or agent's license, while vitally important, is of little consolation if the broker or agent doesn't have a sufficient flow of clients to generate a sustainable income.

In referring back to the 80-20 rule discussed earlier, it is, at least anecdotally, a fact that twenty percent of salespeople will produce eighty percent of the business in any commission-based industry. This is a truism for several reasons, but primarily because the commissioned agent is his or her own boss. If he or she has a focused, disciplined and committed boss then success can follow. However, if his or her boss allows frequent time off and does not provide a structured environment in which to flourish the agent will typically fail.

The net result of this relationship is that the commissioned agent must have a dedication to his or her success that, at the outset of his or her career, is equal to that of a new business. A recent survey produced by Entrepreneur.com found that approximately 50% of businesses failed during the first four years of business. This actually contradicts the statement that eighty percent of businesses fail in the first year of business, a statement that has attained the status of urban myth. Both statements, however, illustrate the difficulty that new businesses have in the early stages of their development and the commissioned agent is no exception to this rule.

As an individual making a career change, moving into sales for the first time or leaving a financial institution to undertake a new challenge, the mortgage brokerage industry can be an incredibly rewarding career choice if done properly. This can be defined as having a sound technical knowledge of the mortgage industry as well as the ability to attract and keep clients.

This chapter will explore some successful strategies for the mortgage agent in meeting the goal of attracting clients, with a focus on advertising, networking, marketing, and database management followed by tips and scripts for your first conversation with a potential client.

10.1 Business Development for Mortgage Agents

The following topics are designed to assist the new mortgage agent in learning how to develop his or her business. By embracing business development activities immediately upon getting licensed, the new mortgage agent increases his or her likelihood of success, because the fact is that no mortgage agent can be successful without first finding a client.

Mission and Vision Statements

Mission Statement
A Mission Statement is a plan for companies and people to accomplish the goals they set. It is designed to shape the company's or individual's identity and is typically based on a vision, goal, or ethics.

A Mission Statement can be helpful to a mortgage agent because it presents a way to establish and understand goals and brings substance and meaning to the purpose of the business.

The following are some examples of Mission Statements:

"Provide society with superior products and services by developing innovations and solutions that improve the quality of life and satisfy customer needs, and to provide employees with meaningful work and advancement opportunities, and investors with a superior rate of return" - Merck

"To enable people and businesses throughout the world to realize their full potential" - Microsoft

"Organize the world's information and make it universally accessible and useful" - Google

Vision Statement
A Vision Statement is something that the business or mortgage agent aspires to become. It should illustrate the core belief of the business or mortgage agent and effectively communicate that to the reader.

The main objective of a Vision Statement is to explain the core belief of where the company or mortgage agent is going with the business.

Properly developed Mission and Vision statements can provide daily focus for the business or agent and assist in keeping goals at the forefront. This daily refocusing can substantially increase the potential for success. For the consumer these statements clearly and succinctly outline the beliefs and direction of the business or the mortgage agent. In so doing they can quickly communicate and articulate key messages to the consumer. A well-designed Mission and Vision statement will assist the consumer in positively relating with the business or mortgage agent.

Communicating your Mission and Vision Statements
It is important that, once constructed, these statements are communicated to clients, potential clients and others within the industry. This can be done in several ways such as by including them in or on:

- Stationary
- Business cards
- Advertisements
- Newsletters
- Promotional materials
- Emails
- Any items that the public sees.

Business Cards

"Great sales start with a great Business Card"
- Joe Girard, "World's greatest Salesperson" according to the Guinness Book of World Records

The purpose of an effective business card is to attract and set in motion the wheels of acquiring potential users of your service. It provides the mortgage agent with:

- A direct marketing vehicle
- A person-to-person sales call
- An advertisement
- A lead generator
- A networking tool
- A visual representation of you.

Think of business cards as a mobile, miniature version of the mortgage agent. For those just beginning, it is often the most inexpensive, affordable tool. It creates and makes a statement about who the mortgage agent is and how he or she conducts his or her business. A business card is an image builder, providing a first and potentially powerful impression that can judge the mortgage agent positively or negatively. It can provide an insight into what he or she stands for, especially if a Mission and/or Vision Statement is included in it.

Within the business card the mortgage agent should include all of his or her contact information, the USP and a logo. The Mission and/or Vision Statement, a brief biography, a coupon or helpful tips for the consumer may also be included.
A card can be made to stand out from others by using colour, Mylar or plastic stock, using a graphic, or including a picture of oneself. However the business card is designed, the core idea is simple: be unique.

Business Card Don’ts

- Never cross things out – print new cards when info changes and chalk it up to a business expense
- Never use a sticker – again, get new cards
- Don’t use neon stock, it’s often too hard to read the print
- Don’t use difficult to read font - Test the font on friends who wear reading glasses and enlarge it if necessary
- Don’t use skinny letters - Use easier to read, thicker letters
- Don’t use all capital letters, THEY’RE TOO DIFFICULT TO READ
- Don’t use too many different type faces, they are confusing
- Don’t use script or fancy fonts that are too difficult to read

Unique Forms of Business Cards

In attempting to differentiate the mortgage agent from his or her competition, he or she might consider using unique forms of business cards. Currently there are audio and video business cards. Both offer the ability to provide a more in-depth presentation of products and services; however, they can be considerably more expensive than standard business cards.

Audio Business Cards
Audio business cards are definitely an attention grabber, telling potential clients that the mortgage agent is different and serious about his or her business. They are less likely to be thrown away and tend to peak people’s curiosity, causing them to be listened to in their entirety. Audio business cards are gaining in popularity and can typically be purchased with software through businesses such as Staples, Future Shop, etc.

Video Business Cards
Video Business Cards offer the same benefits of audio business cards with further latitude in the ability to visually craft a message. They allow the mortgage agent to interview past customers and have customer testimonials. Testimonials are vital in the marketing of intangibles such as services.

Video Business Cards should typically be no longer than 6 to 8 minutes to ensure that the potential customer does not lose interest.

Tips for Distributing Business Cards
For business cards to be successful, they must end up in the hands of potential customers. To achieve this goal the mortgage agent should always leave his or her home or office with at least twenty business cards and be prepared to give them away. By setting a goal of distributing a certain number of cards per week, he or she will be able to increase his or her exposure to potential customers and increase his or her volume of business.

Be sure to provide business cards to family and friends, at seminars, industry events, workshops, networking events, classes, meetings and anywhere else there might be a potential customer.

Success Tip – Business cards

Never leave your home or office without at least ***20 business cards***. Get into the practice of giving them to people you do not know. You will increase the number of people who are aware of your business and thereby increase the number of potential new customers, which is the goal of all successful salespeople!

Networking

Definition

There are several definitions of Networking, but at its core, Networking is building or expanding one's social network or sphere of influence by initiating mutually advantageous new relationships with people. Networking can be one of the most cost-effective means of obtaining new business, which can be especially important for new salespeople.

The purpose of networking is to create meaningful relationships. Today's environment is very competitive, and a personal relationship can separate a mortgage agent from all of those who are simply marketing and advertising. People like to deal with those they know and trust, and personal contact through networking can create that.

Networking Strategies for Functions

- Wear a nametag
- Don't hover, just mingle
- Comment on interesting articles of clothing as a conversation starter
- Have a business card enlarged and laminated and wear it as a name tag
- Always smile and look interested
- Be confident
- Have goals about whom to meet
- Think of things to discuss in groups, like current affairs; be up to date on current events
- Remember the goal: set appointments and get contact information for your Database Marketing program
- Be a host, not a guest
- Focus your attention, do not let it wander
- Follow up
- Collect business cards
- Have fun

Where to Network

- Service Clubs
- Church groups
- Chamber of Commerce
- Personal parties
- Business functions (i.e. trade shows, etc.)

Success Tip - Networking

Networking is a fantastic means of developing personal relationships. However, it must be done in ***moderation***. Ensure that you introduce yourself to new people and provide them with a business card, but do not try to sell at an event. After you've made your introduction and have very briefly mentioned your line of business, change the subject. If they feel the need to speak to you immediately they will. You do not want to become the person that no one likes having at his or her party! By approaching events with a determination to subtly promote yourself, you will be readily accepted.

The Marketing/Advertising of Intangibles or Services

Marketing intangibles or services is quite different in comparison with marketing products that a potential customer can see and feel. Studies indicate that upwards of sixty percent of consumers will choose a mortgage agent based on their prior dealings with the agent, the reputation of the agent or being referred to the agent.

This clearly indicates that a personal relationship is vital, which is why networking and personal contact is so important. In marketing mortgage financing, which is an intangible, it is important to use marketing to focus consumers on key concepts that have the effect of turning the intangible into the tangible. The following are strategies designed to market the intangible service of mortgage financing.

Testimonials

The use of testimonials can have the effect of reducing the need of a consumer to touch or feel a product. Testimonials from satisfied clients have the effect of personalizing the process. The consumer can relate to another person who has had a beneficial experience and translate that experience to him or her. In essence this provides the consumer with something tangible: another consumer who can be seen or heard.

Clarity

Since uncertainty causes apprehension and stress, it is vitally important to provide your potential client with clarity. This means clearly outlining the process involved in obtaining mortgage financing so that the client can understand that progress is being made as steps are completed. This can be done verbally or in pamphlets or brochures.

Attention to Detail

Since mortgage financing is an intangible service, it must be described to the client. This process must be done in as much detail as the client requires. As some clients are more detail oriented than others, the mortgage agent must first determine the appropriate level of detail to provide to the client and then ensure that he or she pays particular attention to these details. One of the fastest ways to lose a client's faith is to be uncertain of the details of their application or of any part of the mortgage application process.

Continued Contact

After the sale is complete and the mortgage has closed, continue to stay in contact with the client. By having a competent CRM (Customer Relationship Management) program the mortgage agent can ensure that he or she receives repeat business and referrals from this client.

Marketing: The Art of Differentiation

Marketing comes in a variety of forms but in the mortgage industry it is important to understand that most lenders and mortgage brokerages are offering the same product: money.

Since the consumer sees the product as virtually identical between brokerages and lenders, it is necessary to develop a marketing program that differentiates one mortgage agent from another, whether that person works for a brokerage or a lender. This assists the consumer in differentiating between mortgage providers and making the decision of whom to choose based on those differences.

To be able to achieve this goal, the mortgage agent must understand the competition and the products and services offered and focus on the differences. Some of the factors to focus on are:

Product Availability
Mortgage brokerages have access to products and services provided by numerous non-bank lenders, whereas banks only have access to their own products. While this does not differentiate one mortgage agent from another, it is a major differentiation that needs to be made clear to potential clients. However, since most consumers believe that all money is created equally or that most lenders have the same products, simply stating in marketing materials that the mortgage agent has access to over a vast number of lenders is not sufficient to help the client understand how that is of benefit to him or her.

By using a testimonial, this can be summarized quickly and efficiently. For example, including a testimonial in marketing that says, "I thought I knew what I wanted when I was approved at my bank, but after I spoke with Malik, my mortgage broker, I realized there were many more options available to me than just what my bank had offered. It was a real eye opener," can clearly differentiate between a bank and a mortgage agent.

Of course, the testimonial must be honest and genuine, but this clearly illustrates the power of testimonial-based marketing in illustrating the differences in product availability between traditional lenders and the mortgage brokerage community.

Service
Service can be a major differentiator between mortgage providers if marketed properly. If marketed improperly the word service will simply be another overused word with virtually no meaning. In today's market everyone professes to have superior service but, unless that service is clearly defined the claim becomes vague. To make the claim important requires knowledge of the competition's service levels. In so doing the mortgage agent can explicitly demonstrate the differences between his or her service and that of the competition.

For example, if the mortgage agent completes a budget to assist in determining the suitability of financing solutions at the initial consultation stage, this should be focused on since most mortgage salespeople do not. A further example would be in ease of contact. The phrase, "I'm available seven days a week twenty-four hours a day" is not only incorrect but sounds desperate. There are no mortgage agents who will answer a phone call in the middle of the night, but by clearly setting out the hours of contact and if there are other members of the mortgage agent's team who are available to answer calls, a differentiation can be made. TD Canada Trust had a very successful campaign at differentiating it from the rest of the banks in Canada by clearly stating that it is open longer than any of its competitors. That statement differentiated the bank. If it had simply marketed great service and convenient hours, the distinction would have been lost on most consumers.

Professionalism

Another overused word, it is necessary for the mortgage agent to clearly define how they are professional. This can be done by including professional designations in marketing materials and explaining those designations when appropriate.

Niche Marketing

Niche marketing is the ability of a marketer to target a specific group or demographic and design a marketing campaign that answers the needs of that group or demographic. An excellent example of niche marketing can be found in the automobile insurance industry by companies with a program designed specifically for drivers over the age of fifty. This program targets a specific demographic, one that the insurance brokerage has decided offers high returns, and markets specifically to that group through media used by that group.

In the mortgage brokerage industry, the marketing tends to be undifferentiated. Advertisements tend to include several messages, such as offering mortgages to individuals with poor credit, no income, who are self-employed, or who are looking for the best rates. While this casts the widest net, it does not speak to any specific target market. Therefore, no one encountering this marketing will feel like it is speaking directly to him or her, which is a key element of any marketing.

Potential areas of niche marketing for the mortgage agent include:

- The medical profession
  Often these professionals are self-employed high-income earners with significant debt that could benefit from non-bank products
- Construction workers
  Often seasonally employed working long hours, they might benefit from specific products from non-bank lenders as well as more convenient methods of applying for mortgage financing.

The above examples provide an insight into what niche marketing might be for the mortgage agent. In all cases niche marketing requires the marketer to identify a potential niche market, research what the characteristics and needs of that market are and either develop or identify products or services to meet those needs.

Whatever the message ends up being, it must eventually be delivered to the public. This can be done in several ways, of which the following is a partial list:

- Flyers
- Classified Advertisements
- Yellow Pages advertisements
- Unaddressed admail through Canada Post
- Promotional items such as pens, fridge magnets, etc.
- Sponsoring an event
- Sponsoring an award
- Hosting or being a presenter at a seminar
- Broadcast faxing

- Delivering coupons
- Bench advertising
- Billboards
- Newspaper inserts
- Newspaper interviews
- Magazine articles
- Newsletters
- Emails
- Direct mail
- Your website
- Or any means that can deliver a message to a wide audience.

Whatever the message is and however it is delivered, the key to successfully marketing a product or service is developing the strategy and then implementing it. As P.T. Barnum once said, "without promotion something terrible happens – nothing!"

Success Tip – Make the phone ring!
The ***goal*** of all marketing and advertising is simple: to ***make the phone ring***! Keep this in mind when developing your marketing and advertising pieces and create them with that ultimate goal in mind.

Database Marketing

Database marketing is the function of warehousing potential and existing client information in an electronic medium that allows the user to assemble or list these clients in groups to whom marketing efforts may be directed. Database marketing begins with a single client and can be built to encompass thousands of clients. The key to database marketing is to have a system in place whereby clients receive marketing on a regular basis.

List of potential clients might include:
- First time home buyers
- Renewers, and
- Refinancers.

By segmenting these potential clients into categories, the mortgage agent can tailor the message. For example, the information sent to first time home buyers would be different than that sent to renewers, and so on.

In addition, information sent to current clients would differ from that sent to potential clients. The mortgage agent will have a more personal relationship with his or her current clients and may send marketing such as birthday cards, quarterly newsletters, and so on. These clients should be personally contacted on a regular basis to update their records and ensure that the information in the database is current. This also provides opportunity to search for additional needs such as refinancing for a debt consolidation or home renovation before the client's mortgage is up for renewal.

By having a consistent database marketing program in place, the odds of obtaining repeat business is greatly increased, lowering the costs associated with obtaining business.

Referrals

Referrals refer to those clients who have been advised to do business with the mortgage agent by a third party. A client may be referred to him or her by a financial planner, a Real Estate salesperson, an insurance agent, a past client, or whoever has come into contact with the mortgage agent in the past. This type of business tends to be the least difficult to complete, since the client is acting on the advice of someone who is typically a friend of his or hers. The relationship that client has with the referral source prevents the usual apprehension that potential clients have with new salespeople.

Tips for Obtaining Referrals

- Do the people you deal with know you need referrals? Many people who know you will think you are so successful that you do not need any referrals. Ensure that they realize you need everyone and treat them all with the professionalism they have grown to know and expect from you.
- Do your referrers know the quickest and easiest route to get their referral to you?
  Provide your referrers with a simple referral form that they can email or fax to you. It only needs some basic information, such as who the client is, their contact information and what they need.
- Thank-you letters: ensure that you always send a thank-you letter to your referral source, whether the referral turns into a client or not.
- Update your database with the referral information.
- Contact the potential customer as soon as possible.
- Guarantee confidentiality to all parties.
- Send a thank-you gift when the financing is completed.
- Invite your referrers to company parties to show your appreciation.

Success Tip – Getting family and friends' mortgages

Doing the mortgage of a family member or friend can be difficult for new and experienced agents alike. Family and friends tend not to want to let you see their credit and may not be comfortable with the thought of you knowing their private business. But don't worry, because you can still get their business! I suggest finding a highly successful agent or broker in your brokerage. Partner with him or her to do the mortgages for your family and friends. Now you can tell your family and friends that you've become a licensed agent and think that they should use your colleague to do their next mortgage! Just be sure that your colleague pays you a nice referral fee.

10.2 The Initial Telephone Call

First contact with a potential client is a vital part of the mortgage application process. It is the mortgage agent's first chance at a good impression and the first opportunity to turn a potential client into an actual client.

As discussed previously, the purpose of a mortgage agent's advertising and marketing efforts is to initiate first contact. The purpose of first contact is twofold: to determine if the client may qualify for financing, and to get an appointment.

There are a few different models concerning the workflow of a mortgage application, including having the potential client complete an online mortgage application; however, it is important to note that developing a relationship with a potential client is a key component in completing the mortgage transaction.

The initial telephone conversation is vital to developing a relationship with a potential client. Once the phone rings the mortgage agent's advertising/marketing has been successful. If the mortgage agent finds that he or she is receiving calls from clients that he or she does not want, then the first area to consider modifying is the advertising/marketing.

In today's environment, most calls fielded by mortgage agents have one characteristic in common: a question about the rate. This is a question that most consumers have been programmed to ask from television advertising and other marketing by major lending institutions. Most consumers believe that the only difference between mortgages offered by lenders revolves around the interest rate; therefore, when inquiring about obtaining a mortgage that is typically the first question that is asked.

This question, however, is virtually impossible to answer successfully. If the mortgage agent answers this question by telling the caller what the lowest rate is, the caller will most likely end the call and continue shopping to compare what other mortgage agents have to offer.

There is a model of buying behaviour called the Phenomenological Buying Behaviour Model that breaks the buying of services into four categories as seen from the buyer's perspective. They are:

- Need
- Pre-purchase research
- Purchase
- Post-purchase cognitive dissonance (remorse).

The potential purchaser, in our case the potential home buyer, begins the process by feeling a need to obtain mortgage financing. This can be triggered by the need to purchase a home, the need to refinance, consolidate debt, etc. Whatever the reason behind the need, the need exists in the potential purchaser's mind.

The next step, pre-purchase research, is fairly unique to shopping for higher priced goods and services. This activity revolves around researching and learning about the required product or services. Unlike less expensive items where research is not normally done, purchasers feel the need to learn as much as possible about the product or service they are considering purchasing to be able to make an informed decision.

The potential purchaser then becomes an actual user or purchaser of the product or service, which is typically followed by post-purchase cognitive dissonance, commonly referred to as "buyer's remorse."

For the potential mortgage borrower, the pre-purchase research stage can lead to researching online and making several phone calls before finally settling on a mortgage provider. This may result in the caller asking the simple question, “What is your best 5-year rate?” because he or she is in the research stage and is looking for information, not to apply for a mortgage.

However, a mortgage agent, understanding that part of his or her function is sales, must turn this simple request for information into a potential client. That requires a specific process for dealing with incoming telephone calls that leaves little to one’s imagination and focuses on using a call script.

Pause for clarification – Call scripts

A ***call script*** is a written document that outlines or scripts a conversation. This is used to allow the agent to remain focused on covering certain topics that he or she feels are necessary in the call and allows the agent to refer to standard responses for typical questions. Professional agents always use a script, whether in paper format or by committing the script to memory.

There is no way of knowing who is calling, how he or she obtained your telephone number or what his or her intent might be. This uncertainty requires the agent to initially treat every incoming call in the same fashion, tailoring the conversation to the specific caller only after their purpose has been determined.

Within the first ten to fifteen seconds, you must tell the caller….

- Who you are
- The benefit you will provide to him or her

You have to do the same two things on an incoming call as an outgoing cold call, but they are done differently. On an incoming call, you have already done something to prompt the potential client to call you, such as place an ad. In most cases, your potential client is contacting you to ask one simple question: “What is your best 5-year rate?” It is strongly suggested that you attempt to deflect this question, for several reasons.

First, you do not know anything about the client and will not know if they qualify. If you tell them a low rate, then find out that they do not qualify for it, they may think that you are practicing the “bait and switch,” which is enticing them with one promise only to switch later to something worse.

Secondly, if you immediately give them the rate, they can simply hang up and go to the next ad, always looking for the lowest rate, continuing to research. Many people who call think all mortgages are created equally, so they believe the only difference is rate, which simply is not the case.

Thirdly, you need to develop a relationship with this potential client, and if he or she has all of the information that he or she wanted (i.e., rate) before the agent has even introduced him or herself to the caller, that caller will feel no connection with the agent and will have no problem in hanging up.

The following is an example of an incoming call script that attempts to address these issues. Keep in mind, however, that no script is perfect. A successful agent will eventually have to address concerns as they arise in any given conversation.

10.3 Incoming Call Script

The following script is a basic example of how to handle an incoming telephone call. The agent's lines are in normal font and potential client responses are in italics.

Good (afternoon, morning or evening), (Your company name), how may I help you?

Hi, can you tell me your five-year rate please?

I would love to sir, but first off let me introduce myself. My name is (your name), and may I ask your name please?

Sure, my name is Bob Andrews.

And would you prefer that I call you Mr. Andrews or by your first name?

Bob would be fine.

Wonderful. Bob, may I ask who referred you?

Actually, I'm calling from your ad in the newspaper.

Super. Bob, most of my business comes from referrals from satisfied past clients. May I treat you the same way that I would treat one of my referred clients?

Sure.

Great! Okay Bob, the rate that I can get you depends on many different factors, but I can say with the outmost of certainty that I can get you the best rate based on your circumstances. In addition, I will get you the best overall mortgage to suit your needs. I have a few brief questions I need to ask you to determine what we can do to get you the best possible mortgage, but before I continue, can I get your telephone number just in case we get cut off?

Client answers.

Thank you. Now, are you looking to purchase a home, refinance your existing home, or do you have a mortgage coming up for renewal?

Client answers.

And how much money do you need?

Client answers.

And how would you say your credit is?

Client answers.

Fantastic. Well, based on this preliminary information it sounds like we have three different programs that will meet your needs. I need to go into some more specific details about your situation to ensure I get you the lowest possible rate and the right mortgage to suit your needs, so I suggest we meet to discuss your situation further. I have some available time either (give two possible days) at either (give two possible times) which do you prefer?

Client answers.

Great. Can I get your exact address please?

Client answers.

Now, I need you to have a few documents ready for our chat so that I can get you the best mortgage for your needs. If you could please have (list the required documents based on what they are looking for, i.e., Purchase, refinance, pre-qualification, etc.). Do you have those handy?

Client answers.

And if you can't find any of those documents, don't worry, we can still proceed without them. So, I will meet you on (reiterate the date and time). One last question Bob, do you have a significant other?
Client answers.

Wonderful. I suggest that we all get together for this meeting so that we can address any questions your spouse may have as well.

Thank you so much for your call and I look forward to meeting you. Good-bye.

Remember: the goal of the advertisement is to get people to call. The goal of the agent is to get an appointment with the caller as long as the agent believes that the caller is qualified. Agents must also consider that meeting with those who may not qualify has its merits. The agent can practice his or her interviewing technique, database the client for the future (the client's situation may change in the future) or obtain potential referral clients.

Tips for Success

Practice makes perfect
Remember to practice your script before you start getting calls. Like cold calling, ask your spouse or significant other (someone who will give you helpful advice on how you are performing) to be your incoming call or practice by recording yourself and listening to the conversation. In all cases, try to record yourself and review the tape after your calls. This way you can identify if you are sounding aggressive, defensive, or just right!

Use a mirror
Because a smile translates across a telephone line, you should ensure that you are always smiling when you're on a call. A great way to ensure that you are is by having a small mirror in front of you so that you can watch your smile.

Write things down
Be sure to have pen and paper for each call. Write down the caller's name as soon as you get it (there's nothing more embarrassing then forgetting a caller's name after they've just given it to you!), and any other details that might be helpful.

Make these words your own
Make sure you use words and phrases that are comfortable for you. In other words, rephrase the script to match how you normally speak. This will ensure that you do not sound like you are reading from a script, even when you are!

Do not be afraid
Remember that the phone can be your best friend. The more comfortable you are on the phone, the easier it will be to meet your objective: getting appointments with qualified clients.

10.4 Outgoing Cold Call Script for Referrals

Pause for clarification – Cold calls
A ***cold call*** is an outgoing call made to someone who is not known to the agent and who has not been referred to him or her. This potential client is considered "cold" or unfriendly. The object of a cold call is to transform the "cold" individual into a "warm" prospect, or someone who is warm to the idea of doing business with the agent. By following a script, the agent has the best chances of success!

In addition to receiving incoming calls you may wish to contact potential referral sources, such as a Real Estate Salesperson or Financial Planner. Within the first ten to fifteen seconds you must tell the potential referrer:

- Who you are
- The benefit that you can provide to him or her

If you don't, chances are he or she will stop listening. Think of the cold calls you receive. As soon as you realize they are not someone you know, but they are someone trying to "sell" you, you try to find a way to hang up the phone. By peaking his or her interest in the first ten to fifteen seconds, you will get someone who wants to hear more! The following is a basic script that can be used to accomplish this task. The agent's lines are in normal font and potential client's responses are in italics.

Hi, my name is (your name) and I'm calling from (your brokerage), a national (or large local, local, successful, etc.) mortgage brokerage. The purpose behind my call today is to discuss how we can help you can make more money by growing your business, all at no cost to you. Does making more money and doing more business interest you?

Let them answer.

If they say no, address their concern by saying:

"Seriously, sir/ma'am, I respect that you're a busy person and I wouldn't want to waste your time, but I can help you like I've helped others to increase their business and make more money, all at no cost to you. Doesn't that sound like something that might be worth a few moments of your time?"

They should respond positively, but if they do not or if they insist on hanging up, let them go! Cold calling is a numbers game so don't get caught up fighting with your cold call, just move on to the next one!

"Yes!"

Excellent! I'm sorry, to whom am I speaking?

This is Mr. Jones.

Great, Mr. Jones, and please, feel free to call me (your first name)

Now that you've gotten their attention, it's time to focus on your strengths, and what you are really calling about: helping them do more business, which will, undoubtedly, help you do more business.

Talk to them about your strategies, including:

- Joint advertising
- Referrals to them of potential home buyers
- Joint seminars and workshops focusing on home buying and mortgaging
- Joining them at their sales meetings to add value by discussing rates and sales techniques
- Sharing sales techniques that you keep up on through constant training
- Helping them cold and warm call
- Going on "walk abouts" with them (dropping off flyers)
- Helping them with open houses, or showing a property
- Arranging office parties for them and their clients.

Now, to discuss the great ways I can help you make more money and do more business all we have to do is get together for a chat. I have time on (give them two choices, like Tuesday and Thursday) at either (give them two opposite choices, like one morning and one afternoon – if they aren't available at those times, ask them when it's convenient for them). Which do you prefer?

The goal of any cold call is to get to meet with the client/referral source, so everything you do must be dedicated to that end!

10.5 Key Terms and Definitions

Advertising
A paid, controlled message through a non-personal medium. Types of advertising include publicity, public relations, product placement, sponsorship, and sales promotion.

Audio business card
A smaller version of a CD that allows the user to create their own audio business card

Bait and switch
Providing a consumer with an attractive offer to obtain him or her as a client but being unable to provide the product or service at the indicated price

Business card
A marketing tool that provides contact information, a logo, and other relevant information about the company, products and/or services of the company and/or the individual

Call script
A written document that outlines or scripts a telephone conversation, allowing the user to remain focused on the purpose and objectives of the call

Classified advertisement
A print advertisement placed in the Classified section of a newspaper

Cold call
A call made to a cold or potentially unfriendly new client or referral source who does not know the caller

Database marketing
Database Marketing is the function of warehousing potential and existing client information in an electronic medium that allows the user to assemble or list these clients in groups that can be marketed to.

Flyer
A stand-alone marketing piece, usually on 8.5 x 11-inch paper

Marketing
Presenting products or services to potential customers in a fashion that positively promotes the product or service and makes customers eager to buy or use those products or services

Mission statement
A Mission Statement is a plan for companies and people to accomplish the goals they set. It is designed to shape the company or individual's identity and is typically based on a vision, goal, or ethics.

Mortgage agent
Individuals who are remunerated for dealing in mortgages or trading in mortgages in Ontario, as employees or otherwise. Mortgage agents are restricted in their abilities by the *MBLAA* and its *Regulations* and must be supervised by a licensed mortgage agent. Mortgage agents must be

licensed.

Networking
Building or expanding one's social network or sphere of influence by initiating mutually advantageous new relationships with people

Niche marketing
Marketing to a specific audience or target demographic

Referral
A client or customer who has been advised by a third party to use the product or service of another

Post-purchase cognitive dissonance
Commonly referred to as buyer’s remorse, this refers to the emotional state a buyer is in after completing what is typically a large purchase and who is no longer in an emotionally charged state.

Pre-purchase research
The research done by a potential purchaser of a more expensive item. This may include online research as well as contacting past clients, calling service providers, etc.

Testimonials
An endorsement in writing, verbally or electronically by a client

Unaddressed admail
Bulk, unaddressed advertising that is delivered in bulk to a certain area by Canada Post

Video business card
A visual presentation of a sales person on CD

Vision statement
A Vision Statement is something that the business or mortgage agent aspires to become. It should illustrate the core belief of the business or mortgage agent and effectively communicate that to the reader.

Warm call
A call made to a warm or potentially friendly new client or referral source who may know the caller or may have been referred to the caller by a third party

10.6 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. What is the typical question that a potential client asks when first contacting a mortgage agent?

2. What are five tips for success when using a call script?

3. Discuss the benefits of using a call script.

4. What is a cold call?

5. How can a cold call be turned into a warm call?

6. What information should be provided to the caller within the first ten to fifteen seconds of a call?

7. Why is it important to develop a relationship with a potential client?

8. Discuss the differences between a Mission and a Vision Statement.

9. What does a business card provide to the mortgage agent?

10. What are the benefits of an audio business card?

11. Is networking typically more or less expensive than marketing? Explain your answer.

12. In what ways can a mortgage agent differentiate him or herself from the competition?

13. Why are testimonials beneficial in the marketing of intangible products or services?

14. Discuss three ways that a mortgage agent can obtain referrals.

Chapter 11: The Initial Consultation

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Determine the documentation that must be obtained from an applicant
- ❑ Create a mortgage file on an applicant
- ❑ Use a file checklist and file worksheet
- ❑ Discuss the locations in which the client meeting can occur and the advantages and disadvantages of each location
- ❑ Determine the needs of the applicant
- ❑ Complete a mortgage application

Introduction

The initial consultation with your potential client is a major step in the mortgage application process. There are several considerations for this step, including:

- The location of the meeting
- Preparing the client for the meeting, including advising him or her of the time involved, who should attend and what documents to have available
- Preparing for the meeting, including creating a blank file
- Verifying the client's identity
- Completing the application
- Determining the borrower's needs.

A well-prepared mortgage agent will find that the meeting will usually proceed smoothly resulting in the potential client transforming into a client. Many mortgage agents often miss the difference between a potential client and a client, since it can occur rather subtly. However, there is a major difference. A potential client is one who is not yet dedicated to completing the transaction with this particular mortgage agent.

A *client* is an individual(s) who has made the decision to complete the transaction with the mortgage agent, usually based on several factors, including trusting the mortgage agent, developing a personal relationship with the agent, believing in the agent's technical proficiency and having the agent satisfy the four borrower expectations found in chapter 7, which are that the mortgage agent will:

1. Act in the borrower's best interests
2. Completely analyze the borrower's needs
3. Make appropriate recommendations based on the borrower's needs
4. Facilitate the transaction to its successful completion.

11.1 Required Documentation

Each type of mortgage transaction requires documentation to be obtained from the applicant in addition to a signed mortgage application. The following list outlines those documents as well as the purpose behind obtaining each. A client should be instructed to provide these, as applicable, at the initial consultation.

Documentation for all Transactions

- **Employment Verification**
  Employment documentation requirements vary from lender to lender; however, the following is a list of documentation that is typically acceptable for an employee:
    - T4
    - Pay Stubs
    - NOA (Notice of Assessment – often requested when there is commission income)
    - Letter of employment
    - Tax Return (also may be requested when there is commission income)

For a self-employed individual the following may be required:
  - Financial Statements
  - Business License
  - Business Cheque

- **PIPEDA Consent**
  This document allows the mortgage agent to use the applicant's personal information for the purposes contained within the consent form.

- **Photo Identification**
  Photo identification is required to prove the identity of the applicant. The original document should be viewed, and a photocopy obtained for the file.

- **Divorce/Separation Agreement (if applicable)**
  If applicable this document outlines the terms and conditions of the separation or divorce and will typically include any payments that are required to be made for alimony.

- **Child Support Order/Agreement (if applicable)**
  If applicable this document outlines the terms and conditions of child support, including any payments that are required to be made.

Specific Documentation for a Purchase

The following is a list of documentation that is typically required when a client is purchasing a property:

- Purchase and Sale Agreement
- MLS Listing (for resale properties)
- Proof of Down payment
- Rental Letter (if applicable)
- Real estate salesperson Information

Specific documentation for a Refinance, Equity Take-Out and Switch

The following is a list of documentation that is typically required when a client is refinancing his or her current mortgage, taking equity out of his or her property or switching lenders on renewal:

- Current mortgage statement
- Charge/Mortgage
- Transfer/Deed
- Property tax statement
- Property insurance policy
- Mortgage repayment history (if applicable)

11.2 File Creation

Every mortgage application file should have the same checklist. A typical file can be made up of a legal-size file folder with two forms stapled to the inside of the folder. On the left side will be a checklist and on the right side a worksheet for notes and calculations. Mortgage agents may have different styles of files and the information may be in different formats or in varying orders; however, the information is essentially the same.

File Checklist

A file checklist is a key component for ensuring that the required documentation is obtained on every transaction. This prevents the embarrassment of having to go back to a client for additional documentation in the future and provides a quick summary of what is in the file. If the file is broken into sections based on the checklist, then every file will follow the same order, allowing the mortgage agent to know where to find specific documents in any file. A coloured sheet or file folder can be used to separate each section of the file for ease of filing documents. Proper completion of the checklist and the worksheet will allow the mortgage agent to quickly reacquaint him or her with the file, especially if the file hasn't been worked on for several days or if there are several files being processed simultaneously.

The following figure is an example of a file checklist and may be reproduced in whole or in part. In the top section the client's contact information is noted. It is helpful to mark the best time and contact number to reach the client should the need arise. The next section allows the mortgage agent to check off the documents that are in the file and acts as a reminder for documents that are typically required for every transaction as well as the documents specifically for a condominium, refinance, equity take-out, switch or purchase. The final section is dedicated to disclosure documents. Each file must have each of these documents except for the Investor/lender disclosure, which is only applicable on private mortgage transactions.

Figure 34 – Residential Mortgage Application File Checklist

Residential Mortgage Application File Checklist

Client Names (First, Last)		Source:	
Address:			
Home Tel: ( )	Work Tel: ( )	Cell: ( )	
Best time and number to contact:			
Closing Date:	Application Number:		
Standard Documentation		**Employment Verification**	
☐ Signed Application	☐ PIPEDA Consent	☐ T4s	☐ Pay Stubs
☐ Photo ID	☐ Credit Bureau	☐ Employment Letter	☐ NOA
☐ Appraisal Request	☐ Appraisal	☐ Rental Income Proof	☐ Tax Return
☐ Divorce/Separation Agreement		☐ Financial Statements	☐ Business License
☐ Child Support Order/Agreement		☐ Business Listing	☐ Business Cheque
☐ Other:		☐ Other:	
☐ Other:		☐ Other:	
For Condominiums Only			
☐ Status Certificate		☐ Master Insurance Policy	
For Refinancing / Equity Take-Outs and Switches			
☐ Current Mortgage Statement		☐ Charge/Mortgage	
☐ List of debts/balances (Refinance only)		☐ Transfer/Deed	
☐ Property Tax Statement		☐ Property Insurance Policy	
☐ Mortgage Repayment History: ________ Months		☐ Other:	
For Purchases Only			
☐ Purchase & Sale Agreement		☐ Proof of Down payment / Gift Letter	
☐ MLS Listing		☐ Rental Letter (satisfactory rent paid)	
☐ Real Estate Salesperson Contact Information		☐ Other:	
Disclosure Documentation			
☐ Signed lender Commitment		☐ Mortgage Summary/Amortization	
☐ Investor/lender Disclosure		☐ Creditor Insurance Request or Waiver	
☐ Signed borrower disclosure		☐ Other:	

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File Worksheet

A file worksheet is a key component used for recording notes and more importantly providing a quick summary of the file. This can be particularly important if more than one person is working on the file, if the mortgage agent is working on several files simultaneously or if the file hasn't been worked on in some time.

The following figure is a sample of a mortgage worksheet, which may be reproduced in whole or in part. In the top section is a brief summary of the mortgage request, including the amount, the rank, the purpose of the mortgage, the GDS and TDS, the credit score and the date the credit report was obtained. This date should be changed whenever a new credit report is pulled on the client. If there are several credit reports in the file, the most current will be readily known.

Figure 35 – Residential Mortgage Worksheet

Residential Mortgage Worksheet

Client Names (First, Last)		Source:
Mortgage Amount: $	Rank: 1st 2nd 3rd	Other:
Purpose of Mortgage:		
Loan to Value:	GDS:	TDS:
Credit Score:	Credit Bureau Date:	

☐ Is the client working with any other broker or lender? Yes / No If yes, whom?

Client Objectives (i.e. improve cash flow; lower the interest rate, etc.)	
Application Challenges: GDS/TDS, Credit, Employment, Property, Etc. (explain)	
List of Potential lenders (explain why for each)	
1	
2	
3	
First Contact Notes	Date of Inquiry
Initial Consultation Notes	Date of Meeting:
Additional Notes (include date of note entry)	

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The next section is used as a prompt for the mortgage agent to check whether the client is working with or has been working with another mortgage agent or lender. This is important to identify quickly as it will help determine how serious the client is in dealing with the mortgage agent.

> ***Success Tip – Is your client working with someone else?***
> To determine if your client is working with another broker or lender, use the following question, preferably before you meet with the client: "Mr. Client, I need to ask you if you are currently working with any other broker or lender on your financing needs as most lenders will look negatively on and not deal with an applicant who is dealing with several sources at the same time. Are you dealing with any other sources Mr. Client?." This question is short and to the point and will help the client understand that they should only be dealing with you and no one else!

The Client Objectives section of the Worksheet ensures that the mortgage agent has clearly identified what is important to the client. This is particularly useful if, for example, a client wishes to consolidate debts to lower his or her payment and the mortgage agent is able to accomplish this, but at a higher rate than the client was expecting. By understanding the client's main objective, the mortgage agent can focus on the fact that this main objective was achieved.

The Application Challenges section is designed to clearly articulate any challenges the client's application may have, quickly and clearly so that the mortgage agent can easily identify these issues on reviewing the file or in discussions with the lender or the client.

The next two sections are available for notes on the first contact, the initial consultation or any other notes that may be relevant. It is a best practice to summarize the first contact and initial consultation *as soon* as they have occurred to allow the capture of all relevant information. This can be important for future conversations.

11.3 Meeting the Client

There are three basic places where a mortgage agent can meet a client:
- The client's home
- The mortgage agent's office
- Another outside location.

There are several positives and negatives for each location, but it is important to focus on providing good customer service for the client, so wherever is best for the client is often the right choice. Wherever the meeting takes place it is vital that trust be created with the client as soon as possible. The different locations simply necessitate different processes to create this trust.

First Impressions

It is important to begin every meeting, regardless of where it occurs, with a positive attitude and professional demeanor. To make a good first impression it is important to dress like a professional, be on time, and be well prepared. Once in the meeting ask open-ended questions, listen well, and take notes. Taking notes from the beginning of the meeting before the actual interview begins is an important way of telling the client that the mortgage agent believes that what the client has to say is important, and it is.

Pause for clarification – Open-ended question
An ***open-ended question*** is a question that does not elicit a single word or short response. For example, asking a person how long he or she has worked at his or her job will elicit a short response. This is a closed-ended question. Asking a person to describe his or her job should result in a much longer response, which will most likely include how long he or she has been at the job. This is vital in developing a good dialogue with your client.

The Client's Home

When visiting a client in his or her home, it is important to prepare to arrive early. This limits the possibility of getting lost in unfamiliar terrain and provides the mortgage agent an opportunity to review the client's file before entering his or her home. A best practice is to arrive at least ten minutes ahead of schedule and park down the road. This time should be taken to reacquaint oneself with the client's information, including his or her name and the purpose of the financing.

When approaching the home focus on the task at hand. This means that the mortgage agent should clear his or her mind and leave all of his or her troubles, concerns, plans and any other distraction outside of the home.

Once the client answers the door, the mortgage agent should introduce him or herself. Provide the homeowner with a business card, preferably a card with a photo on it to put the homeowner at ease about the agent's identity. Don't forget to shake hands. While this may seem obvious, it may not be to someone who has not been in sales before. The next step is controlling the environment. The agent must suggest that the meeting occur in the kitchen or a sitting room. Any place that does not have a television or other distraction is acceptable.

When sitting, the mortgage agent must ensure that the client is seated across the table and not to the left or right of him or her. If the meeting includes a spouse it is important to have them both sitting across from the agent. This is important because if the agent ends up between the couple, he or she will not be able to gauge both of their reactions simultaneously. By being able to watch the clients' movements and body language, the agent will be able to better determine who the decision-maker is.

Pause for clarification – Decision-maker
The ***decision-maker*** is the spouse or individual in a relationship who is primarily responsible for the ultimate decision. The non-decision making spouse or individual will often look at the decision-maker when a question is being asked or a decision must be made. By asking simple questions at the beginning of the meeting you can determine who the decision-maker is by watching this behaviour. Pay attention to both, but focus on the decision-maker!

It is not rude to ask a client to turn off a television or radio or limit the amount of distraction that may be occurring around the room, such as by putting a dog in another room. If the mortgage agent tells the client that his or her full attention is required to ensure that the right product and best rate is attained, the client should agree to the request.

Before beginning the interview, it is important to create trust. This is much more difficult and time consuming to do in a client's home as opposed to the agent's office since the office environment in itself depicts professionalism. In the home environment the agent must prove professionalism and technical proficiency. This should be done at the outset. The client will already unconsciously begin to look at the agent as a professional if the agent dresses professionally; however, this is not enough to create trust quickly.

To accomplish this task requires preparation. A few minutes should be spent discussing the agent's background and experience. If the agent is new, then the focus should be on the brokerage's background. This will reassure the client that he or she is dealing with a professional. Once this has been accomplished it is time to move on to taking the application.

The Mortgage Agent's Office

Meeting in the agent's office requires the same attention to detail as meeting in a client's home; however, it is easier to set the tone of the meeting beforehand. Given the prominent display of any awards, professional accomplishments, diplomas, etc., the client will begin to unconsciously develop a level of trust as soon as he or she enters the meeting room. To illustrate this point, consider a doctor. In each examination room there tends to be a diploma on the wall. This is designed to reassure the patient that the doctor is indeed a practicing professional. The same result occurs when a client sees the evidence of accomplishments in the agent's office. Yet another example is the prominent displaying of awards by Real Estate Salespersons. They understand that quickly creating trust is key to a strong relationship.

Limiting distractions by turning off cell phones and closing the office door is also required, as well as ensuring that the client or clients are seated across from the mortgage agent.

Another Outside Location

A mortgage agent once said that he had over two hundred offices in Ontario. He was referring to Tim Horton's locations. Meeting a client at another outside location, although perhaps more convenient for the client, limits the control that the agent has over the environment. This means that distractions may be unavoidable. To limit the distractions, the agent should arrive early and choose an area within the location that has the least amount of traffic.

The same process that occurs in a client's home must then be followed. Ensure that the client or clients are seated across from the agent and that the introduction includes sufficient information on the agent's credentials to elicit a feeling of trust from the client.

11.4 Identity Verification

In today's mortgage market, identity theft and impersonation are a significant concern, making it necessary for the mortgage agent to verify the identity of his or her client at the initial consultation. Regardless of whether the appointment is conducted at the client's residence or elsewhere, the mortgage agent must obtain photo identification for all clients.

Where possible a photocopy should be taken of this identification, or a picture taken, either using a camera or smartphone, but if not possible then an attestation to the fact that the identification was viewed must be made and put in the file. In all cases the statement below that best represents the circumstances of the identity verification should be included in the application when submitted to the lender, ideally in the notes section.

Three forms of typical attestations, based on differing circumstances are:

“I have / have not met the client before however I have viewed photo identification in the form of (driver’s license, passport, etc,) and attest to the fact that it appears to be an accurate representation of the client,” or

“The client is a previous client of mine and I have viewed photo identification in the form of (driver’s license, passport, etc.) and attest to the fact that it appears to be an accurate representation of the client,” or

In the case of taking an application by email or through the Internet where personal contact is not possible,

“I have/have not met the client before and have not personally met the client in this transaction and therefore cannot verify the client’s identify through photo identification.”

While obtaining photo identification is not legally mandated as of the date of publication of this book, it is a best practice and should be followed without fail to protect the integrity of the transaction and the security of all parties involved.

In so doing the mortgage agent affirms his or her professionalism to both of his or her clients: the lender and the borrower. If the borrower protests, inform him or her that it is for his or her protection. If the client continues to protest this should be taken as a red flag for fraud and the mortgage agent should refuse to continue with the transaction until the client agrees to produce valid identification.

For more information on acceptable forms of identification please refer to chapter 12: Application Analysis – Borrower Documents.

11.5 The Application Form

The mortgage application form is the document that is used to obtain all of the information required to qualify the borrower. There is no standard application; many brokerages have their own form. However, all forms request the same information from the borrower and therefore require the same explanation.

Example
Bob Clark has decided that he wants to buy a new home. He's found a house currently under construction and would like to see if he qualifies for a mortgage. You have met with Bob and have taken his application, as illustrated in the following figure.

Figure 36 – Sample Application Form

REMIC Mortgages Inc.

Source: Flyer

123 Anywhere Street, Suite 100
Toronto, ON, M1S 5B2
Tel: (416) 555-1212

Mortgage Application Form

APPLICANT(S)		
Name of Applicant in Full Bob Clark	DOB (MM/DD/YYYY) 03/22/1970	SIN 555-121-121
Contact Information Tel: 416-555-9999 Cel: 647-555-1212 Email: bob.clark@hotmail.com		
Name of Co-Applicant in Full N/A	DOB (MM/DD/YYYY)	SIN
Contact Information		

Present Address 1155 Renter Boulevard, Toronto, ON, M1S 1N1	No of Years 4
Previous Address	No. of Years

DETAILS OF MORTGAGE REQUEST						
Purpose of Mortgage Purchase a new home currently under construction						
Amount $500,000	Rate 4.5%	Term 5 Years	Frequency Monthly	Amortization 25 years	Date Required February 20th, 2013	Rank (1st, 2nd) 1st

PARTICULARS OF SECURITY				
Lot # 99	Plan # W1234	Municipality Toronto	Occupancy Applicants	Rental Income $N/A
Civic Address (if different from Present Address) 1234 borrower Lane, Toronto, ON, M1S 1M1				Lot size 50ft. X 150 ft.

PROPERTY TYPE AND CONSTRUCTION				
Date Acquired (MM/DD/YYYY) N/A	Purchase Price $500,000	Down Payment $0.00	Present Value $500,000	Annual Taxes $3,200.00

☑ Detached ☐ Duplex ☐ Triplex ☐ Semi ☐ Condo (Mtc Fee: $__________)
☐ Townhouse ☐ Other
Age of Building: New Construction: Brick Storeys: 2 # of Bedrooms: 3
Zoning: Residential
Garage: Single - Attached Heating: Forced Air/Gas

Property Extras (Describe)
Finished Basement, central air, central vac, outdoor Jacuzzi

DETAILS OF EXISTING FINANCING

Rank	Current Balance	Rate (%)	Payment	Lender	Renewal Date	To Remain?
1st Mtg	N/A	N/A	N/A	N/A	N/A	N/A
2nd Mtg	N/A	N/A	N/A	N/A	N/A	N/A

EMPLOYMENT INFORMATION

APPLICANT'S EMPLOYER'S NAME:
☐ SELF-EMPLOYED?
FastDelivery Inc. POSITION: Truck Driver
ADDRESS: 600 Freight Lane, Toronto, ON
INCOME: $125,000 Per Year

TEL. 416-888-9999
FAX: 416-999-0000
NO. OF YEARS: 4

CO-APPLICANT'S EMPLOYER'S NAME:
☐ SELF-EMPLOYED?

OTHER INCOME (SPECIFY SOURCE AND AMOUNT)
N/A

ASSETS AND LIABILITIES

ASSET TYPE	AMOUNT	LIABILITY TYPE	AMOUNT	PAYMENT	TO REMAIN?
BANK ACCOUNT	$ 50,000.00				
2007 Ford F150	$ 25,000.00	MasterCard	$ 0.00	$ 0.00	Y
Personal Effects	$ 40,000.00		$	$	
RRSP	$ 25,000.00		$	$	
	$		$	$	
	$		$	$	
OTHER:	$		$	$	
	$		$	$	
	$		$	$	
TOTAL	$140,000.00		$ 0.00	$ 0.00	
NET WORTH	ASSETS ($140,000.00) – LIABILITIES ($0.00) = NET WORTH $140,000.00				

NOTES

Mr. Clark would like a 25-year amortization with a loan to value of 100%.

CONSENT

IN CONNECTION WITH MY APPLICATION FOR CREDIT, I/WE HEREBY AGREE TO YOU PROCURING ANY CREDIT OR OTHER REPORTS TO DETERMINE MY ABILITY TO OBTAIN MORTGAGE FINANCING AND SHARE THIS INFORMATION WITH OTHER CREDIT GRANTORS OR CONSUMER REPORTING AGENCIES. I/WE FURTHER AGREE THAT YOU MAY ASSIGN THIS APPLICATION TO THE LENDER OF YOUR CHOICE AND MAY DESIGNATE THE CLOSING LAWYER. I/WE ACKNOWLEDGE THAT YOU MAY RECEIVE A FINDERS FEE FROM THE LENDER. I/WE FURTHER STATE THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. I/WE AUTHORIZE YOU TO USE THE INFORMATION CONTAINED WITHIN THIS APPLICATION AND AS OBTAINED THROUGH THIS TRANSACTION TO PROVIDE ME/US WITH INFORMATION THAT YOU BELIEVE MAY BE OF INTEREST TO US IN THE FUTURE.

DATE: Jan 20, 2013 APPLICANT'S SIGNATURE: *Bob Clark*

Section-by-Section Application Analysis

Applicant(s) Information

Figure 37 – Borrower Application: Information Section

REMIC Mortgages Inc.

Source: Flyer

123 Anywhere Street, Suite 100
Toronto, ON, M1S 5B2
Tel: (416) 555-1212

Mortgage Application Form

<table>
<tr><th colspan="3">APPLICANT(S)</th></tr>
<tr><td>Name of Applicant in Full
Bob Clark</td><td>DOB (MM/DD/YYYY)
03/22/1970</td><td>SIN
555-121-121</td></tr>
<tr><td colspan="3">Contact Information
Tel: 416-555-9999 Cel: 647-555-1212 Email: bob.clark@hotmail.com</td></tr>
<tr><td>Name of Co-Applicant in Full
N/A</td><td>DOB (MM/DD/YYYY)</td><td>SIN</td></tr>
<tr><td colspan="3">Contact Information</td></tr>
<tr><td colspan="2">Present Address
1155 Renter Boulevard, Toronto, ON, M1S 1N1</td><td>No of Years
4</td></tr>
<tr><td colspan="2">Previous Address</td><td>No. of Years</td></tr>
</table>

- Source
  Source refers to how the applicant heard about the mortgage agent. Examples might be a referral, in which case it is necessary to ask who referred the applicant, or an advertisement, in which case it is necessary to ask which advertisement the applicant viewed.

- Borrower's Name
  The applicant must provide his or her full legal name, as it will be used to complete the credit inquiry as well as on all other loan documentation, including the legal documentation to register the mortgage. It is a best practice to view photo identification at this stage to ensure that the applicant is the person that he or she is applying as.

- Applicant Date of Birth and Co-App Date of Birth
  Document the applicant's and co-applicant's date of birth. Use the application's format. If no format is shown, use a format that is easily identifiable. For example, using 3/7/1980 may be misinterpreted. Instead use the format March 7, 1980.

- Social Insurance Number (SIN)
  It is helpful to have the social insurance number when completing a credit inquiry; however, it is not mandatory. If the applicant does not wish to provide his or her social insurance

number, then the mortgage agent cannot demand it. An applicant may legally refuse to provide this information.

- Contact Information
  Record the applicant's contact information, including his or her email address. The email address will be especially useful in the future when marketing to the applicant. Ensure that the main contact number is clearly indicated.

- Applicant's Present Address
  Document the applicant's current address with postal code and indicate the length of time that the applicant has resided at this location. The postal code is of particular importance for the default insurer as the insurer has automated valuation systems that use this information to assist in determining if the value noted on the application is consistent in the area in which the property is located.

- Previous Address
  If the applicant has resided at their present address for three years or less, the mortgage agent should document the applicant's previous address. The total of all addresses should be at least three years.

- Co-Applicant or Guarantor/Co-Signer
  Co-applicant spouses are included in the same application. All other applicants' names should be listed in the application; however, each applicant should have a separate application completed on him or her to ensure that all information is captured and that information relevant to each applicant is separate. For example, if there is a brother who is a co-applicant his name should be included in the application to enable anyone viewing the application to know that he or she must refer to the brother's application as well. Guarantors and co-signers will complete a separate application.

Pause for clarification – Co-applicants, co-signers and guarantors

A ***co-applicant*** (also referred to as a co-borrower) is an individual who is applying with the applicant and who will be registered on title and/or on the mortgage. The co-applicant's income and debts are included in all mortgage calculations.

A **co-signer** is a person who is helping the applicants get approved for the mortgage by being added to the application in the same was as an applicant or co-borrower, and will also be registered on title. A co-signer may be required if the applicant does not have sufficient income to qualify for the mortgage. The co-signer's income (and debts) will be included. A co-signer is as fully responsible for the mortgage as the applicant.

A ***guarantor*** is an individual who is not registered on title but who is guaranteeing to the lender that if the applicant fails to meet his or her obligations under the loan the guarantor will meet those obligations. The guarantor's income and debts are *not* included in the mortgage calculations unless he or she lives in the same home, however the lender still does a full application on the guarantor to ensure that the guarantor can make the mortgage payments if the applicant defaults. A guarantor may be required if the co-applicant(s) have poor credit but enough income to qualify.

Details of Mortgage Request

Figure 38 – Borrower Application: Details of Mortgage Request

DETAILS OF MORTGAGE REQUEST						
Purpose of Mortgage Purchase a new home currently under construction						
Amount $500,000	Rate 4.5%	Term 5 Years	Frequency Monthly	Amortization 25 years	Date Required February 20th, 2013	Rank (1st, 2nd) 1st

- Purpose of the mortgage
  This section must be as detailed as possible, indicating the purpose or reason for the requested financing. For example, if it is an equity take-out, the use of the proceeds must be indicated.

- Amount Requested
  Enter the total amount that the applicant is requesting based on the preliminary consultation. This amount may change once it has been determined if a mortgage default insurance premium is being added and/or any other fees need to be added to the mortgage amount.

- Term of Mortgage
  Document the term that the applicant and mortgage agent have decided is appropriate for the applicant. This requires the mortgage agent to discuss the applicant's future plans.

- Amortization
  The Amortization period is the total number of years it will take to fully repay the mortgage, as decided upon after a discussion between the mortgage agent and the applicant. A shorter amortization period will result in a higher payment while a longer amortization period will result in a lower payment.

- Date Required
  If the application is for the purchase of a home, document the closing date of the purchase. If it is for a switch or renewal, document the date that the term expires. If it is for a refinance, document the date on which the applicant requires the funds or the date that the mortgage agent expects the transaction to fund. Do not use "ASAP" or "As Soon As Possible" without discussing the time frame with the applicant. It is important to manage the applicant's expectations regarding the time that the process will take from application to funding.

- Type of Mortgage
  Document the type of mortgage that the applicant is requesting, such as a VRM or variable rate mortgage, FRM or fixed rate mortgage, LOC or line of credit, etc.

- Accelerated Payment
  Document if the applicant would like to accelerate the mortgage payment to repay the mortgage in a shorter period of time, which will save the applicant money over time. The applicant must understand that an accelerated mortgage payment is higher than a regular mortgage payment.

- Rank
  Document whether the requested mortgage is a 1^{st}, 2^{nd}, 3^{rd} or another mortgage.

Particulars of Security

Figure 39 – Borrower Application: Particulars of Security

PARTICULARS OF SECURITY				
Lot # 99	Plan # W1234	Municipality Toronto	Occupancy Applicants	Rental Income $N/A
Civic Address (if different from Present Address) 1234 borrower Lane, Toronto, ON, M1S 1M1				Lot size 50ft. X 150 ft.

- Lot and Plan Number (Part of the Legal Description)
  A lot refers to a tract or parcel of land and each parcel is assigned a lot number, as well as a plan number which refers to the plan. This information is typically found on the Purchase and Sale Agreement, Transfer/Deed and Charge/Mortgage and sometimes on the MLS.

- Municipality (part of the Legal Description)
  Document where the property is located. This information is typically found on the Purchase and Sale Agreement, Transfer/Deed and Charge/Mortgage and sometimes on the MLS.

- Occupancy
  If the property will be occupied by the owner alone, check the applicant box. If the property will be rented to a tenant, check the tenant box. If the property will be occupied by the owner and a tenant, check both boxes.

- Rental Income
  If the property is being rented or leased to tenants, how much is the rent?

- Civic Address of The Property To Be Mortgaged
  This is the standard address of a property, including the street name and number, city, province and postal code. Complete this section if the property to be mortgaged is different from the applicant's current address. For example, if the applicant is currently renting and this application is to purchase another property, the current address will be his or her rental address while the property to be mortgaged address will be the new home address.

- Lot Size
  Include the lot specifications here.

Property Type and Construction

Figure 40 – Property Type and Construction

PROPERTY TYPE AND CONSTRUCTION				
Date Acquired (MM/DD/YYYY) N/A	Purchase Price $500,000	Down Payment $0.00	Present Value $500,000	Annual Taxes $3,200.00

☑ Detached ☐ Duplex ☐ Triplex ☐ Semi ☐ Condo (Mtc Fee: $__________) ☐ Townhouse ☐ Other Age of Building: New Construction: Brick Storeys: 2 # of Bedrooms: 3 Zoning: Residential Garage: Single - Attached Heating: Forced Air/Gas	
Property Extras (Describe) Finished Basement, central air, central vac, outdoor Jacuzzi	

- Date Property Acquired or Purchased
  Document the date that the property was originally purchased.

- Purchase Price (If Less than 2 Years Ago)
  Document the price paid for the property.

- Down Payment
  Document the amount of down payment that the applicant originally provided.

- Present Value
  Document the value that the applicant feels his or her house is currently worth.

- Annual Taxes
  Document the amount of taxes that are paid on the property annually.

- If Condo, Condo Mtc. Fee
  If the property to be mortgaged is a condominium unit it will have a maintenance fee. This amount must be recorded in this section, including what items are including in the fee.

- Check the boxes that apply regarding the type and description of the building(s)

- Property Extras
  List any property extras of interest such as a finished basement, indoor or outdoor pool, etc.

Details of Existing Financing

This section is designed to document any and all existing financing currently on the property to be mortgaged. If the application is for a purchase, this section may be left blank.

Figure 41 – Borrower Application: Details of Existing Financing

DETAILS OF EXISTING FINANCING						
Rank	Current Balance	Rate (%)	Payment	Lender	Renewal Date	To Remain?
1st Mtg	N/A	N/A	N/A	N/A	N/A	N/A
2nd Mtg	N/A	N/A	N/A	N/A	N/A	N/A

- Mortgage(s)
  Document the current outstanding balance of the mortgage, the current rate of interest, the amount of the payment, including the frequency of the payment (i.e., monthly, weekly, etc.), which institution or private lender the first mortgage is currently held by, the contact information for that lender and if the mortgage is to be paid off from the proceeds of the new mortgage being applied for if it will remain in place. Complete this process for all mortgages on the property, including any Lines of Credit.

Employment Information

Figure 42 – Borrower Application: Employment Information

EMPLOYMENT INFORMATION	
APPLICANT'S EMPLOYER'S NAME: ☐ SELF-EMPLOYED? FastDelivery Inc. POSITION: Truck Driver ADDRESS: 600 Freight Lane, Toronto, ON INCOME: $125,000 Per Year	TEL. 416-888-9999 FAX: 416-999-0000 NO. OF YEARS: 4
CO-APPLICANT'S EMPLOYER'S NAME: ☐ SELF-EMPLOYED?	
OTHER INCOME (SPECIFY SOURCE AND AMOUNT) N/A	

- Employer's Name, Address/Tel#
  Document the applicant's current employment information.

- Self-Employed?
  If the applicant is self employed

- Position
  Document the applicant's position or title with his or her current employer.

- # of Years
  Document the number of years that the applicant has been employed by his or her current employer.

- Salary
  Document the salary or income of the applicant before taxes are deducted.

- Per Year or Month
  Document whether the salary or income from the previous section is an annual or monthly amount.

- Other Income
  Document any other income that the applicant has ensuring that full details are provided.

- Previous Employer's Information
  Complete the fields attached to this section in the same fashion as for the current employer.

- Co-Applicant's Employer
  Complete the fields attached to this section in the same fashion as for the applicant.

Financial Information

Figure 43 – Borrower Application: Assets and Liabilities

ASSETS AND LIABILITIES					
ASSET TYPE	AMOUNT	LIABILITY TYPE	AMOUNT	PAYMENT	TO REMAIN?
BANK ACCOUNT	$ 50,000.00				
2007 Ford F150	$ 25,000.00	MasterCard	$ 0.00	$ 0.00	Y
Personal Effects	$ 40,000.00		$	$	
RRSP	$ 25,000.00		$	$	
	$		$	$	
	$		$	$	
OTHER:	$		$	$	
	$		$	$	
	$		$	$	
TOTAL	$140,000.00		$ 0.00	$ 0.00	
NET WORTH	ASSETS ($140,000.00) – LIABILITIES ($0.00) = NET WORTH $140,000.00				

- Assets
  Document all assets owned by the applicant. Include an addendum if there is not enough space to list all of them. All personal effects can be totalled and listed as Personal Effects. If this mortgage is a refinance, switch or equity take-out, be sure to include the value of the property in this section as well. Add up all assets and document this as Total Assets.

- Liabilities
  Document all liabilities for which the applicant is responsible. Include an addendum if there is not enough space to list all of them. If this mortgage is a refinance, switch or equity take-out, be sure to include the outstanding balance of the mortgage in this section as well. Add up all liabilities and document this as Total Liabilities.

- Payments
  Document the payment totals for each listed liability as a monthly amount. Document the total monthly obligations of the applicant in the space provided.

- To Remain?
  Document which, if any, of the liabilities will be paid off from the proceeds of the proposed mortgage.

- Net Worth
  List the Assets and Liabilities. Subtract the liabilities from the assets and list this amount as the Net Worth.

Notes
Detail anything of importance that may impact the applicant's ability to obtain an approval and/or that may add to or clarify information in the application.

Authorization
This section, once signed by the applicant(s), allows the mortgage agent to perform the required investigations and provide required information to potential lenders.

Tips for a Complete Application

Complete all Fields
Ensure that all fields of the application are completed, whether or not information is obtained for that field. For example, if the field does not apply to the application it is best to enter "N/A" or "not applicable" in the field. If the field is left blank someone viewing the application in the future will be unable to determine if the information was missed being entered or if it was not applicable to this applicant.

Compare Information with Documentation
When taking an application verify that what the applicant is saying matches the information found in the supporting documentation. Some applicants may inadvertently provide inaccurate information such as employment income or outstanding balances on his or her mortgage or other debts.

Signature
When completing a paper application, ensure that the applicant(s) sign(s) the application. By having the client's signature on the application, the mortgage agent has consent to complete the necessary investigations to obtain a commitment from a lender. Although verbal authorization is acceptable, some applicants may dispute providing authorization at some point in the future. For example, if an applicant is declined and six months later attempts to obtain financing, he or she may not recall the reason for the inquiry on his or her credit report.

The applicant may then contact Equifax or Transunion (whichever credit reporting agency the inquiry was found through) and request that the inquiry be removed. Equifax or Transunion will contact the mortgage agent or mortgage brokerage to request the authorization for that credit inquiry. If there is no signed application, the applicant may have a case that the mortgage agent initiated the credit inquiry without the applicant's authority, which is a breach of the contract between the credit reporting agency and the brokerage. In this case the mortgage agent would be required to provide additional details about how the authorization was given and when it was given to be able to prove that it was a legitimate credit inquiry.

Notes
The mortgage application form itself does not provide space for explanatory notes. The mortgage agent should use a separate piece of paper or a Notes page, such as the Worksheet, to make notes relevant to the application. For example, if the applicant indicates that he or she has had past credit issues, the mortgage agent must document that information and include it in

the loan submission to the lender. A best practice is to include explanatory notes for any potential questions that a lender may have about the application.

11.6 Determining the Applicant's Needs

Determining the applicant's needs is a very important step in completing the application. To determine the applicant's needs, specific questions must be asked. The following form, which may be reproduced without permission, assists in determining those needs. Once the form has been completed the mortgage agent can search for specific products that meet the applicant's needs. The following figure is a sample of an Applicant Needs Assessment form.

Figure 44 – Applicant Needs Assessment

Applicant Needs Assessment

1. What are your goals with regards to this mortgage?

☐ Purchase: Price Range from $__________ to $__________

Down payment Available: $__________________

☐ Obtain a lower rate: Current Rate: _________%

☐ Obtain a lower payment: Current Payment: $__________

☐ Consolidate Debt: Amount: $___________

☐ Renovations: Amount: $__________

Type of Renovations: __________________________________

☐ Other. Explain:____

2. What is the amount of the mortgage payment that you believe would fit your current lifestyle?

From $__________ to $__________

3. What interest rate range do you expect to obtain?

From __________% to __________%

4. Do you plan on moving in the next 5 years? If yes, when?

5. Do you plan on changing employers in the next 5 years? Is yes, when?

6. Do you believe your current home will meet your family's needs over the next five years?

☐ Yes ☐ No

7. Do you typically receive bonus or commission income in addition to your regular income? If yes, how often?

☐ Annually ☐ Monthly

8. Do you intend to make a lump sum payment or payments on your mortgage to pay it off faster?

☐ Yes ☐ No

9. Which is most important to you?

☐ Debt Repayment: Paying your mortgage off as soon as possible?

☐ Cash Flow: Having a low or the lowest payment possible?

10. Which is most important to you:

☐ Mortgage Payment: Having a mortgage payment that fits your cash flow?

☐ Interest Rate: Having a low or the lowest interest rate possible?

11. When it comes to your mortgage payment, would you say that you:

☐ Would like a mortgage payment that stays the same month to month?

☐ Would like a mortgage payment that might increase or decrease if there is the potential to save money?

12. If given the option to have a variable interest rate that is lower than a fixed interest rate, would you:

☐ Be willing to watch interest rates on a monthly basis to ensure that your mortgage has the best rate possible? OR

☐ Prefer to have a fixed interest rate that did not fluctuate and did not require regular attention?

13. Would you prefer a payment frequency that is:

☐ Monthly ☐ Bi-Weekly ☐ Weekly

Additional Notes:

11.7 Key Terms and Definitions

Business license
A license provided to a business that serves as proof that a business is registered and operational

Civic address
The street address of a property, including the number of the property, the street, the unit number (if applicable), the province and the postal code

Closed-ended question
A question designed to elicit a single word answer such as a yes or no

Co-applicant / co-borrower
An individual who is registered on title and who is applying for financing with the applicant

Co-signer
An individual who is registered on title and who is guaranteeing that payments will be made to the lender if the borrower defaults. Usually required if the applicant has insufficient income.

Decision-maker
The individual who tends to make the majority of the decisions for the family unit

File
The collection of relevant documents related to a mortgage transaction

File checklist
A document that allows the mortgage agent to check off the documents received in the file

Financial statements
Formal records of a business' financial activities. These statements provide an overview of a business' profitability and financial condition in both short and long term.

Guarantor
An individual who is not registered on title but who is guaranteeing that payments will be made to the lender if the borrower defaults. Usually required if the applicant has poor credit.

Legal description
A description of the property, including the lot and plan number, and the municipality, township or borough in which the property is located

Letter of employment
A document provided by an employer that lists the employee's position, length of employment and income

MLS listing
Multiple Listing Service. This is typically how real estate salespersons expose a property to the marketplace.

Mortgage repayment history
A history of the applicant's mortgage payments, typically over twelve to twenty-four months, provided by a lender

Open-ended question
A question designed to elicit a conversational answer, not simply a "yes" or "no" answer

Paystub
A document provided to an individual by his or her employer each time the employee is paid (by cheque, direct deposit or other), and is often required by a lender in addition to a job letter and/or any other document used to verify the employee's income

PIPEDA consent
Consent under the *Personal Information Protection and Electronic Documents Act* that allows the mortgage agent to use the applicant's information for a set of specific purposes

Property insurance policy
An insurance policy that insures the property against losses due to fire, vandalism, etc.

Property tax statement
A statement provided by the municipality in which the property is located indicating the amount of annual property taxes and if any property taxes are outstanding

Purchase and sale agreement
The document completed by a real estate salesperson for the sale of property

T4
A document provided to an individual by his or her employer, typically when there is employment income, such as salaried or hourly income. Employers are required by law to provide the T4 so that employees may file their income tax returns. The T4 indicates, among other things, the amount of money the employee earned in the one-year period, as well as the deductions from earnings

Tax return
The document required to be completed by a taxpayer and submitted to Canada Revenue Agency that describes income, deductions, expenses, etc. as prescribed by the *Income Tax Act*

11.8 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Describe the documentation that must be obtained by a mortgage agent in every mortgage transaction.

2. What documentation is typically required for a self-employed individual?

3. What documentation is typically required for a purchase transaction?

4. What documentation is typically required for a refinance, equity take-out or switch transaction?

5. Discuss the importance of the file checklist.

6. Where are the different places that a client may be met and what are the positives and negatives of each?

7. Why is it important to verify an applicant's identity?

8. Discuss the difference between a co-applicant and a guarantor.

9. Why is it important to have the mortgage application signed by the applicant(s)?

10. How can a mortgage agent determine the applicant's needs?

Chapter 12: Application Analysis – Borrower Documents

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Analyze documents used for income verification
- ❑ List acceptable forms of identification
- ❑ Analyze documents used when purchasing a property
- ❑ Complete an application for creditor insurance
- ❑ Identify inconsistencies in borrower documents
- ❑ Identify potential fraudulent borrower documents
- ❑ Review borrower documentation for potential misrepresentation or fraud

Introduction

The Chapter on the Initial Consultation identifies which documents must be obtained from a potential client. Presented with this documentation, a mortgage agent must be able to review each document to determine if there is any potential misrepresentation or fraud. This requires the mortgage agent to be familiar with these documents, understand the information provided in each and its relevance to the mortgage application, and be able to identify inconsistencies in these documents before they are submitted to the appropriate lender.

Clearly it is in the agent's best interests to do such a review. If an application submitted to a lender contains information in the application that is different than in the supporting documentation, the application process will be slowed down significantly and/or the application may be declined by the lender. The following sections contain a visual representation of each document as well as an analysis of each.

12.1 Fraud and Forgery

Unfortunately, each of the following documents can be forged and used for fraudulent purposes in the mortgage application process. To help safeguard against submitting forged documents to a lender, the agent must have an understanding of the information contained in each document.

With today's technology, individuals wishing to create a forged document can and will. They can use software to manipulate documents provided by employers, the government or other participants in the mortgage transaction to appear to be valid. Because forgery is more sophisticated in today's marketplace than ever before, it is necessary for the mortgage agent to closely inspect the documents provided by the borrower. In the vast majority of cases borrowers are honest and supply legitimate documentation. However, it is the dishonest borrower who will cause the greatest harm to a mortgage agent's reputation if that mortgage agent submits forged documentation to a lender that he or she *should* have known was forged.

The following documents are provided as samples of what a mortgage agent can expect to receive, depending on the type of transaction, as well as the types of information that can be expected to be found in these documents.

12.2 Income Documentation

In this section we will begin by learning how to identify borrower documents, followed by an explanation and analysis of them for accuracy and inconsistencies, including potential fraud, where applicable.

T4A[1]

A T4A is a document provided to an individual by his or her employer which summarizes income from various sources and is used by the individual for submitting an annual income tax return. This document is typically obtained by a broker/agent when the applicant has commission or contract income, such as a commissioned salesperson or independent contractor. There are, however, other times that an applicant will receive a T4A.

Pause for clarification – Income Taxes and Self-employed commissions
Employers typically deduct income taxes from individuals who are paid self-employed commissions, with some exceptions. This amount will appear in box 22 of the T4A.

The types of income that are reflected in a T4A include:

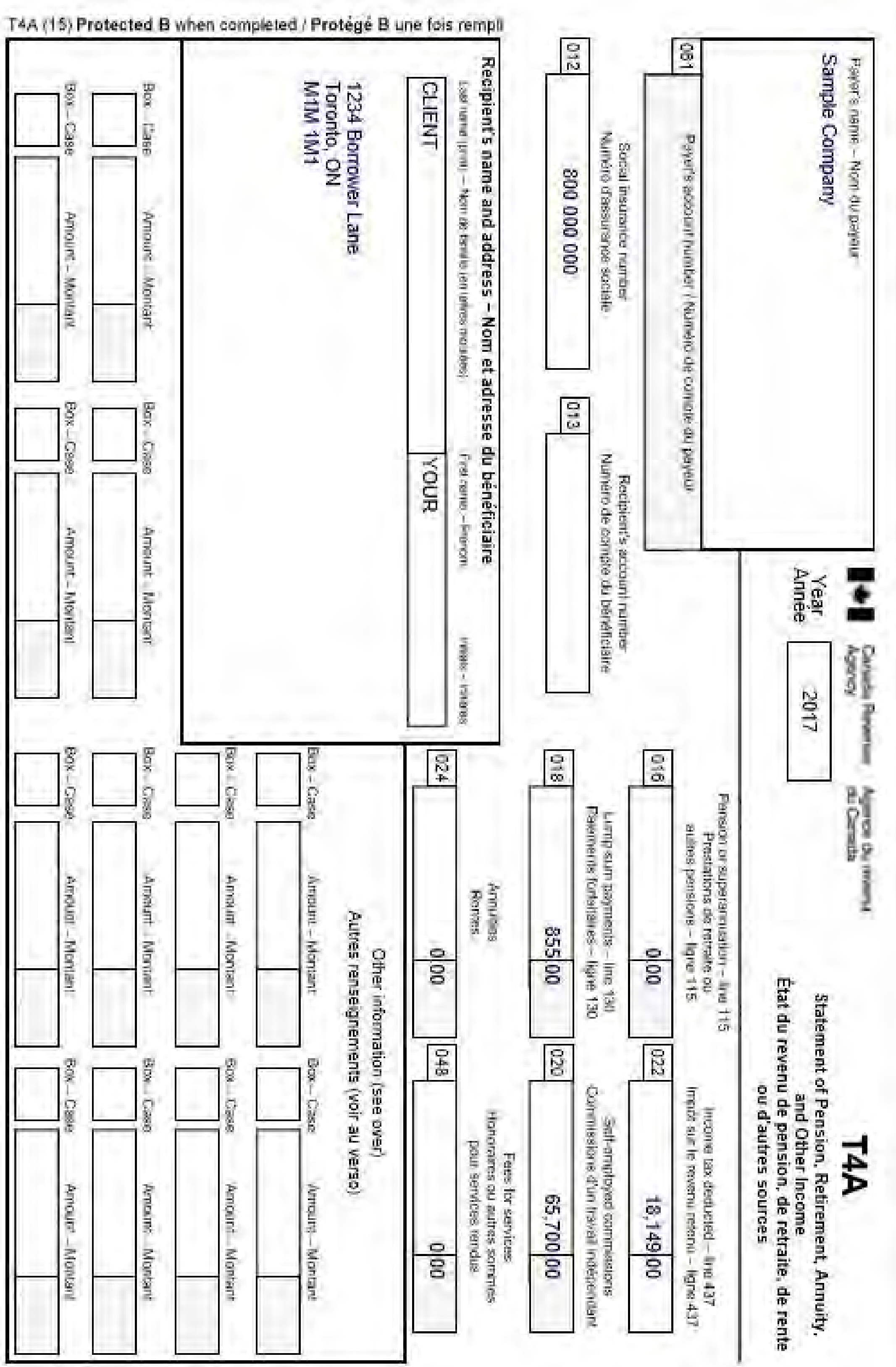
- pension or superannuation;
- lump-sum payments;
- self-employed commissions;
- annuities;
- retiring allowances;
- patronage allocations;
- registered education savings plan (RESP) accumulated income payments;
- RESP educational assistance payments;
- fees or other amounts for services; or
- other income such as research grants, payments from a Registered disability savings plan (RDSP); wage-loss replacement plan payments if you were not required to withhold Canada Pension Plan (CPP) contributions and employment insurance (EI) premiums, death benefits, or certain benefits paid to partnerships or shareholders

Employers must also prepare a T4A slip if they provided group term life insurance (taxable benefits) for former employees, or retirees, even if the total of all benefits paid in the calendar year was $500 or less. In addition, the employer must prepare a T4A slip if they are the

[1] Government of Canada, https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/payroll/completing-filing-information-returns/t4a-information-payers/t4a-slip/what-report-exceptions.html

Administrator or trustee of a multi-employer plan and they provided taxable benefits under the plan to employees, former employees, or retirees, if the total of all benefits paid exceeded $25.

Figure 45 – Sample T4A



Detailed analysis of a T4A
This section describes the sections of a T4A that are most relevant to the mortgage process.

Box 12 - Social insurance number
Employers must enter the social insurance number (SIN) of the recipient as it appears on the recipient's SIN card. If an employer cannot obtain the SIN, the employer must enter nine zeroes.

> ***Success Tip - SIN***
> If an applicant provides a T4A with nine zeroes in Box 12, it doesn't necessarily mean anything other than the fact that the applicant didn't provide his or her SIN to the employer. Full verification of the applicant's information is required to ensure that he or she is actually the same individual named in the T4A.

Box 13 – Recipient's Account Number
If the T4A is for a business the employer must enter the first nine digits of the recipient's business number (BN).

Box 16 - Pension or superannuation
If the recipient received annuity payments from the employer, the employer must enter the taxable part of annuity payments it paid to an employee or retired employee out of, or under, a superannuation or pension fund or plan, including disability benefits paid in the form of a life annuity.

Box 18 - Lump-sum payments
Employers must enter the taxable part of a single payment out of a pension fund or plan due to any of the following reasons:

- withdrawal from the plan, retirement from employment, or death of an employee or former employee; or
- termination of, amendment to, or modification of the plan; or
- reimbursement of any over-contribution to the plan.

Box 20 - Self-employed commissions
One of the most important sections of a T4A for a broker/agent, Box 20 contains the amount of commissions an employer paid to a person working as an independent agent (i.e., not an "employee"). GST paid to the recipient on those services is not included in this amount.

Box 22 - Income tax deducted
This is the total income tax deducted by the employer from the recipient's remuneration during the year. This includes the federal, provincial (except Quebec), and territorial taxes that apply. This box will be blank if the employer didn't deduct any taxes during the year. Amounts withheld under the authority of a garnishee or a requirement to pay that applies to the employee's previously assessed tax arrears will *not* appear here.

Box 61 - Payer's Business Number (BN)
This is the 15-digit BN of the employer and does not appear on copies provided to the recipient. If the BN does appear the broker/agent should confirm the information on the slip from the employer as this may be a sign of a forged document, since many individuals aren't aware that the BN is not to appear on the recipient's slip.

T4

A T4 is a document provided to an individual by his or her employer to summarize income for a given one-year period. This document is typically obtained by a broker/agent when the applicant has employment income such as salaried or hourly income.

Every employer (resident or non-resident) must provide a T4 slip to employees if it has paid its employees any of the following types of income:

- employment income
- taxable allowances and benefits
- fishing income or any other payments for services rendered during the year
- salary, wages (including pay in lieu of termination notice,) tips or gratuities, bonuses, vacation pay, employment commissions, gross and insurable earnings of self-employed fishers, and all other remuneration paid to employees during the year
- deductions withheld by the employer during the year and
- pension adjustment (PA) amounts for employees who accrued a benefit for the year under the employer's registered pension plan (RPP) or deferred profit-sharing plan (DPSP)

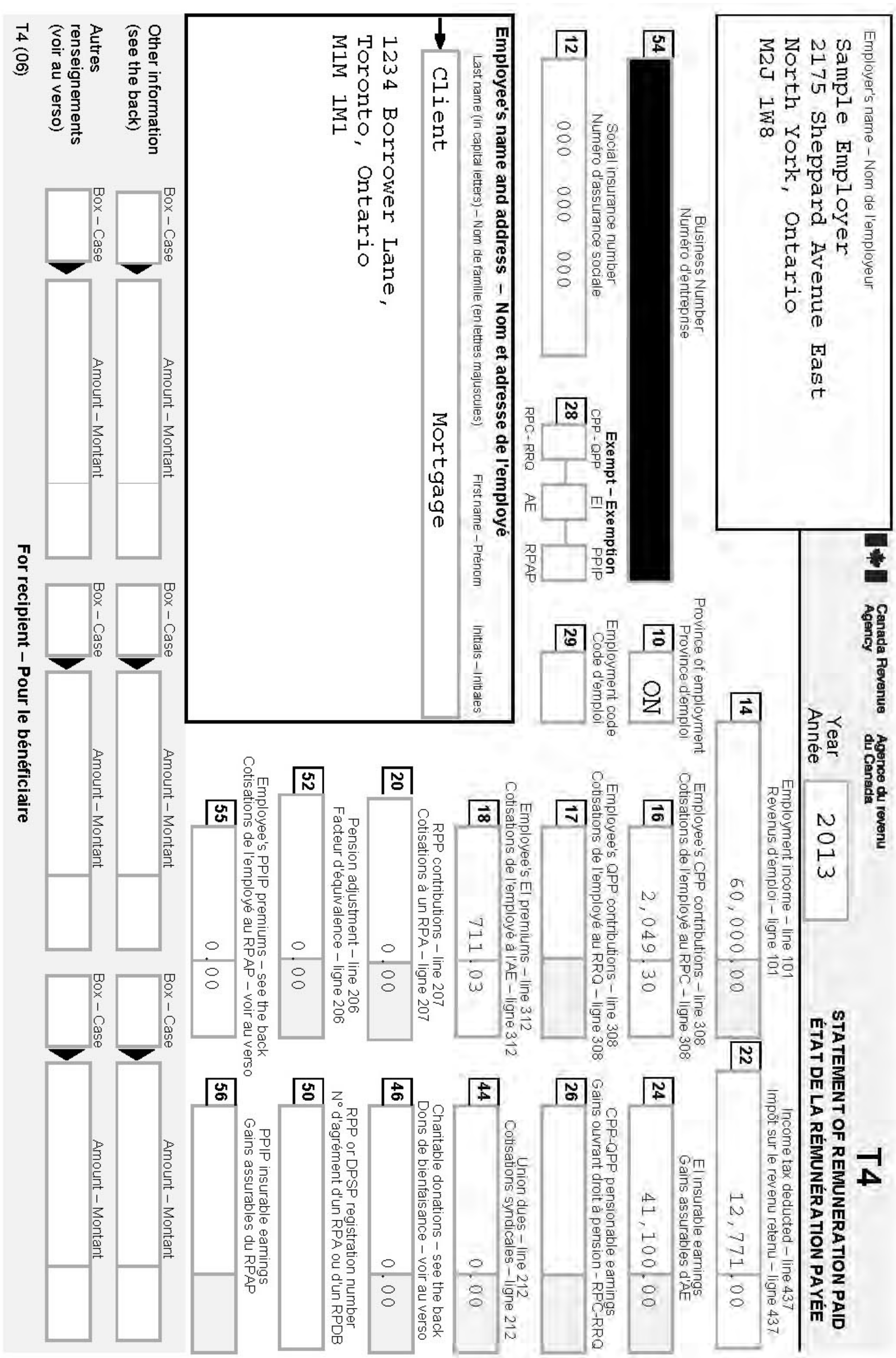
Detailed analysis of a T4
This section describes the sections of a T4 that are most relevant to the mortgage process.

Employer's name
The operating or trading name of the employer.

Employee's name and address
The employee's last name, followed by the first name and initial, not including the title of the employee (such as Director, Mr., or Mrs.), followed by the employee's address, including the province, territory, or U.S. state, Canadian postal code or U.S. zip code, and country.

Year
The four digits of the calendar year in which the employer paid the remuneration to the employee.

Figure 46 – Sample T4



Canada Revenue Agency / Agence du revenu du Canada

T4
STATEMENT OF REMUNERATION PAID
ÉTAT DE LA RÉMUNÉRATION PAYÉE

Year / Année: 2013

Employer's name – Nom de l'employeur
Sample Employer
2175 Sheppard Avenue East
North York, Ontario
M2J 1W8

14	Employment income – line 101 / Revenus d'emploi – ligne 101	60,000.00
22	Income tax deducted – line 437 / Impôt sur le revenu retenu – ligne 437	12,771.00
16	Employee's CPP contributions – line 308 / Cotisations de l'employé au RPC – ligne 308	2,049.30
24	EI insurable earnings / Gains assurables d'AE	41,100.00
17	Employee's QPP contributions – line 308 / Cotisations de l'employé au RRQ – ligne 308	
26	CPP-QPP pensionable earnings / Gains ouvrant droit à pension – RPC-RRQ	
18	Employee's EI premiums – line 312 / Cotisations de l'employé à l'AE – ligne 312	711.03
44	Union dues – line 212 / Cotisations syndicales – ligne 212	0.00
20	RPP contributions – line 207 / Cotisations à un RPA – ligne 207	0.00
46	Charitable donations – see the back / Dons de bienfaisance – voir au verso	0.00
52	Pension adjustment – line 206 / Facteur d'équivalence – ligne 206	0.00
50	RPP or DPSP registration number / N° d'agrément d'un RPA ou d'un RPDB	
55	Employee's PPIP premiums – see the back / Cotisations de l'employé au RPAP – voir au verso	0.00
56	PPIP insurable earnings / Gains assurables du RPAP	

54 Business Number / Numéro d'entreprise: [redacted]

10 Province of employment / Province d'emploi: ON

12 Social insurance number / Numéro d'assurance sociale: 000 000 000

28 Exempt – Exemption: CPP-QPP / RPC-RRQ; EI / AE; PPIP / RPAP

29 Employment code / Code d'emploi

Employee's name and address – Nom et adresse de l'employé
Last name (in capital letters) – Nom de famille (en lettres majuscules) | First name – Prénom | Initials – Initiales
Client Mortgage
1234 Borrower Lane,
Toronto, Ontario
M1M 1M1

Other information (see the back) / **Autres renseignements (voir au verso)**
Box – Case | Amount – Montant | Box – Case | Amount – Montant | Box – Case | Amount – Montant

T4 (06)

For recipient – Pour le bénéficiaire

Box 10 - Province of employment
One of the following abbreviations will indicate where the employee reported to work:

AB	Alberta	NU	Nunavut
BC	British Columbia	ON	Ontario
MB	Manitoba	PE	Prince Edward Island
NB	New Brunswick	QC	Quebec
NL	Newfoundland and Labrador	SK	Saskatchewan
NS	Nova Scotia	YT	Yukon
NT	Northwest Territories	US	United States

ZZ Other
ZZ is used if an employee worked in a country other than Canada or the U.S. or worked in Canada beyond the limits of a province or territory (for example, on an offshore oil rig).

For any employee who worked in or whose employment was located in more than one province, territory, or country in the year, separate T4 slips are completed. For each location, the total remuneration paid to the employee and the related deductions, such as CPP/QPP contributions, EI premiums, and tax is listed.

Box 12 - Social insurance number
The employee's social insurance number (SIN) as it appears on the employee's SIN card. If the employer doesn't have the SIN, this section will contain nine zeros.

Box 14 - Employment income
This box reports the total income before deductions, including all salary, wages (including pay in lieu of termination notice), bonuses, vacation pay, tips and gratuities, honorariums, director's fees, management fees, and executor's and Administrator's fees received to administer an estate (as long as the Administrator or executor does not act in this capacity in the regular course of business).

Boxes 16 and 17 - Employee's CPP or QPP contributions
This box reports the amount deducted from the employee for contributions to the Canada Pension Plan (CPP) or Quebec Pension Plan (QPP).

Box 18 - Employee's EI (Employment Insurance) premiums
This box reports the amount of EI premiums deducted from the employee's earnings. If premiums were not deducted this box will be blank. Based on federal regulations, the maximum amount to be deducted for EI premiums in 2012 is $839.97.

Box 20 - RPP contributions
This box reports the total amount the employee contributed to a registered pension plan (RPP). If the employee did not contribute to a plan, this box will be blank.

Success Tip – EI premiums

If the amount in Box 18 exceeds the maximum annual premium, as indicated in the chart below, the broker/agent should review the T4 to ensure that it is not fraudulent. The following table illustrates the maximum amounts of insurable earnings and maximum employee premiums over the past several years. EI rates can be found at: https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/payroll/payroll-deductions-contributions/employment-insurance-ei/ei-premium-rates-maximums.html

Federal EI premium rates and maximums

Year	Maximum annual Insurable earnings	Rate (%)	Maximum annual employee premium	Maximum annual employer premium
2019	$53,100	1.62	$860.22	$1,204.31
2018	$51,700	1.66	$858.22	$1,201.51
2017	$51,300	1.63	$836.19	$1,170.67
2016	$50,800	1.88	$955.04	$1,337.06
2015	$49,500	1.88	$930.60	$1,302.84
2014	$48,600	1.88	$913.68	$1,279.15
2013	$47,400	1.88	$891.12	$1,247.57

Box 24 - EI insurable earnings

This box reports the total amount used to calculate the employee's EI premiums. This box will be blank if:

- there are no insurable earnings
- insurable earnings are the same as the employment income in box 14; or
- insurable earnings are over the maximum for the year (see the description provided for Box 18)

Box 26 - CPP/QPP pensionable earnings

In most cases, this box will be blank.

Box 46 - Charitable donations

This box reports amounts deducted from the employee's earnings for donations to registered charities in Canada.

Box 22 - Income tax deducted

This box reports the total income tax deducted from the employee's remuneration. This includes the federal, provincial (except Quebec), and territorial taxes that apply. If no taxes were deducted this box will be blank.

Success Tip – Income tax rates

Mortgage agents should be aware of the following taxes to be deducted and should ensure that the amounts on the T4 appear to meet the following table. If a mortgage agent believes that the taxes deducted in Box 22 are not reflective of the applicant's income he or she should confirm the information on the slip from the employer as this may be a sign of a forged document. Federal tax rates can be found at https://www.canada.ca/en/financial-consumer-agency/services/financial-toolkit/taxes/taxes-2/5.html while Ontario tax rates can be found at https://www.canada.ca/en/financial-consumer-agency/services/financial-toolkit/taxes/taxes-2/6.html

For 2018 the Federal tax rates are:

- $46,605 or less: 15%
- $46,605 to $93,208: 20.5%
- $93,208 to $144,489: 26%
- $144,489 to $205,842: 29%
- More than $205,842: 33%

For 2019 the Ontario tax rates are:

- 5.05% on the first $42,960 of taxable income, +
- 9.15% on the next $42,963, +
- 11.16% on the next $64,077, +
- 12.16% on the next $70,000, +
- 13.16 % on the amount over $220,000

Box 54 - Business Number

This box contains the 15-digit Business Number (BN) that is used by the employer to report deductions to CRA. The BN should not appear on the two copies of the T4 slip that are given to employees. If the BN does appear the broker/agent should confirm the information on the slip from the employer as this may be a sign of a forged document, since many individuals aren't aware that the BN is not to appear on the recipient's slip.

"Other information" area

The "other information" area at the bottom of the T4 slip has boxes for the employer to enter codes and amounts that relate to employment commissions, taxable allowances and benefits, deductible amounts, fishers' income, and other entries if they apply.

Example

40	2400.98
Box - Case	Amount - Montant

Codes 30 to 85 - Taxable allowances and benefits, deductible amounts, employment commissions, and other entries

30 - Housing, board, and lodging

31 - Special work site

32 - Travel in a prescribed zone

33 - Medical travel

34 - Personal use of employer's automobile

36 - Interest-free and low-interest loan

37 - Employee home-relocation loan deduction

38 - Security options benefits

39 - Security options deduction 110(1)(*d*)

40 - Other taxable allowances and benefits

41 - Security options deduction 110(1)(*d.1*)

42 - Employment commissions

43 - Canadian Forces personnel and police deduction

53 - Deferred security options benefits

70 - Municipal officer's expense allowance

71 - Status Indian employee

72 - Section 122.3 income - employment outside Canada

73 - Number of days outside of Canada

74 - Pre-1990 past service contributions while a contributor

75 - Pre-1990 past service contributions while not a contributor

77 - Workers' compensation benefits repaid to the employer

78 - Fishers gross earnings

79 - Fishers net partnership amount

80 - Fishers share-person amount

81 - Placement or employment agency workers gross earnings

82 - Drivers of taxis or other passenger-carrying vehicles gross earnings

83 - Barbers or hairdressers gross earnings

84 - Public transit pass

85 - Employee-paid premiums for private health services plans

Job Letter

A job letter is a document provided to an individual by his or her employer. This document is often required by a lender, in addition to other documentation, to verify an applicant's employment as well as income. The following is a sample of a job letter. A legend is provided to explain each section of the letter. To be acceptable the job letter should contain all of the information identified in the legend. It is important that a broker/agent review the job letter to ensure that it contains all of the necessary information, as well as to confirm that it is authentic. If there are any spelling errors the broker/agent should review the document carefully. If the broker/agent has any doubts regarding its authenticity he or she should verify its contents by:

- Ensuring the company exists. Perform a Canada 411 search (www.canada411.com) to verify that the company is listed. If it isn't the broker/agent should contact the borrower for further information. The broker/agent can also visit the company's physical address to determine if it is actually there.

- Contacting the employer using the contact information found in the job letter to verify its contents.

Regardless of whether the broker/agent finds any reasons to suspect that the letter is not authentic, he or she should verify the information found in the job letter.

Legend

A: Company Letterhead, including logo (if applicable) and contact information. Ensure that this information is correct by verifying it using Canada 411, calling the contact number(s) and/or visiting the physical location.

B: Date: The job letter needs to be recent in relation to the application. If the job letter was written before the broker/agent took the application a current pay stub should also be obtained to ensure that the applicant is still employed by this employer. If the job letter is over one month old the lender may require an up-to-date job letter.

C: Re line. This line may or may not be present, depending on the policy of the employer.

D: To line. If it is addressed to a specific individual, that individual should be the broker/agent or lender. If it is addressed to another individual the broker/agent should confirm the identity of that person and the reason for the other name. It may be a job letter that was supplied to another broker/agent or lender.

E: Position. The job letter must contain the applicant's position, and if he or she is full-time, part-time, seasonal, temporary, contract or on probation.

F: Date of employment. The job letter must contain the date that the applicant was first hired.

G: Income amount. The job letter must contain the amount of annual income earned by the applicant, and if it is salary, hourly or commission based. Any additional income, such as bonus income, must be listed separately from the salaried income.

H: Writer's information. The writer of the job letter should be clearly identified so that he or she may be contacted to verify the letter's information.

Figure 47 – Sample Job Letter

A **ABC Manufacturing Inc**

A
1234 John Street,
Somewhere, ON
M4M 4M4
Tel: (416) 555-1212
Fax: (416) 555-2121

B August 29, 2017

C Re: Employment Verification of Mr. John Q. Public

D To Whom It May Concern,

E As requested by Mr. John Q. Public this letter is to verify that Mr. John Q. Public is employed at ABC Manufacturing Inc. as a full-time salaried Assembly Line Operator.

He has been employed in this position since January 17th, 2009 F and earns $75,500 per G year.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

Sarah Public

H
Sarah Public
HR Assistant
ABC Manufacturing INC.

Paystub

A paystub is a document provided to an individual by his or her employer and is often required by a lender in addition to a job letter and/or other income verification. A paystub is generally used to prove that the applicant is still actively employed by the employer since a job letter may be one or more weeks old. In addition, the paystub can be used to ensure that the applicant's earnings on the job letter are accurately reflected in the year-to-date section of the paystub.

For example, if the job letter indicates that the applicant earns $60,000 per year and the paystub is obtained precisely at the middle of the year, it should indicate a year-to-date income of $30,000.

The following figure is a sample of a paystub.

Stated Income Declaration Letter

Some lenders will accept a stated income declaration as income verification for a self-employed borrower, or for a salaried borrower who also has self-employed income. When applicable the lender will typically require additional supporting information, such as:

- Proof of self-employment for a minimum period of time as required by the lender, such as business license, etc.;

- Notes with regards to the borrower's industry, ownership type (sole proprietorship, partnership, corporation, etc.), annual business revenue;

- Notice of Assessment from CRA indicating there are no income taxes owing;

- Completed lender's Declaration letter;

The following figure is a sample of a Stated Income Declaration Letter.

Figure 48 – Sample Paystub

BOB BORROWER	Employee # 0004				Department # 99	Period From 2008/10/31		To 2008/11/14	Payday 2008/11/21	
STATEMENT OF EARNINGS BULLETIN DE PAIE					EMPLOYER DEDUCTIONS AND CONTRIBUTIONS RETENUES DE L'EMPLOYE ET COTISATIONS PATRONALES					
Type	Hours	Rate	Amount	Y.T.D.	Type	Current	Y.T.D.	Type	Current	Y.T.D
00 Salary			1,781.32	56,736.60	13 G.P.P		2,049.30			
					14. E.I.		711.03			
					15 FED. TAX	477.37	16.587.57			
					20 UNION/LOCAL		21.60			

SUMMARY SOMMAIRE	GROSS PAY PAIE BRUTE	DEDUCTIONS RETENUES	NET PAY PAIE NETTE	NET PAY ALLOCATION DETAILS DE LA PAIE NETTE		
Current Courant	1,781.32	477.37	1,303.95	1,303.95	DEPOSIT	0004 12345 12345678911
Year-to-date Cumul annuel	56,736.60	19,369.50	37,367.10			

Employer # 1234-b TEST COMPANY, 1234 COMPANY LANE, TORONTO, ON, M1M 1M1

Figure 49 – Sample Stated Income Declaration Letter

STATED INCOME DECLARATION LETTER

Date:

Borrower Name:

Address of property being mortgaged

I acknowledge that the bank has relied upon the information contained in the credit application, including the following information provided by me, in assessing whether to approve my credit application. I certify the following to the bank:

- That my total gross annual earnings/income is $ _______________________, and that I do not currently have any outstanding personal income taxes owing/payable to the Canada Revenue Agency;

- That I expect such gross annual earnings/income will continue to be at least the amount indicated indefinitely and I do not foresee any decline in such gross annual earnings/income;

- That the information provided here and within the credit application is a true and correct representation of my financial situation; and

- That I can afford to make all loan payments and perform all my obligations under any loan or mortgage agreement with the bank without any undue financial hardship.

I acknowledge that the bank is not under any obligation to independently verify the information relating to my personal income and taxes provided by me herein or with the credit application, and such information may not be verified at all by the bank.

____________________________________ ____________________________________
Print name of borrower Print name of witness

____________________________________ ____________________________________
Borrower signature Witness signature

Notice of Assessment (NOA)

An NOA is issued by the federal government when a personal tax return has been completed and filed. This document provides a breakdown of the year's income along with the balance owing or refund due. A broker/agent will typically obtain this document when processing an application using a "Stated Income" program to provide proof that there are no outstanding back taxes owing to the Canada Revenue Agency. This document may also be required in other circumstances, as determined by each lender.

Figure 50 – Sample NOA

Notice details

Social insurance number	000 000 000
Tax year	2016

Joseph Black
123 Sample St
City, ON L1L 1L1

Tax assessment

We calculated your taxes using the amounts below. The following summary is based on the information we have, or you gave us.

We may review your return later to verity income you reported or deductions or credits you claimed. For more information, go to cra.gc.ca/reviews. Keep all your slips, receipts, and other supporting documents in case we ask to see them.

Summary

Line	Description	$ Final amount	CR/DR
150	Total Income	65,000	
	Deductions from total income	10,500	
236	Net Income	55,000	
260	Taxable Income	55,000	
350	Total federal non-refundable tax credits	2,000	
6150	Total Ontario non-refundable tax credits	650	
420	Net federal tax	7,500.00	
428	Net Ontario tax	4,000.00	
435	Total payable	11,500.00	
437	Total income tax deducted	11,000.00	
486	Payment on filing	200.00	
482	Total credits	11,200.00	
	Total payable minus Total credits	300.00	DR
	Arrears interest	0.00	DR
	Balance from this assessment	300.00	DR
	Balance due	**300.00**	**DR**

Notice that figures up to section 6150 are whole numbers only and do not have any cents. Have a look for this when reviewing a borrower's document to ensure it is authentic

Business License

A Business License may be required by a lender to prove an applicant's ownership of a business.

Figure 51 – Business License

Master Business Licence

Ontario

Date Issued: 2013−01−16 **Business Number: 123456789**
(yyyy−mm−dd)

Business Name and Mailing Address:
REMIC MORTGAGES,
2175 Sheppard Avenue East, Suite 213,
TORONTO, ONTARIO CANADA M2J 1W8

Business Address: SAME AS ABOVE

Telephone: **Ext:** **Fax:**

Email:

Legal Name(s): JOHN ADAM PUBLIC

Type of Legal Entity: SOLE PROPRIETORSHIP

Business Activity: TRAINING OF MORTGAGE BROKERS/AGENTS

Business Information	Number	Effective Date (yyyy−mm−dd)	Expiry Date (yyyy−mm−dd)
BUSINESS NAME REGISTRATION	123456789	2013−01−16	2018−01−16

Page 1 of 1

To the Client: When the Master Business Licence is presented to any Ontario business program, you are not required to repeat information contained on this licence. Each Ontario business program is required to accept this licence when presented as part of its registration process. Call the Ontario Business Connects Helpline at 1−800−565−1921 or (416) 314−9151 or TDD (416) 326−8566 if you have any problems.

To the Ontario business program: A client is not required to repeat any information contained in this licence in any other form used in your registration process.

Financial Statements

Financial Statements can be defined as the presentation of financial data, including balance sheets, income statements and other supporting statements intended to communicate an entity's financial position at a point in time.

Typically, a bookkeeper or the owner of a business will record and summarize the transactions of the business. These transactions include the sale of merchandise, payroll, inventory purchases and other financial transactions throughout the year. This information is then compiled, and financial statements are prepared. These statements consist of the Balance Sheet and Income Statement, the two primary documents, and are accompanied by the Statement of Retained Earnings, Statement of Changes in Financial Position (SCFP) and the Notes to the Financial Statements.

A balance sheet, illustrated in the following figure, is a detailed snapshot of the financial health of a business on a specific date, typically December 31st; however, this date might be different if the business is, for example, seasonal. Balance sheets show the relationship between the dollar amount of assets (what the business owns), liabilities (what a business owes) and owner's equity (what the owner or stockholders own). The totals must balance based on the formula:

Assets = Liabilities + Owner's Equity

The income statement, also referred to as the profit and loss statement, illustrated in next figure, details the amount of money that the business made or lost over a specific period of time, typically a month, a quarter or a year. The income statement is based on the formula:

Net income = Revenues - Expenses

Many brokers and agents will only occasionally come into contact with financial statements and may not have the training or expertise to properly interpret them. The brokerage should have a policy in place to have financial statements reviewed, when necessary, by a staff member or another broker who understands and can properly interpret these statements.

Figure 52 – Sample Balance Sheet

Mortgage Broker Inc.
Balance Sheet
as at December 31, 2015

Assets	**2015**	**2014**
Cash	$85,333	$51,276
Accounts Receivable	172,500	129,657
Inventory	18,364	4,888
Loans to Shareholders	12,328	-
Total Current Assets	288,525	185,821
Office Equipment	15,055	8,992
Machinery	29,580	21,960
Total Non-Current Assets	44,635	30,952
Total Assets	$331,160	$216,773

Liabilities	**2015**	**2014**
Current Liabilities		
Accounts Payable	$72,166	$93,554
Income Tax Payable	17,125	14,387
Salaries Payable	75,000	45,000
Total Liabilities	164,291	152,931
Shareholders' Equity:		
Common Stock	100,000	50,000
Retained Earnings	66,869	13,842
Total Shareholders' Equity	166,869	63,842
Total Liabilities & Equity	$331,160	$216,773

Figure 53 – Sample Income Statement

Mortgage Broker Inc.
Income Statement
For the year ended 2015

Income	**2015**	**2014**
Revenue	$2,375,590	$1,713,054
Cost of Goods Sold	879,566	611,055
Gross Profit	1,496,024	1,101,999
Expenses		
Operating Expenses		
Depreciation	5,000	2,000
Advertising and promotion	25,885	13,944
Accounting and legal	8,500	3,078
Automotive	38,066	15,226
Bank charges and interest	2,115	1,238
Dues and licenses	800	800
Insurance	2,889	3,101
Management fees	75,000	45,000
Office supplies	4,511	3,489
Rent	14,400	14,400
Telephone and utilities	3,487	2,433
Total Operating Expenses	180,653	104,709
Net Income before Taxes	1,315,371	997,290
Provisions for Income Taxes	328,900	219,404
Net Income	$986,471	$777,886

12.3 Acceptable forms of Identification

In order to comply with Canada's Proceeds of Crime (Money Laundering) and terrorist Financing Act (PCMLTFA) lenders require the solicitor closing the transaction to verify the borrower's identification by typically obtaining two pieces of identification. One may be a primary form of identification along with a secondary form of identification, or two forms of primary identification, as listed below.

Lenders typically require the applicant, co-signer, guarantor, etc. to be present with their identification and this identification to be original, non-expired, legible and in generally good condition. It is the solicitor's responsibility to meet these requirements; however, the lender is also responsible for meeting these requirements as described in the Act.

The following lists are examples of documents that may be acceptable by lenders; however, requirements may be different from lender to lender.

Primary Identification

- A valid driver's licence issued in Canada;
- Current Canadian Passport;
- Nexus/ CANPASS card;
- A Federally issued Firearms Licence A Certificate of Canadian Citizenship (containing your photograph) or Certification of Naturalization (containing your photograph);
- A Federally issued Permanent Resident Card;
- A Certificate of Indian Status issued by the Government of Canada;
- or A Provincial Government issued Photo ID Card.

Secondary Identification

- An employee identity card with a photograph from an employer well known in the community; A signed automated banking machine (ABM) card or client card issued by a member of the Canadian Payments Association;
- A signed credit card issued by a member of the Canadian Payments Association;
- A signed Canadian Institute for the Blind (CNIB) client card with a photograph;
- A birth certificate issued in Canada;
- A Social Insurance Number (SIN) card issued by the Government of Canada;
- A Certificate of Canadian Citizenship;
- Métis Nation ID Card;
- or FAST ID Card.

As per FSRA, "Each Mortgage Brokerage has a duty to take reasonable steps to verify the identities of its clients/borrowers and other parties in mortgage transactions. If a Mortgage Brokerage is not able to identify the identity of another party, it must advise the client/borrower. The Mortgage Brokerage's Principal Broker is responsible for developing policies and procedures on verifying clients'/borrowers' identities, and in ensuring that the Mortgage Brokerage is able to show that it took reasonable steps to verify clients'/borrowers' identities. To determine what types of identification are acceptable for verifying a client's/borrower's identity, consult with your Principal Broker."[2]

A helpful resource on checking ID is the Responsible Service Tip Sheet by the Alcohol and Gaming Commission of Ontario at https://www.agco.ca/sites/default/files/3056_2.pdf

Driver's License

Disclaimer: The following information has been checked for errors, inaccuracies and omissions, however it should not be relied upon as definitive. This information and these tips should be used in conjunction with other identification verification methods.

Ontario Driver's License

The most frequently used photo ID is the driver's license. The difference between an enhanced driver's License (EDL) and regular Ontario driver's license is that the enhanced license has the symbol CAN on the top right which denotes Canadian citizenship (the Ontario license has ON), the title is Enhanced Driver's License while the Ontario license is "Driver's License" and there is an additional Machine Readable Zone (MRZ) on the back of the card.

Tips for reading an Ontario Driver's License

- Has 1D and 2D barcodes on the back
- Number: The number is 15 characters long. For example: W3512-41007-11120. "W" is the first letter of the last name, followed by "3512" which is a code for the remainder of the last name. "4100" is a code for the first name and middle initial. "7-1" or 71, is the year of birth. "1120" is the month and day of birth. 50 is added to the birth month number for women.
- Term: It is typically 5 years, expiring on the person's birthday. There is a maximum 7 years from the date of the original application to phase a person intot the 5 year renewal cycle. 90 day to a maximum of 6 month extensions are available.
- The license will show if a driver has in excess of 4 years' of dirving experience with 4 vertical black dots to the left of the second image
- The photo should match the person in front of you
- Card should be laminated
- Magnetic strip on the back of the card should not be laminated
- Ensure there are no pictures under the picture of the person in the DL – feel for extra thickness around the photo and the endge of the lamination
- Look for consistency between numbers and letters, including font type, bold/italics and size
- Ensure the date of birth is the same in the lower left, in the protected secondary photo and signature at the bottom right corner and the DL Number

Ontario Driver's License – person under age 19 (aged 16 to 18)

In addition to the information contained in the previous figure, a DL for a person aged 16 to 18 years will have an additional banner on the bottom center of the card, "AGE 19/ANS (date)".

[2] FSCO, https://www.fsco.gov.on.ca/en/mortgage/Pages/reqforsup.aspx#q9

12.4 Property Documentation

A broker/agent will be required to submit additional documents to a lender based on the purpose of the mortgage. For example, an MLS listing and purchase and sale agreement will most often be required by a lender in a purchase transaction, while a property tax bill will be required for a switch or refinance.

Multiple Listing Service (MLS)

MLS allows real estate salespeople to see properties being sold by other agents, a benefit to both buyers and sellers of real estate. The Multiple Listing Service efficiently distributes information so that, when a real estate salesperson is introduced to a potential home buyer, the salesperson may search the MLS system and retrieve information about all homes for sale in a given area or price range, whether under a listing contract by that salesperson's brokerage or by any of the other participating brokers.

MLS, then, functions as a huge database that allows real estate salespeople representing sellers under a listing contract to widely share information about properties with real estate salespeople who may represent potential buyers. The MLS combines the listings of all available properties that are represented by brokers who are both members of that MLS system and of CREA, the Canadian Real Estate Association. Many lenders require the borrower to provide a copy of the MLS document to prove that it is an arm's length transaction – in other words, the property has been offered to the public. The following is a sample of an MLS document.

Figure 54 – Sample MLS listing

Civic Address

1234 Borrower Lane **$329,900 For Sale**
Toronto, Ontario M1M1M1 W20 **457-32-D**
Pt Lt 00R Plan M1234 **Taxes: $3,100/2014**

Property Taxes

Legal Description (optional)

SPIS:N **Last Status:** **New**

Semi-Detached **Fronting On:** E **Rooms:** 6+2
2-Storey **Acreage:** < .49 **Bedrooms:** 3
Dir/Cross St: Somewhere/Anywhere **Washrooms:** 3
Lot: 6.85X34 Metres 2x4, 1x2
Lot Irreg: Backs Westerly Sun

TBA means To Be Advised

MLS#: W12345 **Occup:** Owner
Open House: Oct 1 **From:** 9 am **To:** 5 pm **DOM:** 10 **Holdover:** 90 **Possession:** Nov 29 / Tba / Flx
Open House Notes: Please leave shoes on porch **PIN#:**

		Exterior:	Brick		
			Other		
Kitchens:	1	**Drive:**	Mutual	**Zoning:**	Residential
Fam Rm:	N	**GarType/Spaces:**	Attached/1	**Cable TV:**	**Hydro:**
Basement:	Finished			**Gas:**	**Phone:**
	Full	**Parking Spaces:**	2	**Water:**	Municipal
Fireplace/Stv:	N			**Water Supply:**	
Heat:	Gas	**UFFI:**	No	**Sewers:**	Sewers
	Forced Air	**Pool:**	None	**Spec Desig:**	Unknown
CAC:	Y		Sloping	**Farm/Agr:**	
Apx Age:	6-15				
Apx Sqft:	1100-1500		Public Transit		
Assessment:			Rec Centre		

#	Room	Level	Dimensions (ft)					
1	Living	Ground	10.99	x	14.8	Hardwood Floor	Open Concept	Overlook Patio
2	Dining	Ground	9.91	x	11.38	Hardwood Floor	Combined W/Living	Open Concept
3	Kitchen	Ground	9.88	x	10.01	Ceramic Floor	B/I Dishwasher	Ceramic Back Splash
4	Breakfast	Ground	10.5	x	10.1	Ceramic Floor	Family Size Kitchen	W/O To Deck
5	Master	2Nd	18.01	x	10.1	Semi Ensuite	His/Hers Closets	Broadloom
6	2nd Br	2Nd	10.99	x	10.01	Wainscotting	Broadloom	Large Closet
7	3rd Br	2Nd	10.01	x	9.55	Closet Organizers	Window	Broadloom
8	Rec	Bsmt	15.49	x	10.2	Finished	Stucco Ceiling	Broadloom
9	Laundry	Bsmt	9.42	x	6.33	Partly Finished	Fluorescent	4 Pc Bath

Immaculate&Clean Thru-Out Home&Area,Bright Home,Upgrades Galore, Beautiful Strip Hdwd Flrs&Ceramics,Outstanding Finished Bsmt With Rec Romm&4 Piece Bath&Lndry Area&Cantina,Interlocking Stone Front Walkway&Front&Rear Gardens*Front Porch,Huge Private Rear Deck*Wroght-Iron Gate

Fridge,Stove,Bi Dw,Bi Microwave,Cac,El.Grg.Opener&2 Remotes,All Shutters&Blinds&Window Coverings,Elfs,High Eff Furn&Hwt,Surrond-Sound Spkrs,Mirr.Clst.Drs,Bi Shelves,Hot&Cold H2O Outside Frnt&Back,Brss&Glss Door Insrt,Shower&Closet Valences

Excellent Layout,Completely Finished Top2Bottom With Quality Extras&Upgrades Thru-Out,Quiet Street,Walk To Pub/Sep School,Excellent Home&Neighbourhood,Great Family Home,Easy To Show&Sell*Lockbox*

Contract Date: 5/10/2015 Sunil Lister 416-555-1212 REMIC REAL ESTATE BROKERAGE

Expiry Date: 9/30/2015

Tel: 416-555-1212
Fax: 416-555-2121

Agreement of Purchase and Sale

The agreement of purchase and sale is a document used when real estate in Ontario is being purchased or sold. In all cases, where the applicant is applying for a mortgage to purchase a new or resale home, the lender will require a fully completed purchase and sale agreement. The following sample form is used to demonstrate how a typical purchase and sale agreement should be completed by the real estate salesperson.

Figure 55 – Sample Agreement of Purchase and Sale

OREA Ontario Real Estate Association

Agreement of Purchase and Sale

Form 100
for use in the Province of Ontario

This Agreement of Purchase and Sale dated this.................................. day of .... 20.........

BUYER,..., agrees to purchase from
(Full legal names of all Buyers)

SELLER,.., the following
(Full legal names of all Sellers)

REAL PROPERTY:

Address.. fronting on the .... side

of.. in the ....

and having a frontage of .... more or less by a depth of .... more or less

and legally described as ....

.... (the "property").
(Legal description of land including easements not described elsewhere)

PURCHASE PRICE: Dollars (CDN$)...

....Dollars

DEPOSIT: Buyer submits ....
(Herewith/Upon Acceptance/as otherwise described in this Agreement)

.... Dollars (CDN$).......................................

by negotiable cheque payable to.. "Deposit Holder" to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

SCHEDULE(S) A...**attached hereto form(s) part of this Agreement.**

1. **IRREVOCABILITY:** This Offer shall be irrevocable by .... until .... a.m./p.m. on
(Seller/Buyer)
the .... day of .... 20........., after which time, if not accepted, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

2. **COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the .... day of ...., 20......... . Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.

3. **NOTICES:** Seller hereby appoints the Listing Brokerage as Agent for the purpose of giving and receiving notices pursuant to this Agreement. **Only if the Co-operating Brokerage represents the interests of the Buyer in this transaction,** the Buyer hereby appoints the Co-operating Brokerage as Agent for the purpose of giving and receiving notices pursuant to this Agreement. Any notice relating hereto or provided for herein shall be in writing. This offer, any counter offer, notice of acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the address for service provided in the Acknowledgement below, or where a facsimile number is provided herein, when transmitted electronically to that facsimile number.

FAX No. .... (For delivery of notices to Seller) FAX No. .... (For delivery of notices to Buyer)

INITIALS OF BUYER(S): **INITIALS OF SELLER(S):**

Form 100 2009 **Page 1 of 5**

4. **CHATTELS INCLUDED:**...

5. **FIXTURES EXCLUDED:**...

6. **RENTAL ITEMS:** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable: ....

7. **GST:** If this transaction is subject to Goods and Services Tax (G.S.T.), then such tax shall be .... (included in/in addition to) the Purchase Price. If this transaction is not subject to G.S.T., Seller agrees to certify on or before closing, that the transaction is not subject to G.S.T.

8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the .... day of...................., 20......, (Requisition Date) to examine the title to the Property at Buyer's own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy Buyer that there are no outstanding work orders or deficiency notices affecting the Property, and that its present use (..) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.

9. **FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.

10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.

11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.

12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act

INITIALS OF BUYER(S): **INITIALS OF SELLER(S):**

(Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller. **The Buyer acknowledges having the opportunity to include a requirement for a property inspection report in this Agreement and agrees that except as may be specifically provided for in this Agreement, the Buyer will not be obtaining a property inspection or property inspection report regarding the property.**

14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.

15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.

16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O.1990.

17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.

18. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.

19. **PROPERTY ASSESSMENT:** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage or Salesperson, for any changes in property tax as a result of a re-assessment of the property.

20. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.

21. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.

22. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless Seller's spouse has executed the consent hereinafter provided.

23. **UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.

24. **CONSUMER REPORTS: The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.**

25. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.

26. **TIME AND DATE:** Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF BUYER(S): ( ) **INITIALS OF SELLER(S):** ( )

27. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness) .... (Buyer) .... (Seal) DATE ....

(Witness) .... (Buyer) .... (Seal) DATE ....

I, the Undersigned Seller, agree to the above Offer. I hereby irrevocably instruct my lawyer to pay directly to the Listing Brokerage the unpaid balance of the commission together with applicable Goods and Services Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the Listing Brokerage to my lawyer.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness) .... (Seller) .... (Seal) DATE ....

(Witness) .... (Seller) .... (Seal) DATE ....

SPOUSAL CONSENT: The Undersigned Spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees with the Buyer that he/she will execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

(Witness) .... (Spouse) .... (Seal) DATE ....

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at..................a.m./p.m. this..day of.., 20........ .... (Signature of Seller or Buyer)

INFORMATION ON BROKERAGE(S)

Listing Brokerage .... Tel.No.(........) ....

....

Co-op/Buyer Brokerage .... Tel.No.(........) ....

....

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer.

.... DATE .... (Seller)

.... DATE .... (Seller)

Address for Service ....

.... Tel.No.(........) ....

Seller's Lawyer ....

Address ....

(........) .... Tel.No. (........) .... FAX No.

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer.

.... DATE .... (Buyer)

.... DATE .... (Buyer)

Address for Service ....

.... Tel.No.(........) ....

Buyer's Lawyer ....

Address ....

(........) .... Tel.No. (........) .... FAX No.

FOR OFFICE USE ONLY

COMMISSION TRUST AGREEMENT

To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale:
In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust.

DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale. Acknowledged by:

.... (Authorized to bind the Listing Brokerage)

.... (Authorized to bind the Co-operating Brokerage)

OREA Ontario Real Estate Association

Schedule A
Agreement of Purchase and Sale

Form 100
for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER,.., and

SELLER,..

for the purchase and sale of ....

.... dated the .... day of ...., 20......... .

Buyer agrees to pay the balance as follows:

This form must be initialed by all parties to the Agreement of Purchase and Sale..

INITIALS OF BUYER(S): ( ) **INITIALS OF SELLER(S):** ( )

12.5 Other Documentation

As previously mentioned, the documents that the mortgage agent must obtain in any given transaction will be based on the purpose of the mortgage. In addition, other documentation may be required to prove information provided in the application. We've already reviewed the income and property documentation, now it's time to review the other documents that may be requested by a lender or that a mortgage agent may find useful.

Gift Letter

A gift letter is a document that outlines the terms of a gifted down payment in a purchase transaction. Money provided by a family member to be used as a down payment, as long as it is not repayable to that family member, can be used in lieu of the borrower having to use his or her own funds for the down payment. This form must be completed by both the recipients, or the purchasers, and the donors, who are the family members providing the gift to the recipients.

This form will be requested by the lender to prove to the lender that the down payment has not been borrowed.

Figure 56 – Sample Gift Letter

GIFT LETTER

____
(date)

To Whom it may concern:

This letter confirms that the undersigned is making a financial gift of $________________

to: ____
(*print names of recipients*)

for use toward the purchase of the property located at:
____
(*address of property being mortgaged*)

We, the undersigned Recipients and Donors, hereby certify that:

a) These funds are a genuine gift from the Donors; as such, are not required to be repaid at any time, and
b) No part of the financial gift is being provided by any third party having any interest (direct or indirect) in the sale of the subject property, and
c) The Donor is an immediate family member.

Recipients

Name: ________________________ Name: ________________________

Signature:	________________________	Signature:	________________________
Date:	________________________	Date:	________________________

Donors

Name:	________________________	Name:	________________________
Signature:	________________________	Signature:	________________________
Date:	________________________	Date:	________________________
Relationship:	________________________	Relationship:	________________________
Address:	________________________	Address:	________________________
City, Prov.:	________________________	City, Prov.:	________________________
Telephone:	________________________	Telephone:	________________________

Property Assessment

A Property Assessment is a document provided by the Municipal Property Assessment Corporation (MPAC) to homeowners to illustrate the value of a home, as assessed or determined by MPAC, for the purposes of calculating property taxes.

A broker/agent may find this useful in assisting to determine a value of a property in a switch or refinance transaction, before an appraisal has been completed, if the homeowner does not have any information on the potential value of the home.

It's important to note that MPAC uses an automated valuation model or AVM to calculate the value. This assessment is typically not accepted by lenders to prove property value, and the broker/agent should be aware that the value shown on this document may differ from the value as determined by an appraisal. It is, however, valid to be used to provide a general idea of what the value of the property *may* be for use by the mortgage agent.

Figure 57 – Sample Property Assessment

mpac
MUNICIPAL PROPERTY ASSESSMENT CORPORATION

Page 1 of 1

'AboutMyProperty™' password
888888888888888

JONES ROBERT (F)
JONES BRENDA P1
WAY ST N
RR 1
ANYTOWN ON
F1A 2W2

Property Assessment Notice 2007
- for the 2008 tax year

Roll Number 9900 554 343 56472 0000	233-C4-16 109/370
Municipality ANYTOWN	
Location and Property Description RP 66M2002 LOT 29 PLAN M334929	Frontage 50.00 FT; Depth 150.00 FT; Lot Area 7,500 SF

This is *not* a tax bill.
Please retain this Property Assessment Notice.

The next province-wide assessment update will occur in 2008 for the 2009 tax year. Until then, all properties continue to be valued at a January 1, 2005 valuation date. You are receiving this Notice because provincial legislation requires that Property Assessment Notices be sent to property owners whose assessment information has changed since they last received a Notice.

Shown below is the assessed value of your property based on a January 1, 2005 valuation date. This value will be used by your municipality to calculate 2008 property taxes.

Property Classification	Assessed Value	School Support Designation
Residential Taxable: Full	$25,500	English-Public
Commercial Taxable: Full	$125,000	Not applicable
Total	$150,500	

Questions?
Please see the insert included with this Notice for more information about property assessment.

If you have questions, our customer service staff will be pleased to assist you. Please have this Notice on hand when you call; you will be asked for your 19-digit Roll Number printed above.

Extended Hours: Monday, Nov. 12 to Friday, Dec. 7, 2007
8 a.m. to 6 p.m. - Monday to Friday

1 866 296-MPAC (6722)
1 877 889-MPAC (6722) TTY
Mon. - Fri. 8 a.m. to 5 p.m. (see above for extended hrs)

web site / e-mail: www.mpac.ca

fax: 1 866 297-6703

mail: P.O. Box 9808 Toronto ON M1S 5T9

Where words or expressions in this notice differ from those used in the legislation, the legislation shall prevail. 10/03/07

Mortgage Statement

A mortgage statement is a document provided by a homeowner's current mortgage provider to the homeowner detailing the current financial standing of the mortgage, including its outstanding balance, interest rate, time remaining in the term and other important financial information. This document is typically obtained by a broker/agent in a switch or refinance transaction to show the outstanding balance of the existing mortgage. While the mortgage statement may be several weeks or months old, the broker/agent can calculate the current balance at the date of the application by using the outstanding balance at the date of the statement. This is vital to determine the exact amount of principal that must be repaid to the current lender on closing.

While it is important for the broker/agent to obtain a mortgage statement to calculate the current outstanding balance of the applicant's mortgage, this document is not used by the new lender to determine the amount required to pay off the mortgage. The new lender will request a statement directly from the current lender before closing, to ensure that the information is accurate and that there are no arrears on the current mortgage.

Figure 58 – Sample Mortgage Statement

SUPERBANK INC.

November 21, 2011

Mr. J. Borrower
123 Kingston Street, Southwest,
Toronto, ON, M1M 1M1

Mortgage Number: 1155667898

Annual Mortgage Statement

Statement Period: January 1, 2011 to December 31, 2011
Property Address: 123 Kingston Street, Southwest, Toronto, ON, M1M 1M1

Mortgage Details

Maturity Date	July 28, 2014
Interest Rate (as at statement date)	6.89%
Payment Frequency	Monthly
Principal, Interest and Tax Payment	$1,550.47

Transaction Summary

Opening Principal Balance	$199,920.42
Advances During Statement Period	$0.00
Principal Paid (including any privilege payments)	$2,180.78
Closing Principal Balance	$197,739.64
Interest Paid (during statement period)	$13,515.94

Tax Account Summary

Opening Tax Balance	$493.13 CR
Tax Payments Received	$2,293.00
Taxes Paid to Authority	$2,307.15
Closing Tax Balance	$478.98 CR

Please Note: DR is a Debit = Minus to your account. CR is a Credit = Plus to your account

If you have any questions, please feel free to contact our Customer Service Toll-Free Number at 1-866-555-1212

If any of the balances, interest rates or other financial data appear incorrect, please contact our auditors detailing any discrepancies:
Pricewatershed
Suite 1000, 123-53rd Ave
Toronto, ON
Attention: Joseph Blank
Tel: (416) 555-9900
Fax: (416) 555-9911

Tax Bill

A tax bill is a document provided to a homeowner by the municipal tax authority in the jurisdiction in which the property is located. A mortgage agent must obtain a copy of this document in a switch or refinance transaction to ensure that the property taxes are up to date. While the lawyer closing the transaction will confirm this information, it is important for the mortgage agent to confirm this information as soon as possible to prevent a situation whereby the borrower doesn't have enough money on closing to pay any back taxes owing.

Figure 59 – Sample Tax Bill

<table>
<tr><td colspan="3">City of Toronto</td><td colspan="3">TAX BILL</td><td colspan="2">2012 Final Tax Bill</td></tr>
<tr><td colspan="6">Mortgage Company: SuperBank Inc.
Mortgage Number: 1155667898</td><td colspan="2">Billing Date
September 1, 2012</td></tr>
<tr><td colspan="4">Roll No.
1234-000-010-04700-0000</td><td colspan="4">Borrower, John</td></tr>
<tr><td colspan="4">Borrower, John
123 Kingston Street, Southwest,
Toronto, ON, M1M 1M1</td><td colspan="4">123 Kingston Street, Southwest,
Toronto, ON, M1M 1M1
Pt. Lot 2,
RP 11R6816 Part 1
66.00 FR 175.00D .20AC</td></tr>
<tr><td colspan="2">Assessment</td><td colspan="4">Municipal</td><td colspan="2">Education</td></tr>
<tr><td>Tax Class</td><td>Value</td><td colspan="2">Municipal Levies</td><td>Tax Rate (%)</td><td>Amount</td><td>Tax Rate (%)</td><td>Amount</td></tr>
<tr><td>RTEP</td><td>365,468</td><td colspan="2">Residential</td><td>0.6109226</td><td>2,237.72</td><td>0.2640000</td><td>964.84</td></tr>
<tr><td colspan="2">Sub Totals</td><td colspan="3">Municipal Levy</td><td>2,237.72</td><td colspan="2">964.84</td></tr>
<tr><td colspan="3">Special Charges/Credits</td><td colspan="3">CVA Phase-In</td><td colspan="2">Summary</td></tr>
<tr><td colspan="2"></td><td>0.00</td><td colspan="3"></td><td>Municipal + Education
Special Charges

2008 Tax Cap Adj
Final 2008 Taxes
Less Interim Billing

Total Amount Due</td><td>3,197.56
0.00

0.00
3,197.56
-1,598.78

1.598.78</td></tr>
</table>

2018 City of Toronto tax rates[1]

The following chart illustrates the tax rates for the City of Toronto for the year 2018. While tax rates vary from municipality to municipality this is a sample of how municipal rates are calculated.

2018 Property Tax Rates

Description	City Tax Rate	Education Tax Rate	City Building Fund	Total
Residential	0.4632369%	0.1700000%	0.0022685%	0.6355054%
Multi-Residential	1.1447559%	0.1700000%	0.0000000%	1.3147559%
New Multi-Residential	0.4632369%	0.1700000%	0.0022685%	0.6355054%
Commercial General	1.3106206%	1.0900000%	0.0032300%	2.4038506%

Condominium Status Certificate

A Status Certificate, formerly known as an Estoppel Certificate, is a document provided by a condominium corporation (the entity that runs the condominium) to the owner of the condominium unit. This document is required by lenders to confirm that the condominium corporation has sufficient reserve funds for its continued operation; and reveals the amount of the condominium maintenance fee, and whether there are any legal proceedings against the condominium corporation, among other information. The mortgage agent should inform the applicant that this document is required as soon as possible, since it may take several days for the condominium corporation to provide. There is typically a fee charged to the homeowner to obtain this document, which cannot exceed $100 as per the *Condominium Act*.

Sample Status Certificate

(Under subsection 76(1) of the ***Condominium Act*** R.S.O. 1998, as amended)

TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1234

The Corporation hereby certifies that as of the date hereof:

1. The owner(s) of Unit (Suite #), Level (Floor #), Unit (Locker #) Level (Floor #) and Unit (Parking #) Level (Parking Level #), Toronto Standard Condominium Plan No. 1234, registered in the Land Titles Division of the Toronto Registry Office (No. 66), is:
   [x] not in default of common element expenses, pending clearance from the bank.
   [   ] in default of common element expenses in the amount of ($_____)
2. A payment on account of common expenses of ($Monthly Condo Fees) in respect of the above-noted unit(s) is due on (Date) to cover the period from (Date – Date)
3. The Corporation has the amount of ($_____) in prepaid expenses for the unit.
4. There are no amounts that the ***Condominium Act,*** 1998 requires to be added to the common expenses payable for the unit.
5. The current budget is accurate, however, the Corporation cannot accurately determine at this time whether the budget will result in a surplus or a deficit as it has no control over any,

[1] City of Toronto, https://www.toronto.ca/services-payments/property-taxes-utilities/property-tax/property-tax-rates-and-fees/2018-property-tax-rates-fees/

as yet, unannounced increases in utility rates, increased labour and material costs, and any other cost factors which are beyond the normal budgetary controls of the Corporation, including any costs which might impact on the budget.

6. Since the date of the budget of the Corporation, for the current fiscal year, the common expenses for the unit:
   [x] have not been increased, or
   [_] have been increased by (% increase) and by (Amount in dollars) per month for the unit due to increased utility rates.
7. Since the date of the budget of the Corporation for the current fiscal year, the Board:
   [x] has not levied any additional assessments against the unit, or
   [_] has levied the following assessment(s) against the unit, to increase the contribution to the reserve fund or the Corporation's operating fund or for any other purpose.
8. The Corporation has no knowledge of any circumstances that may result in an increase in the common expenses for the aforesaid unit(s), save and except for any usual budgetary increases.

Reserve Fund

9. The Corporation's unaudited reserve fund amounts to (Amount in dollars) as at (Date)
10. A comprehensive reserve fund study will be conducted (Expected Date)
11. The balance of the reserve fund at the beginning of the current fiscal year was (Amount in dollars). In accordance with the budget of the Corporation for the current fiscal year, the annual contribution to be made to the reserve fund is annual (Contribution in dollars) and anticipated expenditures to be made from the reserve fund for the current fiscal year, are (projected figure in dollars). The Board of Directors anticipates that the reserve fund:
    [x] will be adequate;
    [_] will not be adequate in the current fiscal year for the expected costs of major repair and replacement of the common elements and assets of the Corporation.
12. There are no plans to increase the reserve fund under a plan proposed by the Board under subsection 94(8) of the *Condominium Act,* 1998 for the future funding of the reserve fund.

Legal Proceedings, Claims

13. There are no outstanding judgments against the Corporation.
14. The Corporation is not a party to any proceedings before a court of law, an arbitrator or an administrative tribunal.
15. The Corporation has not received a notice of, or made an application for, an order to amend the declaration and description where the court has not made the order, under section 109 of the *Condominium Act,* 1998.
16. The Corporation has no outstanding claim for payment out of the guarantee fund under the Ontario New *Home Warranties Plan Act.*
17. There is not currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the *Condominium Act,* 1998, or an Administrator under section 131 of the *Condominium Act,* 1998.

Alteration / indemnity Agreements

18. With respect to Agreements with owners relating to changes, additions or improvements to the common elements as per clause 98(1)(b) of the *Condominium Act,* 1998.
    [x] The unit is NOT subject to any Agreement;
    [_] The unit is subject to one or more agreements. To the best of the Corporation's information, knowledge and belief, the agreements have been complied with by the parties.

Leasing of Units

19. With respect to leased units, during the fiscal year preceding the date of this Status Certificate and as per section 83 of the *Condominium Act,* the Corporation:
 [_] Has not received notice that any unit within this Corporation was leased;
 [x] Has received notice that (number of units) units were leased.

Insurance

20. The Corporation has secured all policies of insurance that are required under the *Condominium Act,* 1998.

Additional Information

21. It is the purchaser's responsibility to review the declaration and description pertaining to the unit, including any exclusive use common element area, to determine whether or not the vendor or any previous owner or occupant of the unit has carried out a structural change to the unit or has modified the common elements in circumstances where the Board has not given its prior written consent. If, following an inspection of the unit by the purchaser, there is any question as to whether or not a breach of the declaration and/or the rules has/have occurred, the purchaser is advised to address a specific inquiry to the Corporation by describing such change or modification in writing to the Corporation at is mailing address, following which the Corporation will carry out an inspection of the unit and respond appropriately.
 Unit purchasers (and their solicitors) are required to notify, in writing, this Corporation at its current mailing address immediately following the completion of the transfer of title and change of ownership to the Unit(s). Until and unless such notification is provided to the Corporation, its records shall remain in the name of the present owner as prescribed under the *Condominium Act,* 1998, and the new owner may not receive notices of any meetings and other written communication from the Corporation.

Substantial changes to the common elements, assets or services

22. There have been no additions, alterations or improvements to the common elements, changes in the assets of the Corporation or changes in a service in the Corporation.

Rights of Person Requesting Certificate

23. The person requesting this certificate has the following rights under subsections 76(7) and (8) of the *Condominium Act,* 1998 with respect to the agreements listed on the attached Schedule "A" — Attachments.
 Upon receiving written request and reasonable notice, the Corporation shall permit a person, who has requested a Status Certificate and paid the fee charged by the Corporation for the Certificate, or an agent of the person duly authorized <u>in writing</u>, to examine the agreements listed in Schedule "A"— Attachments, hereto, at a reasonable time and at (address).
 The Corporation shall, within a reasonable time, provide copies of the agreements to a person examining them, if the person so requests and pays a reasonable fee to compensate to the Corporation for the labour and copying charges.
24. The Property Manager of this Corporation is: (Property Management Company Name and Address)
25. The Directors and Officers of the Corporation are: (List Directors names and positions)
26. The Address of Service, for the Directors and Officers is: (Address and other contact info followed by signature of president and date. I have authority to bind the Corporation.)

The following documents are usually attached to this Status Certificate and form part of it:
1. Certificate of Insurance
2. Current Operating Budget
3. Declaration of the Condominium (to which Schedules “A,” “B,” “C,” “D,” “E,” and “G” are attached)
4. By-Law No. 1 (General)
5. By-Law No. 2 (Shared Facilities Agreement)
6. By-law No. 3 (Driveway Entrance Agreement)
7. By-law No. 4 (Mediation/Arbitration Procedure)
8. By-law No. 5 (Standard Unit)
9. By-law No. 6 (Amended Shared Facilities Agreement)
10. Condominium Management Agreement with (Management Company Name)

Certificate of Independent Legal Advice (ILA)

In certain cases, the lender will require that the borrower (or Guarantor, as the case may be) meet with his or her own lawyer to discuss the terms and conditions of the proposed mortgage. This may occur in situations where the individual is acting as a Guarantor for a friend or family member, or where the mental state of the borrower may be in question. The lawyer acting on behalf of the lender will send the closing mortgage documents to the lawyer providing ILA, and this lawyer will meet with the client and explain the mortgage to him or her. Once done, this lawyer will complete a Certificate of Independent Legal Advice, which basically states that the lawyer has met with the client, explained the terms and conditions of the mortgage, and that the client attests that he or she is not taking the mortgage under duress or undue influence.

Sample Certificate of Independent Legal Advice

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

TO: SUPBERANK INC.

AND TO: SUPERLAW INC., their solicitors

RE: SUPBANK INC. MORTGAGE LOAN TO Mr. J. Borrower, 123 Kingston Street, Southwest, Toronto, ON, M1M 1M1

With respect to the above-noted transaction, on this 23RD day of NOVEMBER, 2012 , I was consulted by Mr. J. Borrower, in his presence alone as to the effect of his executing:

1. A Mortgage Loan Commitment issued by SUPERBANK INC., in his capacity as Guarantor;
2. A Mortgage/Charge of Land in favour of SUPERBANK INC. over the lands municipally known as 123 Kingston Street, Southwest, Toronto, ON, M1M 1M1 (the “Mortgage”) in his capacity as Guarantor;
3. Authorization to insert dates and other incorrect data;
4. A General Assignment of Rents and Leases in favour of SUPERBANK INC. respecting the lands municipally 123 Kingston Street, Southwest, Toronto, ON, M1M 1M1
5. Acknowledgement of receipt of Standard Charge Terms and Direction re: funds;
6. Acknowledgement of Receipt of Personal Property Security Act Financing Statements;
7. Non-Merger Acknowledgement.
8. Re-Direction of funds;

9. Certain Statutory Declarations, Warranties, Directions and Undertakings in connection with the above-noted transaction; and
10. Any other documents ancillary to the above

(collectively the "documents").

I explained to Mr. J. Borrower the nature of the documents and advised him fully as to the liability which he would incur by executing them. I also advised him fully as to the manner in which such liability could be enforced. Mr. J. Borrower informed me, and I am satisfied that he fully understands the nature and effect of executing the documents and that in executing the Documents is acting freely and voluntarily and not under any undue influence exercised by SUPERBANK INC, or any other person.

I have given this advice to Mr. J. Borrower as his solicitor and in his interest only and without regard to, or consideration for the interest of SUPERBANK INC., or any other person.

I am not acting on behalf of SUPERBANK INC., or any other person in connection with this matter.

Name and Address of Solicitor: ______________________________

I hereby acknowledge that all of the statements made in this Certificate are true and that Mr. Borrower's lawyer, in advising me herein was consulted by me as my personal solicitor and in my interest only.

WITNESS:
)
)
) __________________________________
)

Creditor Insurance Application

This is a document used by an Insurance Company to determine the eligibility of an applicant for creditor insurance. Creditor insurance has become a regular offering in a mortgage transaction. Used to ensure that applicants have protection against the perils associated with death, disability or job loss, it is important to consider.

Failure of the mortgage agent to adequately advise the potential borrower of his or her option to obtain creditor insurance can result in the agent being sued by the borrower if the borrower was not adequately insured and one of the covered perils occurred. To protect both the borrower and the agent, the agent must inform the borrower of the availability of the insurance and have the borrower either waive the insurance or apply for it.

> ***Success Tip – Answer honestly in the creditor insurance application***
> Be sure to advise your applicant to answer all of the questions in the application honestly. If your applicant answers "yes" to any of the health questions the applicant must provide further information and explanations. Once the insurance company has reviewed the application it may then request additional information or medical investigation, such as a doctor's report.

The following document is a sample of a typical creditor insurance application.

Sample Creditor Insurance Application

CREDITOR INSURANCE APPLICATION

These are the three health questions. The applicant must answer these questions honestly to ensure that a claim is paid in the future. If not answered honestly the insurer may decline to pay the claim!

APPLICANT INFORMATION

Applicant LAST NAME			❑ Male ❑ Female
Unit/Apt.#	No./Street	Province	Postal Code
Date of Birth (DD/MM/YYYY)		rrent Occupation f-employed individuals are NOT eligible for Disability and Job Loss coverage)	
E-mail			(Bus.) ( )

JOINT APPLICANT INFORMA... ...r)

Joint Applicant LAST NAME			❑ Male ❑ Female
Date of Birth (DD/MM/YYYY)	Country of Birth	Current Occupation (Self-employed individuals are NOT eligible for Disability and Job Loss coverage)	
E-mail	Tel. (Res.) ( )	(Bus.) ( )	

Applicant applying for:	Joint Applicant applying for:
☐ Life Insurance	☐ Life Insurance
☐ Disability/Job Loss Rider *(must be applied at same time as Life)*	☐ Disability/Job Loss Rider *(must be applied at same time as Life)*

WAIVER OF INSURANCE *(Complete only if a named applicant does not wish to apply for insurance.)*

I DO NOT WISH TO APPLY FOR: Applicant: [initial] ________ ☐ Life [initial] ________ ☐ Disability/Job Loss Date (DD/MM/YYYY) ______________

Joint Applicant: [initial] ________ ☐ Life [initial] ________ ☐ Disability/Job Loss Date (DD/MM/YYYY) ______________

PAYMENT METHOD *(Please choose one option.)*

Pre-Authorized Collections Plan

A) ☐ Monthly *(as stated above)*	*OR*	B) ☐ Monthly by Other Pre-Authorized Chequing Account *Enclose a sample cheque marked "VOID".*

Please contact us by telephone or e-mail prior to your premium due date, if you'd like to change your method of payment.

Additional Terms for Pre-Authorized Collections Plan: I/We (the Applicant(s)) authorize to make a monthly withdrawal from the account described above or on the accompanying "VOID" cheque for monthly insurance premiums due on or after the date of this authorization. The Pre-Authorized Collections Plan may be terminated by either the Company or by me through written notice. The Company also reserves the option to change the method of payment for another qualifying option after the occurrence of a payment not honoured.

Insurance will take effect on the date the completed application and the required premium are received by subject to the approval of the Company's underwriters. Once you are approved, you will receive a certificate specifying the coverage provided and outlining the main policy provisions. If you are not insurable, a full refund of the premium will be made.

Medical Questionnaire

PLEASE PRINT

Applicant's Full Name		
Tel. (Res.) ( )	Applicant's Height	Weight
Joint Applicant's Full Name		
Tel. (Res.) ( )	Joint Applicant's Height	Weight

PLEASE PRINT

Applicant's Physician Name	
Address	Tel. (Bus.) ( )
Joint Applicant's Physician Name	
Address	Tel. (Bus.) ( )

Please complete all questions on behalf of all Applicants. If more space is required, attach a separate sheet, signed and dated.
I understand that any health misrepresentation may cause my insurance to be declared void by the insurer.

Please answer the following questions for all individuals proposed for coverage:

	APPLICANT YES	APPLICANT NO	JOINT APPLICANT YES	JOINT APPLICANT NO
1. Have you ever had any indication of or been treated for any disorder of the brain or nervous system, heart or blood vessels, blood disorder, chest pains, high blood pressure, stroke, elevated cholesterol, cancer, tumour, diabetes, lupus, multiple sclerosis, muscular dystrophy, chronic lung or respiratory disorder, liver disorder including hepatitis or hepatitis carrier state, gastrointestinal or pancreas disorder, kidney or urinary disorder, prostate or breast disorder, glandular disorder, immune system disorder, seizures or paralysis, chronic pain or a positive HIV test or AIDS?	☐	☐	☐	☐
2. In the past 5 years, have you had any indication of or been treated for a mental or nervous disorder (depression, anxiety, stress, etc), received medical advice pertaining to alcohol or drug use or have you used illegal drugs?	☐	☐	☐	☐
3. Have you had any symptoms or indication of a health condition for which you have not yet consulted a physician or have you been advised to have further investigation, testing, treatment or surgery which has not yet been completed or have you been referred to another doctor or specialist?	☐	☐	☐	☐

Question #	Name	Nature of Disorder	Duration & Date	Treatment	Result & Current Status	Name of Attending Physician or Hospital

The insurer may request a medical examination, urinalysis, or tests such as a general blood profile (including blood test for HIV) which will be made at no expense to the applicant. Results of any positive infectious disease tests will be reported to the appropriate health department if required by law.

Compensation Disclosure

COMPENSATION: A one-time fee, which may be shared with a Banking Consultant, and a monthly trailer fee based on the monthly premium, which may be shared with a financial advisor, may be paid by on the issuance and continuation of the Creditor Insurance products. I/We, the undersigned, acknowledge that the payment of fees may occur.

Terms And Conditions *(Please read carefully before signing.)*

Applicant's Signature	Signed at:	Date (DD/MM/YYYY)
Joint Applicant's Signature (If applying for joint coverage)	Signed at:	Date (DD/MM/YYYY)
Co-Signature (for Pre-Authorized Collection, if required by bank)	Signed at:	Date (DD/MM/YYYY)

12.6 Summary

Under the *MBLAA* and its *Regulations* the brokerage has a significant responsibility, which falls on the shoulders of the principal broker, to ensure that its brokers and agents take all reasonable steps to provide mortgages that are suitable to its borrowers, lenders and investors. This requires that brokers and agents be able to prove the information provided to them by their borrower by obtaining the proper documentation.

In addition, the *MBLAA* requires the brokerage to have policies and procedures in place that detects and prevents fraud, whenever possible, and ensures the accuracy of information and documentation gathered by its brokers and agents.

The successful implementation of these policies and procedures requires that the brokerage's brokers and agents understand what constitutes fraud and are vigilant in watching for the warning signs typically associated with fraud. It is critical that a broker/agent take the proper steps to verify a borrower's identity and assess all of the information and documentation obtained from the borrower.

The proper employment of these safeguards will ensure that the brokerage remains compliant and that its borrowers, lenders and investors are protected from being exposed to potentially harmful transactions. These steps will also ensure that the brokerage, its brokers and agents are adequately protected from being involved in potential criminal wrongdoing and minimize the likelihood of civil prosecution when, as will undoubtedly happen, a transaction is deemed to be fraudulent through no fault of the brokerage.

12.7 Key Terms and Definitions

Agreement of purchase and sale
A document used in the purchase of real estate in Ontario

Certificate of Independent Legal Advice (ILA)
A document that states that the borrower's lawyer has met with the borrower, explained the terms and conditions of the mortgage, and that the borrower attests that he or she is not taking the mortgage under duress or undue influence

Creditor insurance application
A document used by an insurance company to determine the eligibility of an applicant for creditor insurance

Employment insurance (EI) premiums
Premiums deducted from an employee's earnings which go into a general fund; EI premiums are automatically deducted from wages but are not paid by self-employed workers

Estoppel Certificate
See Status Certificate

Gift letter
A document that outlines the terms of a gifted down payment in a real estate purchase transaction; in other words, the down payment came from a source other than the purchaser.

Job letter
A document provided to an individual by his or her employer. This document is often required by a lender, in addition to other documentation, to verify an applicant's employment as well as income

Mortgage statement
A document provided by a homeowner's current mortgage provider to the homeowner which outlines the details of the current mortgage

Multiple Listing Service (MLS)
One or more databases available to real estate agents/brokers which allow real estate brokers representing sellers under a listing contract to widely share information about the seller's property with other real estate brokers who may represent potential buyers. In some, but not all cases, real estate listings involve MLS at the outset because of the clear marketing advantages.

Notice of Assessment (NOA)
A form that the federal government issues when a personal tax return has been completed and filed. This document provides a breakdown of the year's income along with the balance owing or refund.

Paystub
A document provided to an individual by his or her employer each time the employee is paid (by cheque, direct deposit or other), and is often required by a lender in addition to a job letter

and/or any other document used to verify the employee's income

Property assessment
A document provided by the Municipal Property Assessment Corporation (MPAC) to homeowners to illustrate the value of a home, as assessed or determined by MPAC, for the purposes of calculating property taxes; although homeowners might argue about the value of their home, it is the MPAC Property Assessment Value that is used to determine the property's value for tax purposes

Self-employed commissions
Commissions paid to an independent agent, in other words, someone working not as an employee but on a contract or self-employed basis, who earns commission based directly on production, such as sales volume. This amount will be shown on a T4A

Status Certificate
Formerly known as an Estoppel Certificate, this is a document provided by a condominium corporation (the entity that runs the condominium) to the owner of the condominium unit to indicate the current status of the corporation, among other items

TBA
To Be Advised. This abbreviation is typically used when information is currently unavailable but will be available at a later date.

T4
A document provided to an individual by his or her employer, typically when there is employment income, such as salaried or hourly income. Employers are required by law to provide the T4 so that employees may file their income tax returns. The T4 indicates, among other things, the amount of money the employee earned in the one-year period, as well as the deductions from earnings

T4A
A document provided to an individual by his or her employer, typically when there is self-employed commission income or other income not listed on a T4. Employers are required by law to issue the T4A when applicable so the individual may file his/her income tax return. The T4A indicates, among other things, the amount of money the individual earned in this manner in the one-year period

Tax bill
A document provided to a homeowner by the municipal tax authority in the jurisdiction in which the property is located. The tax bill reflects, for the mortgage agent, the amount of taxes payable by the homeowner

12.8 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Briefly describe when a mortgage agent would be required to obtain the following documents from an applicant.
    a) T4
    b) T4A
    c) Job letter
    d) Paystub
    e) NOA
    f) Agreement of Purchase and Sale
    g) Gift letter
    h) Property assessment
    i) Property tax bill
    j) Mortgage statement
    k) Status certificate

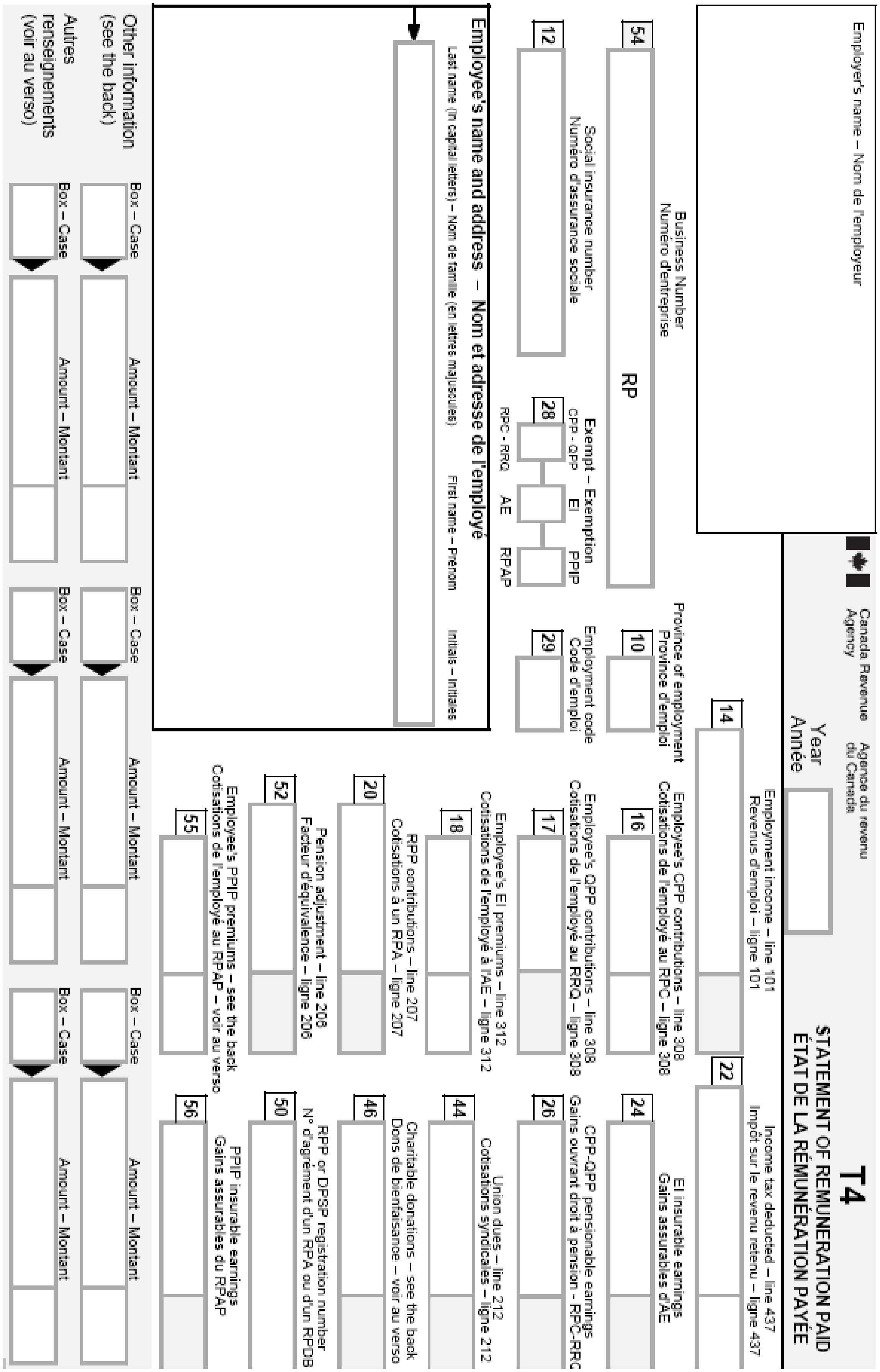
2. Describe the information found in an MLS document.

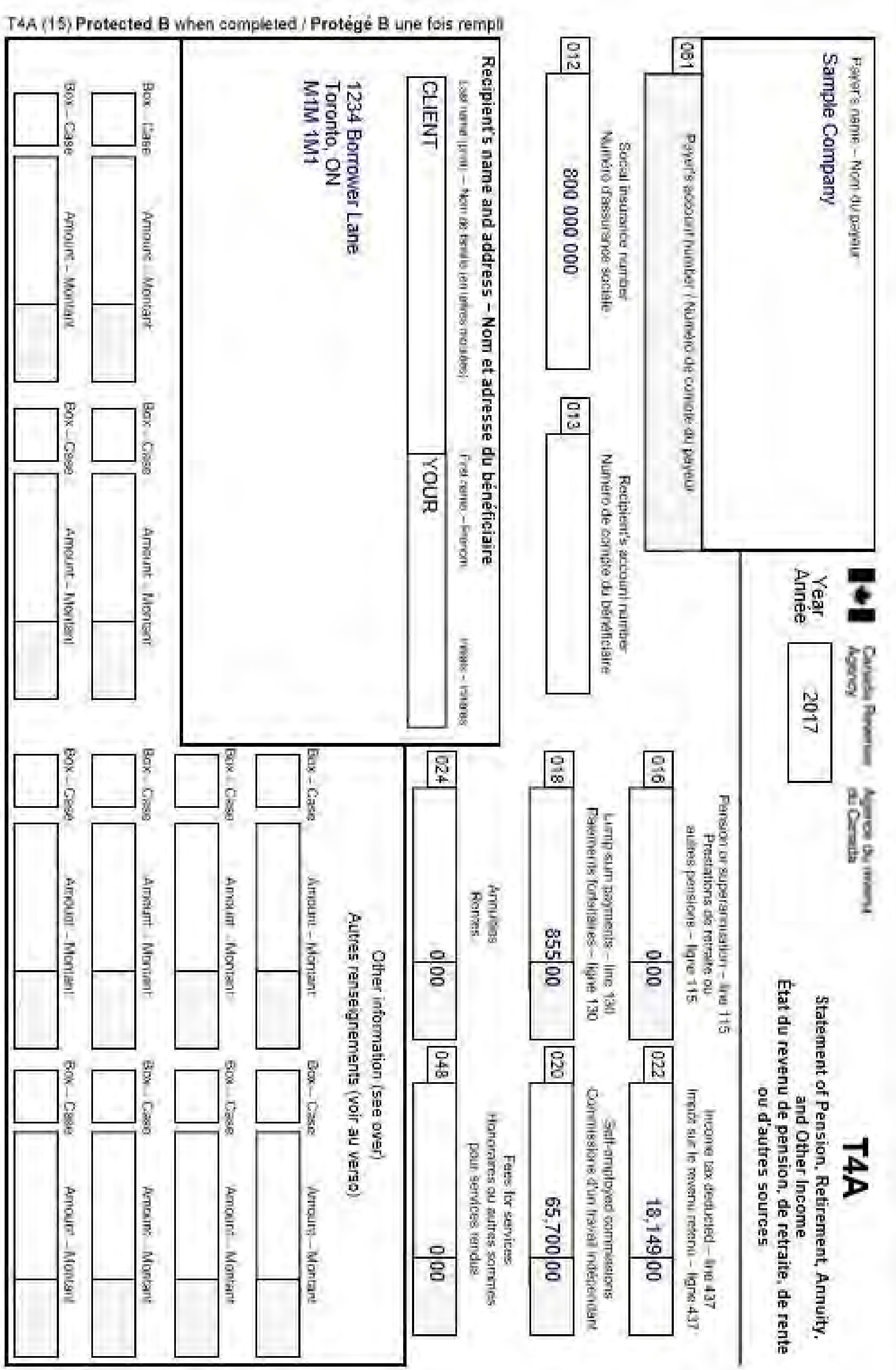
3. What is a certificate of independent legal advice and under what circumstances would it be required?

4. Under what circumstances must a mortgage agent complete a creditor insurance application?

5. What information must be in a job letter for it to be acceptable to a lender?

6. The next section contains blank documents found in this chapter. Test your knowledge of these documents by writing the appropriate information in documents' blank fields without referring to the chapter. Once done, refer to the chapter to review the accuracy of your answers.


Canada Revenue Agency
Agence du revenu du Canada
T4
STATEMENT OF REMUNERATION PAID
ÉTAT DE LA RÉMUNÉRATION PAYÉE
Year
Année
Employer's name – Nom de l'employeur
14
Employment income – line 101
Revenus d'emploi – ligne 101
22
Income tax deducted – line 437
Impôt sur le revenu retenu – ligne 437
54
Business Number
Numéro d'entreprise
RP
10
Province of employment
Province d'emploi
16
Employee's CPP contributions – line 308
Cotisations de l'employé au RPC – ligne 308
24
EI insurable earnings
Gains assurables d'AE
12
Social insurance number
Numéro d'assurance sociale
28
Exempt – Exemption
CPP - QPP
EI
PPIP
RPC - RRQ
AE
RPAP
29
Employment code
Code d'emploi
17
Employee's QPP contributions – line 308
Cotisations de l'employé au RRQ – ligne 308
26
CPP-QPP pensionable earnings
Gains ouvrant droit à pension - RPC-RRQ
18
Employee's EI premiums – line 312
Cotisations de l'employé à l'AE – ligne 312
44
Union dues – line 212
Cotisations syndicales – ligne 212
Employee's name and address – Nom et adresse de l'employé
Last name (in capital letters) – Nom de famille (en lettres majuscules)
First name – Prénom
Initials – Initiales
20
RPP contributions – line 207
Cotisations à un RPA – ligne 207
46
Charitable donations – see the back
Dons de bienfaisance – voir au verso
52
Pension adjustment – line 206
Facteur d'équivalence – ligne 206
50
RPP or DPSP registration number
N° d'agrément d'un RPA ou d'un RPDB
55
Employee's PPIP premiums – see the back
Cotisations de l'employé au RPAP – voir au verso
56
PPIP insurable earnings
Gains assurables du RPAP
Other information (see the back)
Autres renseignements (voir au verso)
Box – Case
Amount – Montant
Box – Case
Amount – Montant
Box – Case
Amount – Montant
Box – Case
Amount – Montant
Box – Case
Amount – Montant
Box – Case
Amount – Montant



Payer's name – Nom du payeur
Sample Company

061 Payer's account number / Numéro de compte du payeur

Year / Année: 2017

Canada Revenue Agency / Agence du revenu du Canada

T4A

Statement of Pension, Retirement, Annuity, and Other Income
État du revenu de pension, de retraite, de rente ou d'autres sources

Social insurance number / Numéro d'assurance sociale
012 800 000 000

Recipient's account number / Numéro de compte du bénéficiaire
013

016	Pension or superannuation – line 115 / Prestations de retraite ou autres pensions – ligne 115	0.00
022	Income tax deducted – line 437 / Impôt sur le revenu retenu – ligne 437	18,149.00
018	Lump-sum payments – line 130 / Paiements forfaitaires – ligne 130	855.00
020	Self-employed commissions / Commissions d'un travail indépendant	65,700.00
024	Annuities / Rentes	0.00
048	Fees for services / Honoraires ou autres sommes pour services rendus	0.00

Recipient's name and address – Nom et adresse du bénéficiaire

Last name (print) – Nom de famille (en lettres moulées): CLIENT
First name – Prénom: YOUR
Initials – Initiales:

1234 Borrower Lane
Toronto, ON
M1M 1M1

Other information (see over)
Autres renseignements (voir au verso)

Box – Case / Amount – Montant (blank)

T4A (15) **Protected B** when completed / **Protégé B** une fois rempli

Employee # 0004					Department # 99		Period From	To	Payday	
STATEMENT OF EARNINGS BULLETIN DE PAIE					EMPLOYER DEDUCTIONS AND CONTRIBUTIONS RETENUES DE L'EMPLOYE ET COTISATIONS PATRONALES					
Type	Hours	Rate	Amount	Y.T.D.	Type	Current	Y.T.D.	Type	Current	Y.T.D

SUMMARY SOMMAIRE	GROSS PAY PAIE BRUTE	DEDUCTIONS RETENUES	NET PAY PAIE NETTE	NET PAY ALLOCATION DETAILS DE LA PAIE NETTE
Current Courant				
Year-to-date Cumul annuel				

Chapter 13: Application Analysis – Application Ratios

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Perform a loan to value calculation in a given scenario
- ❑ Calculate the maximum mortgage amount using the loan to value ratio
- ❑ Calculate the GDS and TDS ratios in a given scenario
- ❑ Calculate the maximum mortgage amount using the TDS ratio
- ❑ Indicate the industry standards regarding the GDS and TDS ratios

Introduction

The mortgage agent has three basic ratios that must be applied to virtually every transaction: the loan to value (LTV), the gross debt service ratio (GDS) and the total debt service ratio (TDS). The LTV is used to determine the maximum loan possible based on the value of the property, while the GDS and TDS ratios determine the maximum loan possible based on the borrower's income. The lender will then use the lowest of these three loan amounts as the mortgage amount.

While the majority of lenders will use all three of these ratios, the GDS is not typically used in sub-prime transactions or by private lenders.

In this chapter, the mortgage agent will be introduced to these three ratios and taught how to apply them in a mortgage transaction.

13.1 Loan to Value Ratio (LTV)

The LTV is the amount of the loan, in dollars, in relation to the value of the property, in dollars, expressed as a percentage that is typically rounded off to two decimal places (unless it is an exact number). For example, if the LTV is exactly 90% there is no need to show any decimal places. Lenders use this ratio to determine the maximum loan amount for a given property based on the specific type of loan product that is offered by the lender.

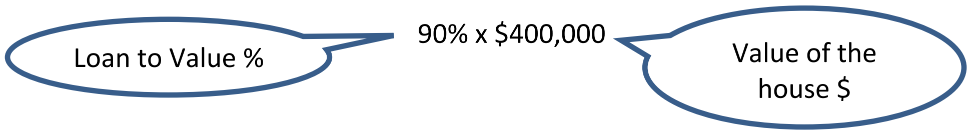
There are two calculations when using the LTV. The first is calculating the LTV of a mortgage. To accomplish this, we divide the amount of the loan by the value of the property. For example, if we had a \$200,000 mortgage and a \$400,000 house, the equation would look like this:

\$200,000 / \$400,000

Loan Amount \$

Value of the house \$

The second use for the loan to value is to determine a maximum mortgage amount. To accomplish this, we multiply the loan to value by the value of the house. For example, if we have a loan to value of 90% and a \$400,000 house, the equation would look like this:



Pause for clarification – The "/" character
The calculations in this chapter use the "/" character to represent the division sign.

To better illustrate these calculations let's look at a few examples.

Calculating the LTV of a 1^{st} Mortgage

Example 1
A client would like a 1^{st} mortgage in the amount of $270,000. The property he is purchasing is valued at $300,000. What is the LTV of the proposed 1^{st} mortgage?

Solution

LTV = (Proposed 1^{st} mortgage amount / Property value) x 100

LTV = (270,000 / 300,000) x 100

LTV = .90 x 100

LTV = 90%

Therefore, the loan to value of the proposed 1^{st} mortgage is 90%.

Pause for clarification – Converting decimals to percentages
When you ***calculate a percentage*** the decimal number must be multiplied by 100 to obtain the percentage. For example, 10 is 10% of 100. We can calculate this by dividing 10 by 100 (10/100). That, however, equals 0.10. The answer is not 0.10 percent. To convert the decimal to its percentage you must multiply it by 100. Therefore, 0.10 multiplied by 100 equals 10. *This* (10) is the percentage.

Example 2
A client would like to refinance her 1^{st} mortgage in the amount of $185,000. She has told you that her home is worth $222,000. What is the LTV of this proposed mortgage?

Solution

LTV = (Proposed 1^{st} mortgage amount / Property value) x 100

LTV = (185,000 / 222,000) x 100

LTV = (8.33333333E-1) x 100

LTV = .833333333 x 100

LTV = 83.33%

Therefore, the loan to value of the proposed 1st mortgage is 83.33%.

> ***Pause for clarification – "E" in your display***
> Although this was discussed in chapter 8, remember that if you ever get an answer on your calculator's display that looks like our last example,
> 8.33333333E-1
> this means that you must move the decimal place one place to the left, or the number of places indicated by the number following the E. In this example the actual answer would be .833333333

Calculating the LTV of a 2nd Mortgage

To calculate the LTV of a 2nd mortgage the mortgage agent must complete the same process as above; however, he or she must also include the first mortgage in the calculation.

Example 1
A client has a 1st mortgage in the amount of $270,000 and would like an additional $15,000 as a 2nd mortgage to consolidate credit card debt. The property is valued at $300,000. The loan to value would be calculated as follows:

Solution

LTV = [(1st mortgage amount + Proposed 2nd mortgage) / Property value] x 100

LTV = [(270,000 + 15,000) / 300,000] x 100

LTV = (285,000 / 300,000) x 100

LTV = 0.95 x 100

LTV = 95%

Therefore, the loan to value of the proposed 2nd mortgage is 95%.

Example 2
A client has a 1st mortgage in the amount of $185,000 and would like an additional $20,000 as a 2nd mortgage to renovate her house. The property is valued at $222,000. The loan to value would be calculated as follows:

Solution

LTV = [(1st mortgage amount + Proposed 2nd mortgage) / Property value] x 100

LTV = [(185,000 + 20,000) / 222,000] x 100

LTV = (205,000 / 222,000) x 100

LTV = 9.23423423E-1 x 100

LTV = 0.923423423 x 100

LTV = 92.34%

Therefore, the loan to value of the proposed 2^{nd} mortgage is 92.34%.

Calculating the LTV of Additional Mortgages

If the applicant is applying for a 3^{rd} mortgage (or any mortgage other than a 1^{st} mortgage) the mortgage agent must complete the same process as above; however, he or she must also include all mortgages that rank before the proposed mortgage in the calculation.

Example
A client has a 1^{st} mortgage in the amount of $270,000, and a $15,000 2^{nd} mortgage and would like to borrow an additional $7,500 to repay a loan that has been placed in collections. The applicant believes that this is the best option since both the 1^{st} and 2^{nd} mortgages are closed and cannot be refinanced before their respective renewal dates. The property is valued at $300,000. The loan to value would be calculated as follows:

Solution

LTV = [(1^{st} mortgage + 2^{nd} mortgage + Proposed 3^{rd} mortgage) / Property value] x 100

LTV = [(270,000 + 15,000 + 7,500) / 300,000] x 100

LTV = (292,500 / 300,000) x 100

LTV = 0.975 x 100

LTV = 97.5%

Therefore, the loan to value of the proposed 3^{rd} mortgage is 97.5%.

Using the LTV to Calculate a Maximum Mortgage Amount

When using the LTV to calculate a maximum mortgage amount, the mortgage agent needs to know the LTV that is offered by the lender as well as the value of the property. Knowing the lender’s LTV is straightforward and involves understanding the lender’s products. Knowing the value of a property can be difficult unless there has been an appraisal performed or it is a purchase (under normal circumstances the value of a property being purchased is the purchase price).

The formula for determining the maximum mortgage amount using the LTV calculation is as follows:

Maximum Mortgage Amount = LTV / 100 x Property Value

The LTV is divided by 100 since it is a percentage and the calculation requires it be converted to its decimal equivalent.

Example
A borrower wishes to purchase a new home and has asked his mortgage agent to advise how much of a down payment he requires. The purchase price is $400,000. The mortgage agent has determined that this borrower qualifies with a lender who offers a maximum loan to value of 95%. Our next step is to calculate the mortgage amount based on this loan to value.

Solution

Maximum Mortgage Amount = 95% / 100 x $400,000

Maximum Mortgage Amount = .95 x $400,000

Maximum Mortgage Amount = $380,000

Therefore, the maximum mortgage amount based on the LTV is $380,000.

To answer the borrower's question, the borrower would need a $20,000 down payment which is the purchase price minus the mortgage ($400,000 - $380,000 = $20,000).

13.2 Gross Debt Service (GDS) and Total Debt Service (TDS) Ratios

The GDS and TDS are debt service ratios that are designed to determine whether a mortgage payment can be afforded by the potential borrower. A debt service ratio is the ratio of debt to income expressed as a percentage. While these ratios have not changed in several decades, they remain the fundamental calculations in determining affordability.

Calculating the Gross Debt Service Ratio (GDS)

Industry Standard – 39%
The GDS is designed to determine if the potential borrower can afford the proposed mortgage payment based on his or her income (or a combined income, if there is more than one applicant). The GDS combines the costs that a potential borrower has regarding shelter and divides that cost by his or her gross income (the income before taxes are deducted).

The maximum ratio that is typical in the mortgage industry is 39%. This means that 39% of a potential borrower's gross income may be used to service his or her shelter costs. The GDS has one main purpose: to determine if the proposed mortgage payment is within the lender's maximum GDS ratio. The GDS is calculated using the following equation:

GDS = [(PITH + ½ Condo Maintenance fee) / Gross Income] x 100

The Components of GDS

To understand how to calculate the GDS, let's break it down into each of its components.

PITH

The PITH represents the **P**rincipal, **I**nterest, Property **T**axes, and Property **H**eat. Let's have a look at what each letter of PITH represents.

PI (Principal and Interest)

The Principal and Interest consist of the amount of the mortgage payment necessary to repay the blended principal and interest for the payment period.

T (Property Taxes)

The property taxes consist of the actual amount of property taxes payable on the property.

H (Property Heat)

CMHC states that mortgage professionals are expected to ask the prospective borrower what the monthly heating costs are for the subject property and use the actual heat cost records, if provided by the prospective borrower. Where no history is readily available, the heat costs used must be a reasonable estimate taking into consideration factors such as property size, location and/or type of heating system. Such estimates are to be based on a sound rationale, providing an accurate estimate that is reflective of the characteristics of the property being purchased. [1]

Most lenders will accept a standard amount of $100 per month for heat for most properties, while a higher amount may be used for a large property. Although heat varies from property to property, this standard amount is applied to all debt service ratio calculations unless advised otherwise by the lender.

For the purposes of this course $100 will be assumed unless otherwise noted.

Condominium Maintenance Fee

The condo maintenance fee is the fee that a condominium unit owner pays to the condominium corporation for the maintenance of the common elements. Common elements are those items that are common to all unit owners such as upkeep of the building, lobby, hallways, pool, gymnasium, etc. The GDS uses fifty percent of this expense. Naturally, if the property being mortgaged is not a condominium, this part of the formula is excluded.

Gross Income

The gross income is the potential borrower's total income before paying income taxes.

Converting to a Percentage

The entire amount must be multiplied by one hundred to provide a percentage.

[1] CMHC, http://www.cmhc-schl.gc.ca/en/hoficlincl/moloin/mupr/mupr_015.cfm

Example 1
Mr. Borrower wishes to purchase a home valued at $350,000. He has $87,500 as a down payment, leaving a required mortgage in the amount of $262,500. You have determined that his monthly mortgage payment will be $1,679.50. This is not a condominium and therefore there is no maintenance fee. Mr. Borrower has an annual income of $77,500 and pays $3,100 per year in property taxes. What is Mr. Borrower's GDS?

Solution

Annual Property Taxes

$$\text{GDS} = [(\text{PITH}) / \text{Gross Income}] \times 100$$

$$\text{GDS} = [((\$1{,}679.50 \times 12) + (\$100 \times 12) + \$3{,}100) / \$77{,}500] \times 100$$

Monthly mortgage payment x 12 = the annual mortgage payment

Monthly heat x 12 = the annual heating payment

$$\text{GDS} = [(\$20{,}154 + \$1{,}200 + 3{,}100) / \$77{,}500] \times 100$$

$$\text{GDS} = (\$24{,}454 / \$77{,}500) \times 100$$

$$\text{GDS} = 3.15535484\text{E-}1 \times 100$$

$$\text{GDS} = 0.315535484 \times 100$$

$$\text{GDS} = 31.55\%$$

Therefore Mr. Borrower's GDS is 31.55%.

In this case Mr. Borrower's GDS is within the acceptable industry standard of 39%, meaning that his GDS will qualify with most lenders.

> ***Pause for clarification – Frequency of payments in GDS***
> All ***figures in the GDS calculation must be based on the same frequency***. In Example 1 the mortgage payment is monthly and the income is annually. It is therefore necessary to annualize all figures, which is why the mortgage payment and heat is multiplied by twelve.

Example 2 – Condominium Unit
Ms. House owns a condominium unit valued at $200,000 that has a mortgage with an outstanding balance of $120,000. She would like to refinance this mortgage, increasing it to $145,000. Ms. House has informed you that the monthly condominium maintenance fee is $350, and her property taxes are $1,900 per year while she has a monthly income of $5,000. Based on your calculations you have determined that her monthly mortgage payment based on this proposed mortgage will be $927.72. What is her GDS?

½ of the condo maintenance fee

Solution

$$\text{GDS} = [(\text{PITH} + \tfrac{1}{2}\ \text{Condo Maintenance fee}) / \text{Gross Income}] \times 100$$

$$\text{GDS} = [((\$927.72 \times 12) + (\$100 \times 12) + (.50 \times \$350 \times 12) + \$1{,}900) / (\$5{,}000 \times 12)] \times 100$$

GDS = [($11,132.64 + $1,200 + $2,100 + $1,900) / $60,000] x 100

GDS = ($16,332.64 / $60,000) x 100

GDS = 2.72210667E-1 x 100

GDS = 0.272210667 x 100

GDS = 27.22%

Therefore Ms. House's GDS is 27.22%.

In this case Ms. House's GDS is within the acceptable industry standard of 39%, meaning that Ms. House's GDS will qualify with most lenders.

> ***Success Tip – If GDS is above industry standard***
> If the ***GDS*** is higher than the allowable industry standard it will be necessary to consult further with the client to either bring the GDS within acceptable limits by decreasing the payment or suggest a lender that may allow a GDS that is higher than the industry standard.

GDS and Second Mortgages

Since the debt service ratio includes all costs for shelter, when you are calculating the GDS for a 2nd mortgage application, you must include in the GDS the 1st mortgage payment as well as the proposed 2nd mortgage payment.

Example – 2nd Mortgage
Tedros is applying for a 2nd mortgage in the amount of $17,000. You have determined that the mortgage payment for this mortgage will be $200.88 per month. Tedros has informed you that he lives in a single-family detached home and that his 1st mortgage payment is $255.92 per week and his property taxes are $2,400 per year. Tedros earns $6,350 per month. What is Tedros' GDS under this proposed 2nd mortgage?

Solution

Since Tedros lives in a single-family detached home there is no condominium maintenance fee payable. Since this is a 2nd mortgage the 1st mortgage payment must be included in this calculation.

GDS = [(PITH) / Gross Income] x 100

GDS = [(($255.92 x 52) + ($200.88 x 12) + ($100 x 12) + 2,400) / ($6,350 x 12)] x 100

1st mortgage payment

GDS = [($13,307.84 + $2,410.56 + $1,200 + $2,400) / $76,200] x 100

GDS = ($19,318.40 / $76,200) x 100

Proposed mortgage payment

GDS = 2.5352231E-1 x 100

GDS = 0.25352231 x 100

GDS = 25.35%

Therefore Tedros' GDS is 25.35%.

In this case Tedros' GDS is within the acceptable industry standard of 39%, meaning that his GDS will qualify with most lenders.

Calculating the Total Debt Service Ratio (TDS): Pre-Qualifying

Industry Standard - 44%
Like the GDS the TDS is designed to determine if the borrower can afford the potential mortgage payment, however this calculation also includes all other debts that the borrower has.

The TDS has two main functions. It can be used to:
1. Pre-qualify the borrower by determining the maximum mortgage payment that the borrower can afford.
2. Verify that the payment qualifies by determining if the potential mortgage payment falls within the lender's TDS ratio.

To pre-qualify a potential borrower, it is necessary to determine the amount of a mortgage payment that he or she can afford based on the TDS calculation, and then use that payment amount to determine the maximum mortgage amount.

Pre-qualifying a potential borrower based on the TDS is calculated by using the following equation:

Maximum Mortgage Payment = (Income x Max TDS / 100) – (Property Taxes + Heat + ½ Condo Maintenance Fee + Other Debts)

- Since the TDS Ratio is a percentage, it is necessary to convert it to its decimal equivalent by dividing the number by 100.

- Other debts can be defined as other obligations that, if the borrower failed to make a payment, would require monies to be paid to another party. For example, if a borrower had a car loan and failed to make his or her monthly payments, the car would be repossessed, and the borrower would still owe the balance of the loan. If the borrower failed to make his or her monthly car insurance payment, on the other hand, the borrower would *not* owe any further money since the car insurer would cancel the insurance policy.

TDS: Included and excluded items

Examples of items included in the TDS ratio:
- Loans
- Mortgage payments
- Credit cards
- Child support
- Alimony
- Any payment that, if discontinued, would result in a balance owing.

Examples of items ***not*** included in the TDS ratio:

- Child care expenses (that are not court ordered)
- Food
- Clothing
- Entertainment
- RRSP contributions
- Car insurance
- Property insurance
- Life insurance
- Any expense or payment that, if discontinued, would ***not*** result in a balance owing

> ***Success Tip – Outstanding balance or credit limit in the TDS?***
> Lenders will typically use 3% of the outstanding balance on a credits cards and other types of unsecured revolving credit as the payment amount when calculating the TDS, although this can vary from lender to lender. For secured debts CMHC suggests lenders calculate what the monthly payment would be if the debt was amortized over 25 years. It is important to know how a lender calculates the TDS before submitting an application to that lender.

Example 1 – Condominium Unit
Ms. House owns a condominium unit valued at $200,000 that has a mortgage with an outstanding balance of $120,000. She would like to refinance this mortgage and wishes to know how much she qualifies to borrow. Ms. House has informed you that the monthly condominium maintenance fee is $350, and her property taxes are $1,900 per year while she has a monthly income of $5,000. Further investigation shows that Ms. House has a car payment of $310 per month, credit card payments of $145 per month and a loan payment of $225 per month. Ms. House also makes weekly contributions of $50 to her RRSP, spends $185 per month for her car insurance, and has a life insurance policy that costs her $30 per month.

What is the maximum monthly mortgage payment for which Ms. House qualifies based on a TDS of 44%?

Solution

The first step is to determine which payments are included in the TDS calculation and which are not. The car payment, credit card payment, and loan payment must be included as other debts, while the weekly RRSP contribution, car insurance, and life insurance payments are not.

The second step is to determine whether the calculation will be done based on monthly or annual numbers. This example has a mixture of monthly income, monthly payments, and an annual amount of property taxes. For the sake of simplicity in this example the annual property taxes will be divided by twelve to determine the monthly payment and all other debts will be kept monthly. Heat is standardized at $100 per month.

Maximum Mortgage Payment (MMP) = Income x (MAX TDS / 100) – (Property Taxes + ½ Condominium Maintenance Fee + Heat + Other Debts)

Other Debts

MMP = ($5,000 x 44% /100) – ($1,900 /12) – (.50 x $350) – $100 (*heat*) - **$310 - $145 - $225**

MMP = ($5,000 x .44) - $158.33 – $175 – $100 - $310 – $145 – $225

MMP = $2,200 - $158.33 - $175 - $100 - $310 - $145 - $225

MMP = $1,086.67

Therefore, the maximum mortgage payment that Ms. House qualifies for is $1,086.67 per month.

Example 2

Mr. Orange would like to apply for a mortgage to purchase a new home valued at $400,000. Mr. Orange has stated that the property taxes are $2,900 per year. His income is $73,000 per year. Further investigation shows that Mr. Orange has a car payment of $275 per month, credit card payments of $195 per month and a loan payment of $300 per month.

a) What is the maximum monthly mortgage payment for which Mr. Orange qualifies based on a TDS of 44%?

b) What is the maximum loan amount for which Mr. Orange qualifies based on an interest rate of 6% compounded semi-annually, not in advance, and a 25-year amortization?

Solution

a) For the sake of simplicity in this example the annual property taxes and annual income will be divided by twelve to determine the monthly amount and all other debts will be kept monthly. Heat is standardized at $100 per month.

Maximum Mortgage Payment (MMP) = Income x (MAX TDS / 100) – (Property Taxes + ½ Condominium Maintenance Fee + Other Debts)

MMP = [($73,000 / 12) x (44% /100)] – ($2,900 /12) – $100 (heat) – $275 - $195 - $300

MMP = ($6,083.33 x .44) - $241.67 – $100 - $275 – $195 – $300

MMP = $2,676.67 - $241.67 - $100 - $275 - $195 - $300

MMP = $1,565.00

Therefore, the maximum monthly mortgage payment for which Mr. Orange qualifies is $1,565.00

b) If you wish to determine the maximum mortgage amount, based on the payment that was calculated above, it is necessary to complete the following calculation using the HP10BII (or another, as explained in chapter 8):

6 SHIFT NOM%
2 SHIFT P/YR
SHIFT EFF% 6.09
12 SHIFT P/YR

SHIFT NOM% 5.92634643744
1,565.00 +/- PMT
O FV
12 X 25 N
PV 244,605.15757191

The difference between this calculation and calculating a mortgage payment is simply that here we enter the payment and solve the PV

Therefore, the maximum loan amount based on these terms is $244,605.16

Calculating the Total Debt Service Ratio (TDS): Verifying

If the mortgage agent has already determined the mortgage payment that the potential borrower requires, it is then necessary to determine if that payment meets the industry standard 44% TDS ratio or whatever the ratio is for the lender we've chosen or are considering.

Example 1
Malik and Nancy Borrower are purchasing a house valued at $450,000 and have $80,000 as a down payment, resulting in a required mortgage of $370,000. You have reviewed their application and have determined that the lender best for them is currently offering a rate of 4.75% with a 25-year amortization and monthly payments. You have calculated that the monthly mortgage payment on this proposed mortgage will be $2,099.59.

From their application you know that they have a combined monthly income of $8,355. They have car payments of $175 and $300 per month, credit card payments of $190 per month and a student loan payment of $100 per month. The property taxes for this home are estimated to be $3,100 per year. Based on the lender's TDS ratio of 44%, will they qualify for this proposed mortgage?

Solution

Heat is standardized at $100 per month.

TDS = [(PITH + ½ Condo Maintenance fee + Other Debts) / Income] x 100

TDS = [($2,099.59 + $100(heat) + $175 + $300 + $190 + $100 + ($3,100 / 12)) / $8,355] x 100

TDS = [($2,964.59 + 258.33) / $8,355] x 100

TDS = ($3,222.92 / $8,355) x 100

TDS = 0.3857474566128 x 100

TDS = 38.57474566128

TDS = 38.57%

Therefore, Malik and Nancy qualify for this mortgage based on the lender's TDS requirement.

Success Tip – If TDS is above industry standard

If the ***TDS*** is higher than the allowable industry standard, it will be necessary to consult further with the client, either to bring the TDS within acceptable limits by reducing debt or decreasing the payment, or to suggest a lender that may allow a TDS that is higher than industry standard.

Example 2

Anna and Ronin own a home and would like to obtain a $31,000 2nd mortgage to consolidate all of their current debts. Their property is valued at $450,000 and they currently have a 1st mortgage that has monthly payments of $1,454.02. You have reviewed their application and have determined that the lender best for them is currently offering a rate of 12.75% with a 15-year amortization and monthly payments. You have calculated that the monthly mortgage payment on this proposed mortgage will be $380.55.

From their application you know that they have a combined monthly income of $7,400. They have car payments of $175 and $300 per month, credit card payments of $190 per month and a student loan payment of $100 per month. The property taxes for this home are $2,800 per year. Based on the lender's TDS ratio of 44%, will they qualify for this proposed mortgage?

Solution

It is necessary to include the first mortgage payment in this calculation. Since this is a debt consolidation and all of the applicants' debts will be paid off from the proceeds of this proposed 2nd mortgage, they must not be included in this calculation. Heat is standardized at $100 per month.

TDS = [(PITH + ½ Condo Maintenance fee + Other Debts) / Income] x 100

TDS = [(($1,454.02 + $380.55 + $100 + ($2,800 / 12)) / $7,400] x 100

TDS = [($1,934.57 + 233.33) / $7,400] x 100

TDS = ($2,167.90 / $7,400) x 100

TDS = 2.92959459E-1 x 100

TDS = .292959459 x 100

TDS = 29.30%

Therefore, Anna and Ronin qualify for this mortgage based on the lender's TDS requirement.

13.3 Calculating the Maximum Mortgage Amount

The lender will use either the LTV or GDS/TDS calculation when determining the maximum mortgage amount. The lender's decision will be based on the lower of the two. For example, if a property is valued at $400,000 and a lender's maximum LTV is 90%, the maximum loan based on the LTV would be $360,000 (.90 x $400,000). However, if after using the GDS/TDS calculation the maximum mortgage amount for which the borrower qualifies was $340,000, then the lender would base the mortgage on the lowest value, or $340,000.

13.4 LTV, GDS and TDS Quick Reference Guide

Loan to Value (LTV)	
LTV of a 1st mortgage	LTV = Mortgage Amount / Property Value
LTV of a 2nd mortgage	LTV = (1st Mortgage Amount + 2nd Mortgage Amount) / Property Value
LTV calculating the maximum loan amount	Maximum Mortgage Amount = LTV x Property Value
Gross Debt Service Ratio (GDS)	
GDS: verifying that a payment meets the lender's GDS ratio	GDS = ((PITH + ½ Condo Mtc. Fee) / Income) x 100
Total Debt Service Ratio (TDS)	
TDS: verifying that a payment meets the lender's TDS ratio	TDS = ((PITH + ½ Condo Mtc. Fee + Other Debts) / Income) x 100
TDS: calculating a maximum mortgage payment	Maximum Mortgage Payment = (MAX TDS x Income) – Taxes - Heat – ½ Condo Mtc. Fee - Other Debts

13.5 Key Terms and Definitions

Gross debt service ratio (GDS)
A debt service ratio that measures the amount of shelter (housing) payments in comparison to the amount of gross income, expressed as a percentage. The industry standard is 39%.

Industry standard
An amount that the mortgage industry will typically use in a calculation or a practice

Loan to value (LTV)
The amount of a loan to the value of the property expressed as a percentage.
Loan to Value (%) = Loan / Property Value

Percentage
A fraction or ratio with 100 understood as the denominator; for example, 0.98 equals a percentage of 98

Property value
The value, in dollars, of a property, usually determined by independent verification such as an appraisal

Total debt service ratio (TDS)
A debt service ratio that measures the amount of shelter payments (PITH and condo maintenance fees, when applicable) and other debt payments in comparison to the amount of gross income, expressed as a percentage. The industry standard is 44%. The formula is (PITH [Principal + Interest + Taxes + Heating] + other debts + ½ condo maintenance fee [when applicable]) / Gross Income.

13.6 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

1. A house has been appraised at a value of $550,000. The owner requires a 1st mortgage in the amount of $255,000 and a 2nd mortgage in the amount of $70,000.
   a) What is the LTV of the 1st mortgage?
   b) What is the total LTV of the combined 1st and 2nd mortgages?

2. Tedros has been approved for a mortgage in the amount of $262,500 on a 1st mortgage. The property he is buying is worth $350,000. What is the LTV of this mortgage?

3. Adela and Carlos are applying for a mortgage through you, their local mortgage agent. They have requested a mortgage in the amount of $455,000 with weekly payments for a 3-year term at 5.95% compounded semi-annually with a 25-year amortization. They have told you that they also have a car payment of $385 per month, annual car insurance of $2,712, a weekly loan payment of $45 and total monthly credit card payments of $510. Their property taxes are $2,100 per year. Their combined income is $126,966 per year and heat on this house is $100 per month. The proposed mortgage payment is $667.43.
   a) What is their GDS?
   b) What is their TDS?

4. Hisa and Botan are applying for a mortgage through you, their local mortgage agent. They have requested a mortgage in the amount of $300,000 with monthly payments for a 5-year term at 4.95% compounded semi-annually with a 25-year amortization. They have told you that they also have a car payment of $275 per month, annual car insurance of $2,000, a weekly loan payment of $95 and total monthly credit card payments of $300. Their property taxes are $2,100 per year. Their combined income is $95,000 per year and heat on this house is $100 per month. The proposed mortgage payment is $1,736.29.
   a) What is their GDS?
   b) What is their TDS?

5. Joe and Mary are applying for a mortgage through you, their local mortgage agent. They have requested a mortgage in the amount of $640,000 with bi-weekly payments for a 5-year term at 3.75% compounded semi-annually with a 25-year amortization. They have told you that they also have a car payment of $405 per month, annual car insurance of $3,000, a weekly loan payment of $55 and total monthly credit card payments of $400. Their property taxes are $2,100 per year. Their combined income is $145,000 per year and heat on this house is $100 per month. The proposed mortgage payment is $1,512.75.
   a) What is their GDS?
   b) What is their TDS?

6. Lin and Shen have been approved for a mortgage through you, their local mortgage agent in the amount of $200,000 with monthly payments for a 1-year term at 8.25% compounded semi-annually with a 25-year amortization. They have told you that they also have a car payment of $405 per month, a Line of Credit payment of $180 per month and total monthly credit card payments of $400. Their property taxes are $2,100 per year. Their combined income is $75,000 per year and heat on this house is $100 per month. The proposed mortgage payment is $1,558.46.

a) What is their GDS?
b) What is their TDS?

7. Dalila has been approved for a $30,000 2nd mortgage with monthly payments, a 1-year term, 10-year amortization at 12.5% compounded semi-annually. She has a first mortgage with an outstanding balance of $220,000 (down from $230,000 when she first took out the mortgage) with bi-weekly payments of $700. The second mortgage is going to consolidate her credit cards for which she currently pays $390 per month. She has a car lease of $360 per month, annual car insurance payments of $2,300 and monthly home insurance premiums of $150. Her property taxes are $3,500 per year and it costs $100 per month to heat her home, which has been appraised at $350,000. Dalila earns $78,000 per year as a manager. The proposed mortgage payment for the 2nd mortgage is $433.66.
   a) What is the LTV of the 1st mortgage?
   b) What is the LTV of only the 2nd mortgage (excluding the 1st mortgage)?
   c) What is the total LTV of the 2nd mortgage?
   d) What is her GDS?
   e) What is her TDS?

8. Your clients, Aarav and Anika have applied for a mortgage with you. They are buying a high-rise condo and need a mortgage in the amount of $320,000. You've suggested that they take a mortgage with monthly payments for a 5-year term at 3.35% compounded semi-annually with a 20-year amortization. They have told you that they also have a car payment of $310 per month, annual car insurance of $2,000, a weekly loan payment of $80 and total monthly credit card payments of $275. The property taxes are $2,100 per year while the condo maintenance fees are $418 per month. Their combined income is $117,000 per year and heat, which is not included in the maintenance fee, is estimated at $100 per month. The proposed mortgage payment is $1,827.53.
   a) What is their GDS?
   a) What is their TDS?

Chapter 14: Application Analysis – Borrower Credit

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Differentiate between the credit report a consumer receives and the report a mortgage agent receives
- ❑ List the main credit bureaus in Canada
- ❑ Interpret and analyze a credit report
- ❑ Explain the components of a credit score

Introduction

Lenders use an applicant's current and past repayment history to determine the likelihood of future repayment. Although there is no way to perfectly predict an applicant's future repayment of debt, reviewing the applicant's current and past repayment history provides a fairly accurate indicator of future repayment trends.

Lenders rely on a credit bureau or credit agency, a company that compiles information provided to its members. The credit bureau's members consist of credit grantors such as banks, trust companies, finance companies, loan companies, and so on. These members provide the credit bureau with information on the individuals to which credit has been granted or who have applied for credit through the credit grantor.

This information is compiled into two distinct reports. One report is available to consumers. This report is designed to be read by consumers and is therefore compiled in a fashion that is easy for the average consumer to understand. The other type of report is the one provided to the credit bureau's members. This report is more detailed and relies heavily on codes that are typically only understood by its members.

This chapter will discuss the different Canadian credit bureaus and the impact of credit reports on the mortgage application.

14.1 Credit Bureaus

There are currently two credit reporting agencies operating in Canada: Equifax and Transunion, with Equifax holding the majority of the market share. Headquartered in Atlanta, Georgia, Equifax Inc. employs approximately 7,000 people in 15 countries through North America, Latin America and Europe. Its Canadian operations are headquarted in Toronto, Ontario.

Equifax was founded in Atlanta, Georgia, as the Retail Credit Company in 1899 and by 1920 had offices throughout the US and Canada. By the 1960s, the Retail Credit Company was one of America's largest credit bureaus, holding files on millions of American and Canadian citizens. Even though they still did credit reporting the majority of their business was making reports to insurance companies when individuals applied for new insurance policies, such as life, auto, fire and medical insurance.

In 1970, when the company moved to computerize its records, which would lead to much wider availability of the personal information it held, the United States' Congress held hearings to determine any potential consumer protection issues. These hearings led to the creation of the Fair Credit Reporting Act which gave consumers rights regarding information stored about them in corporate databanks.

For most of its existence, Equifax has operated primarily in the business-to-business sector, selling consumer credit and insurance reports and related analytics to businesses in a range of industries. In 1999, it began offering credit fraud and identity theft prevention products to consumers. More information can be found on Equifax by visiting its website at www.equifax.ca

Operating out of Burlington, Ontario, Transunion Canada provides the same types of products and services as its main competitor, Equifax Canada. They also market their credit reports directly to consumers, in addition to their core business of providing these reports to their members. More information can be found on Transunion by visiting its website at www.transunion.ca

14.2 Credit Reports

A credit report is the document that presents the information that the credit bureau has compiled on the applicant and comes in two forms. The first is the credit report produced for the consumer, while the other is the credit report produced for the credit bureau's members.

To illustrate the differences between a credit report provided to the consumer and one provided to a credit bureau member, both are illustrated in the following figures.

Sample Credit Report Provided to Consumers

Example of an **Equifax Credit Report** provided to a consumer.

Figure 60[1] – Sample Credit Report Provided to Consumers

CONSUMER RELATIONS P.O. BOX 190 STATION JEAN TALON
MONTREAL QUEBEC H1S 2Z2

JANE DOE
10 PLEASANT ST.
TORONTO ONTARIO
M2N 1A2

CONFIDENTIAL INFORMATION
NOT TO BE USED FOR CREDIT PURPOSES
RE: EQUIFAX UNIQUE NUMBER: 3140123054

[1] Equifax Canada

Dear JANE DOE,
Further to your request, a disclosure of your personal credit file as of 03/27/01 follows:
PERSONAL IDENTIFICATION INFORMATION:
The following personal identification information is currently showing on your credit file. Your date of birth and social insurance number have been partially masked to protect your personal information (i.e.: Birth Date/Age: 01/xx/60, Social Insurance Number: 123-xxx-789).

DATE FILE OPENED: 07/04/92
NAME: Doe, Jane
CURRENT ADDRESS: 10 PLEASANT ST. TORONTO,ON
DATE REPORTED: 12/96
PREVIOUS ADDRESS: 2 AVENUE ST,TORONTO,ON
DATE REPORTED: 12/93
PRIOR ADDRESS: 3 DU BOULEVARD,MONTREAL,PQ
DATE REPORTED: 07/92
BIRTH DATE/AGE: 10/XX/1968
SOCIAL INSURANCE NUMBER: 123-XXX-789
OTHER REFERENCE NAMES:
CURRENT EMPLOYMENT: EDITOR
PREVIOUS EMPLOYMENT: TRANSLATOR
PRIOR EMPLOYMENT: CHEF
OTHER INCOME:

CREDIT INQUIRIES ON YOUR FILE:
Following is a list of Equifax members who have received a copy of your credit file for credit granting or other permissible purposes. Addresses are available by calling Equifax at 1-800-465-7166.

DATE	REQUESTOR NAME	TELEPHONE
03/02/00	CANADA TRUST MTG	(416) 361-8518
02/22/00	TD BANK	(800) 787-7065
01/16/00	BQE NATIONALE	(450) 677-9122

The following inquiries are for your information only and are not displayed to others. They include requests from authorized parties to update their records regarding your existing account with them.

DATE	REQUESTOR NAME	TELEPHONE
03/23/00	SOC ALCOOLS (not displayed)	(514) 873-6281
03/22/00	CANADA TRUST MTG (not displayed)	(416) 361-8518
02/16/00	CMHC SCHL (not displayed)	(888) 463-6454
01/16/00	AMERICAN EXPRESS (not displayed)	(416) 123-4567

CONSUMER INTERVIEWS AND OTHER SERVICES:
You contacted our office in 12/98 to request a review of your credit file.

CREDIT HISTORY AND/OR BANKING INFORMATION:
The following information was reported to us by organizations listed below.

Information is received every 30 days from most credit grantors. All account numbers with your creditors have been masked to protect your personal account information and only the last three digits will be displayed (i.e.: xxx...123).

GMAC last reported to us in 01/01 rating your installment account as I1, meaning paid as agreed and up to date. The reported balance of your account was $1000. Your account number: xxx...345. The account is in the subject's name only. Date account opened: 04/99. Credit limit or highest amount of credit advanced: $4400. DATE OF LAST ACTIVITY meaning the last payment or transaction made on this account was in 12/00. Additional comments: auto loan. Monthly payments.

CANADA TRUST MC last reported to us in 01/01 rating your revolving account as R1, meaning paid as agreed and up to date. At the time the reported balance of your account was $285. Your account number: xxx...234. Date account opened: 06/99. Credit limit or highest amount of credit advanced $2000. DATE OF LAST ACTIVITY meaning the last payment or transaction made on this account was in 12/00.
PREVIOUS PAYMENT STATUS:
30 DAYS: 1 time (s) account previously R2 meaning one payment past due

PUBLIC RECORDS AND OTHER INFORMATION:
The following information was reported to your file on the date indicated.
A COLLECTION was assigned in 10/96 to Commercial Credit by Transamerica Financial in the amount of: $2675. Date reported paid: 07/97. Collection status: PAID. DATE OF LAST ACTIVITY was in 04/96. Collection agency reference number: 222222.
A JUDGEMENT was FILED IN 01/96 in Min Govt Serv. Plaintiff and/or case number: Chrysler Canada 4444. Defendant/other info: joint with Dossier. Amount reported: $7525. Status reported: Satisfied. Date satisfied: 09/97.

A BANKRUPTCY was FILED IN 08/97 in SC Newmarket. Case number and/or trustee: 5555555 SYNDIC & ASS. Liabilities: $250000.Assets: $8900000.Item classification: individual. Information reported on: The subject only. The item is reported as: DISCHARGED. DATE SETTLED: 05/98. Additional comments: absolute discharge from bankruptcy.

THE CONSUMER PROVIDED A PERSONAL STATEMENT to us in 12/98. The statement has been recorded as follows:
RE: BANKRUPTCY, CONSUMER DECLARED BANKRUPTCY DUE TO DIVORCE This statement is to be removed from the file in: 12/04.

Sample Credit Report Provided to Equifax Members

The following figure is an example of an Equifax credit report provided to an Equifax member. This report is for training purposes only. The code in the left-hand column of the report corresponds to the Equifax Legend in next figure, which follows this report.

Figure 61[2] – Sample Credit Report Provided to Credit Bureau Members

Equifax Consumer Credit Report (provided to credit bureau members)

This report shows a sample of potential information found on a credit report. This is not an actual report.

CONSUMER REPORT
[1] 1 800 465-7166 **[2]** 6/16/2004

---

[3] File Requested by: NTREM

Identification

Name:	TEST, FILE,P.
Current Address:	110, SHEPPARD AVE, NORTH YORK, ON, M2N6S1
Previous Address:	60, BLOOR ST W, TORONTO, ON, M4W3C1.
Date of Birth, SIN:	1942/02/16, 999-999-998.
Reference:	NTREM

Employment
Employer, Occupation: OWNER TESTS HAIR SALON

---

[4] Subject 1: Alert, Score, Identification, Inquiries, Employment, Summary, Public, Trades, Banking, Declaration.

Consumer Alert (Subject 1)
[5] Warnings
Invalid Social Insurance Number

[6] SAFESCAN
SF-9 Possible True Name Fraud

[7] Product Score (Subject 1)
Risk Score **509**
Serious delinquency and public record or collection filed
Time since delinquency is too recent or unknown
Number of accounts with delinquency
Length of time revolving accounts have been established

Bank. Nav. Index **230**
Age of derogatory public records.
Average age of retail trades.
Number of recent inquiries.

---

[2] Equifax Canada,
https://www.equifax.com/assets/canada/english/consumer_credit_report_user_guide.pdf

Average age of trades.

Identification (Subject 1)

[8] Unique Number	3455234199	**[9] File Number**	00-0008095-00-037
[10] Date File Opened:	01/23/1975	**[11] Date of Last Activity:**	06/03/2004
[12] DOB/Age:	02/16/1942	**[13] SIN:**	

	**** Consumer Declaration ****
[14] Name:	TEST, FILE, EQUIFAX
[15] Current Address:	110, SHEPPARD, TORONTO, ON, M2B 6S1
[16] Since, R/O/B:	01/2003
[17] Reported:	STS Reported
[18] Former Address:	1231, 15 TH AVE, CALGARY, AB, T3C 0X6
Since, R/O/B:	01/2003
Reported:	Tape Reported
[19] 2nd Former Address:	2314, 11 TH AVE 1201, TORONTO, ON, M4W 3C1
Since, R/O/B:	01/2003
Reported:	Verbally Reported
[20] Also Known As:	PRETEND, FILE, EQUIFAX

Inquiries (Subject 1)
[21] Subject shows 3 inquiries since 03/17/2004
[22] Member Inquiries:

Date	Member No	Member Name Telephone
06/03/2004	001BB05697	BANQUE SCOTIA (222) 333-3333
05/08/2004	481FF00722	ASSOCIATES FINANCIAL (111) 222-2222
05/02/2004	057ON00374	PRESIDENTS CHOICE MC (333) 777-7777
10/13/2002	481BB99080	SCOTIABANK (444) 555-5555

[23] Total number of inquiries: 4
[24] Foreign Bureau Inquiries:

Date	Member No/City	Province and Description
06/02/2002	INTLUSA 401BB17978	TD/GM VISA

Employment (Subject 1)
Employment Information:

[25] Current Employer:	TESTS HAIR SALON
[26] Since, Left, Position, Salary:	, , OWNER,
[27] Former Employer:	HILTON HOTEL
Since, Left, Position, Salary:	, , HAIR STYLIST,
[28] Second Former Employer:	DISNEY CRUISE LINE
City, Province:	TOR, ON
Since, Left, Position, Salary:	04/1999, 02/2001, HAIR STYLIST, 1900
Verified, Status:	02/2001,

[29] Summary (Subject 1)

Pub/Other	Trade Oldest-Newest	Total	High Credit	Rating for R/O/I/M/C
4	01/2001 - 06/2004	3	2800 - 28K	1-One, 1-Two, 1-Other

[30] Public Records/Other Information (Subject 1)

[31] Information from Bankruptcy Superintendent:

Filed	Type	Court Name	Court No	Liab	Asset	Filed By
01/2000	Ind	MIN OF ATTORNEY GEN	472VF00022	28000	480	Subject

Case No/Trustee: 22855 MORRIS ETAL
Disposition: Discharged. 10/2000
Description: Bankrupt Absolute Discharge

[32] Collection:

Rptd	Type	Amt	DLA	Bal	Reason	Ledger Number
NORDON COLLECTION, 481YC00036						
04/2002	Unpaid	482	01/2002	482	Unknown	1111111

Verified Date: 04/2002
Acct/Creditor: 55555 SEARS
Description: Subject disputes this account

[33] Secured Loan:

Filed	Court Name	Court No	Maturity
08/2002	CENT REG TOR	481VC00214	12/2004

Creditor/Amt: SUPERIOR CREDIT 9 ELLIS AV TOR 3600
Description: Security Disposition Unknown

[34] Judgment:

Filed	Type	Court Name	Court No	Amt	Status	Date Vrfd
05/2002	Jdgm		481VC00297	4800		

Defendant: Test File
Case No: 55555/02
Plaintiff: TRANS CANADA CREDIT
Description: Disposition Unknown

---

[35] Trade Information (Subject 1)
Member Trades:

Bus/ID Code	Rptd	Opnd	HC	Terms	BAL	PDA	Rt	30/60/90	MR	DLA
CIBC (999) 999-9999										
*J 007BB01351	06/2004	04/2001	28K	555	4200	555	I2	4/3/1	21	04/2004

Prev Hi Rates: I3-07/2002, I4-06/2002, I5-02/2002

Account: 8454545
Description: Personal Loan
Semi-Monthly Payments

ZELLERS
*I 650DV00014 01/2004 06/2001 2800 26 2555 R1 0/0/0 16 05/2004
Account: 845555555
Description: Amount in H/C Column is credit limit
Monthly Payments

TD VISA (999) 999-9999
*650ON00044 06/2004 0/0/0
Status: Lost or stolen card

[36] Credit Utilization: 22% 30800 6755

---

[37] Banking (Subject 1)

Checking/Saving:

Rptd	**Opnd**	**Amount**	**Account No**	**Account Type**
BANQUE SCOTIA, 001BB05697, (999) 999-9999				
06/2004	09/1999	L5F		Checking/Saving
Nb NSF, Status:	4 NSF 2002,			

---

[38] Consumer Declaration (Subject 1)
Rptd, Purge: 06/2004, 06/2005
Declaration: *****WARNING*****CONFIRMED TRUE NAME FRAUD/FRAUDULENT CREDIT APPLICATIONS HAVE BEEN SUBMITTED USING THIS NAME/ IF YOU ACCESS THIS FILE AS PART OF A CREDIT CHECK, PLEASE VERIFY WITH THE CUSTOMER THAT IT IS LEGITIMATE BEFORE EXTENDING CREDIT/PHONE (123)456-7890

End Of Report

Figure 62[3] – Equifax Legend

Equifax Credit Report Legend

[1] CONSUMER REFERRAL TELEPHONE NUMBER:
Tells credit grantor where consumers may call if they are denied credit.

[2] Date file was accessed (mm/dd/yy).

[3] INQUIRY DATA: Shows information used to inquire on the file.

[4] Subject 1: Details sections of the file that are populated and displayed.

[5] CONSUMER FILE ALERT: Information input on inquiry does not match file or is invalid.

[6] SAFESCAN WARNING: Fraud alert message warns you of potential application fraud. (Available only to SAFESCAN subscribers.)

[7] SCORES AND REASON CODES: A risk score accompanied by up to four reason codes appears in this section. Reason codes indicate the main reasons for the score. (Available only to risk score subscribers.)

IDENTIFICATION SECTION:
[8] Unique Number: for Equifax internal use only.

[9] File Number: for Equifax internal use only.

[10] Date file was established.

[11] Date of last activity on file.

[12] Date of birth or age of Subject (mm/dd/yy).

[13] SIN: Social Insurance Number (will only display here if provided on input and matches with information on file).

[14] Subject name.

[15] Current address.

[16] Since: Date address was reported and added to the Equifax Report. R/O/B: Indicates if the subject Rents Owns or Boards their current address.

[3] Equifax Canada, https://www.equifax.com/assets/canada/english/consumer_credit_report_user_guide.pdf

[17] Reported: Indicates type of customer that reported the address information, STS = direct link customer, Tape = monthly tape reporting customer, DAT= Internet customer - verbal internal Equifax person.

[18] Former address - Previous address of subject.

[19] Second former address.

[20] AKA or name subject is also known as - this credit report will contain the information under both the name information and this section, therefore, no need to make additional credit report inquiries under this name.

INQUIRIES SECTION:
[21] Alert message appears if there have been three or more inquiries within the past 90 days.

[22] Date, member number and member name for inquiries in the past 36 months. Member phone number will display for inquiries in past 12 months.

[23] Total Number of Inquiries: Total number of inquiries since file was established.

[24] Foreign Bureau Inquiries: Date, Member number and name of U.S. inquiring customers.

EMPLOYMENT SECTION:
[25] Current Employer: Company name of most recent reported current employer.

[26] Since, Left, Position, Salary: Occupation of subject and when verified start date, left date and salary.

[27] Former Employer: Company name of previous employer. Since, Left, Position, Salary: Occupation of subject and when verified start date, left date and salary.

[28] Second Former Employer: Company name of second or previous employer. Since, Left, Position, Salary: Occupation of subject and when verified start date, left date and salary.

[29] SUMMARY SECTION (provides synopsis of file items):
Pub/Other- Number of Public Record or Other information found in the Public Record section.

Trade Oldest - Newest: Oldest opening date of trade and most recent reporting date of trade.

Total - Total number of trades on the file.

High Credit - High credit range of trades on file.

Rating for R/O/I/M/C: Ratings of the trades on file. R = Revolving account, I = Installment account O = Open account, M = Mortgage account and C = Line of Credit

[30] PUBLIC RECORDS OR OTHER INFORMATION: Information obtained from Public Sources.

[31] Bankruptcies: A person legally declared to be unable to pay debts (date filed, type of action, [IND for personal; BUS for business], court name, court code, liability, assets, filer [subject, spouse or both], case number and trustee, disposition of bankruptcy and description of the bankruptcy).

[32] Third-party collections: A debt which a creditor is unable to collect and hires a third party to do so (name of third-party collection agency, collection agency member number, reported date, type of collection [UP CL - unpaid collection or PD - paid collection], original amount of collection, date of last activity with credit grantor, balance as of date reported, reason, ledger number, verified date, credit grantor and account number, description).

[33] Secured loans: A chattel mortgage, registered loan, or registered lien is a loan where the debtor has given personal property as collateral and the loan is registered with the provincial government. This is not derogatory information. (Secured loans are not extended in the province of Quebec.) [Date reported; name of reporting government agency; member number of reporting agency, maturity date of the loan, name and address of creditor; amount of loan; description of loan status].

[34] Judgments: A court order against a debtor for payment of monies owing (date judgment granted or date filed; judgment status [ST JD - satisfied judgment, JD GT - judgment]; court identification number/name of court; amount of judgment; defendant; judgment number; plaintiff; status of judgment [satisfied, unsatisfied or disposition unknown] and date, when applicable). Other public record information may include foreclosures, credit counselling, and orderly payment of debt (OPD).

[35] TRADE INFORMATION
Bus/ID Code: Company name and/or telephone number and/or customer number.

RPTD - Date item was reported to Equifax.

OPND - Date account was opened with credit grantor.

H/C - High credit on the account; the highest amount owed or credit limit.

TRMS - Monthly repayment amount.

BAL - Balance owing as of date reported.

PDA - Past due amount as of date reported (shown if applicable).

RT - Type of account and manner of repayment: see Trade Information Descriptions and Manner of Payment (North American Standard ratings) for detailed rating descriptions.

30/60/90 - Number of times subject has been 30, 60 or 90 days past due with this account.

MR - Months Reviewed - the number of times or months this account has reported.

DLA - Date Last Activity - Date of last activity with this account, could be purchase date, last payment date or in worst case, write-off date.

* Indicates the information was updated by an accounts receivable tape.

Prev Hi Rates - relates to the 30/60/90 section; provides ratings and dates of the 3 most recent delinquencies

Description - Provides additional information about the account.

[36] Credit Utilization: Provides the percentage that the customer has utilized their credit by dividing balances by high credit. The total of all open high credit amounts and all open account balances are also displayed.

[37] BANKING INFORMATION SECTION:
Type of account, name and telephone number of institution; date item was reported to Equifax; type of account; customer's member number; date account was opened with credit grantor; balance of account (approximate range); additional information on account.

[38] CONSUMER STATEMENT SECTION: Rptd, Purge: Date reported and date information will be deleted from the credit report - Declaration: Statement the consumer or subject added to the file to explain discrepancies or other comments.

Trade Information Descriptions

When viewing a trade line, it is important to be able to understand what the coding is telling you. The following is a list of the codes used in rating a trade line.

Figure 63[4] – Equifax Trade Information Descriptions

Types of accounts:

O: **Open account (30 days or 90 days).** This indicates that the account has just been opened and the borrower hasn't even made his or her first payment yet, so it cannot be rated.

R: **Revolving or option (open-end account).** An example of this would be a credit card such as a Visa, Mastercard, department store card, etc. The word revolving refers to the fact that as the borrower makes a payment, that amount is again available as part of the credit limit. For example, if you have a credit card with a $5,000 limit and you owe $4,000 and you make a payment of $4,000, that amount is again available to you to borrow.

I: **Installment (fixed number of payments).** An example of this would be a car loan, personal loan, etc. This type of credit has equal payments that will eventually fully repay the loan. Unlike a credit card when the borrower makes a payment that amount is not available to be re-borrowed.

C: **Line of Credit**

M: **Mortgage**

[4] Equifax Canada,
https://www.equifax.com/assets/canada/english/consumer_credit_report_user_guide.pdf

Trade Information Ratings

Figure 64 – Trade Information Ratings

Manner of payment (North American Standard account ratings):

0 - Too new to rate; approved but not used.

1 - Pays (or paid) within 30 days of payment due date or not over one payment past due.

2 - Pays (or paid) in more than 30 days from payment due date, but not more than 60 days, or not more than two payments past due.

3 - Pays (or paid) in more than 60 days from payment due date, but not more than 90 days, or not more than three payments past due.

4 - Pays (or paid) in more than 90 days from payment due date, but not more than 120 days, or four payments past due.

5 - Account is at least 120 days overdue but is not yet rated "9."

7 - Making regular payments under a consolidation order or similar arrangement.

8 - Repossession (voluntary or involuntary return of merchandise).

9 - Bad debt; placed for collection; skip.

Credit Rating Examples

Let's say that your borrower has a credit card that is currently up to date. The rating on this card will be an R1. R represents a revolving type of debt, while 1 indicates that the account is up to date with no past due amounts. If, however, this borrower is behind two months, which is two payments, the rating will be an R3.

If the borrower has a loan, such as a car loan, and it is up to date it will be rated as an I1. I represents an installment type debt which typically has fixed payments, while 1 indicates that the account is up to date with no past due amounts. If, however, this borrower is behind four months, which is four payments, the rating will be an I5.

If the lender decides to repossess the car because of these missed payments, it has the right to repossess, or take the security and sell it. In this case his rating on this car loan would be an I8. If, after the car was sold there was still an outstanding amount owing to the lender, and the lender didn't feel it could get that money from this borrower, it would change the rating to an I9. This means that the lender does not expect to get this money and has therefore written off this debt.

Equifax Glossary of Terms Used in a Credit Report

Figure 65[5] – Equifax Glossary

The following key words are specific abbreviations used in various sections of the credit file. Please use this list to interpret the abbreviations when you see them. The highlighted terms are typically the ones that a mortgage agent will most frequently encounter.

A Spousal account	**EMP** Date employed	**NV** Not Verified
ACC Account number	**ES** Employment - subject	**O** Own or open account
AGE Age of subject	**E2** Subject's second former Employment	**OPD** Orderly payment of debt
AKA Also known as	**FA** Former address	**OPND Date Opened**
B Both	**FAD** File activity date	**PD** Date paid
BAL Balance	**FB** Foreign bureau	**P/D** Past due amount
BDS Birth date - Subject	**FN** File number or former name (depends	**PR/BK** Proposal under bankruptcy
BKRPT Bankruptcy	on line)	**PR/OI** Public records or other information
BRN Creditor's name and/or address	**FORCL** Foreclosure	**R** Revolving account
BUS Business	**FS** Date file was established	**RPTD** Date reported
BUS Business industry code	**GARN** Garnishment	**RT** Current rating (i.e R1, I1, etc.)
CA Current address	**H/C** High Credit	**S** Single
CASE NO. Case number	**I** Installment (account/individual)	**SAVAC** Savings account
CDC Consumer debt counseling	**ID** Identification information	**SECLN** Secured loan
CF Co-subject's former employment	**IND** Individual	**SINCE** Date file was established
CHKAC Chequing account	**INQS** Inquiries	**SPECL** Special notice item
CRCLD Court consolidation	**IN VOL** Involuntary	**SSC** Social insurance/spouse
CRT Update by in-house operator	**INVER** Indirectly verified	**SSS** Social insurance/subject
D Divorced	**J** Joint	**STJD** Satisfied judgment
DAPA Debtor assistance pool account	**JUDG** Judgment	**STS** System-to-system customer
DEF Defendant	**LEFT** Date left employment	**TRMS** Terms (payment amount)
DEPS Dependents	**LIAB** Liabilities (amount)	**U** Unknown
DIS Dispute following resolution	**LWR** Lawyer	**UN** Unique file number
DLA Date of last activity	**M** Married	**UPCL** Unpaid collection
DN Death notice	**MAR** Marital status	**VER** Date verified
DVFD Divorce filed	**MATURE** Date of maturity	**VLDEP** Voluntary deposit
DVFL Divorce final	**MR** Months reviewed	**VOL** Voluntary
EC Spouse's current employment	**N/RES** Non-responsibility notice	**W** Widow, widower
EF Subject's former employment	**NSF** Non-sufficient funds	**XX** Automatic combine

[5] Equifax Canada, http://www.equifax.ca/Home/Docs/guidea.htm

Interpreting a Credit Report - Section by Section Analysis

In the following sections the credit report seen previously in this chapter will be explained in a detailed, section by section analysis.

The following figure, section [1] shows the contact information which may be provided to the applicant if there are any questions or concerns about the file. The applicant cannot be given a copy of this credit report doing so contravenes the contract between the brokerage and the credit bureau. Section [2] shows the date that the file was accessed.

Figure 66 – Equifax: Contact Information

CONSUMER REPORT

[1] 1 800 465-7166 **[2]** 6/16/2004

The following figure is the information that was used to obtain the credit report, referred to in the mortgage industry as "pulling the credit report". This information is typically entered into the mortgage origination software and through the use of that software, the credit report is obtained.

Figure 67 – Equifax: Information Used to Obtain a Credit Report

[3] File Requested by: NTREM

Identification

Name:	TEST, FILE,P.
Current Address:	110, SHEPPARD AVE, NORTH YORK, ON, M2N6S1
Previous Address:	60, BLOOR ST W, TORONTO, ON, M4W3C1.
Date of Birth, SIN:	1942/02/16, 999-999-998.
Reference:	NTREM

Employment

Employer, Occupation: OWNER TESTS HAIR SALON

The following figure shows the sections of the file that are populated and displayed in the rest of the report.

Figure 68 – Equifax: Subject 1

[4] Subject 1: Alert, Score, Identification, Inquiries, Employment, Summary, Public, Trades, Banking, Declaration.

The following figure show the message that you will receive if the information that you inputted in your application does not match the file information or is invalid.

Figure 69 – Equifax: Consumer File Alert

Consumer Alert (Subject 1)

[5] Warnings

Invalid Social Insurance Number

The following figure is a fraud alert message that is warning you of potential application fraud. This "Safescan" warning is available only to those brokerages that are subscribers of the Safescan service.

Figure 70 – Equifax: Safescan Warning

[6] SAFESCAN
SF-9 Possible True Name Fraud

The following figure indicates the Risk Score, referred to as the Beacon Score (Equifax's credit score), followed by the Bank Nav Index, another scoring model, with a list of reasons for the score. The risk score and the Bank Nav Index are only available to subscribers of these services.

Figure 71 – Equifax: Beacon Score

[7] Product Score (Subject 1)
Risk Score 509
Serious delinquency and public record or collection filed
Time since delinquency is too recent or unknown
Number of accounts with delinquency
Length of time revolving accounts have been established

Bank. Nav. Index 230
Age of derogatory public records.
Average age of retail trades.
Number of recent inquiries.
Average age of trades

Identification Sections

The following figure illustrates the Identification Section of the report. Ensure that you review the information in this section and match it with the information that you obtained when completing the application, including information from documentation such as the applicant's photo ID. Discrepancies may indicate that there are errors in the report that must be corrected, that the applicant has made an error in disclosing information or that the applicant is trying to misrepresent him or herself.

Figure 72 – Equifax: Identification Section

Identification (Subject 1)

[8] Unique Number	3455234199	**[9] File Number**	00-0008095-00-037
[10] Date File Opened:	01/23/1975	**[11] Date of Last Activity:**	06/03/2004
[12] DOB/Age:	02/16/1942	**[13] SIN:**	

**** Consumer Declaration ****

[14] Name:	TEST, FILE, EQUIFAX
[15] Current Address:	110, SHEPPARD, TORONTO, ON, M2B 6S1
[16] Since, R/O/B:	01/2003
[17] Reported:	STS Reported
[18] Former Address:	1231, 15 TH AVE, CALGARY, AB, T3C 0X6
Since, R/O/B:	01/2003

Reported:	Tape Reported
[19] 2nd Former Address:	2314, 11 TH AVE 1201, TORONTO, ON, M4W 3C1
Since, R/O/B:	01/2003
Reported:	Verbally Reported
[20] Also Known As:	PRETEND, FILE, EQUIFAX

Success Tip – Question discrepancies
Ensure that you match the information that your client has provided on his or her application with the information contained in the credit report. If there are discrepancies you must ask your client to clarify them and update the application, if necessary, or update Equifax.

Inquiry Sections

The following figure is an alert that appears if there have been three or more inquiries within the last ninety days. In this case there have been three inquiries, resulting in the alert.

Figure 73 – Equifax: Inquiry Alert

Inquiries (Subject 1)
[21] Subject shows 3 inquiries since 03/17/2004

The following figure displays the date of inquiries over the past thirty-six months as well as the credit bureau member's name and contact information for inquiries over the past twelve months. This is helpful for a lender who wishes to contact a previous inquirer to determine if credit was advanced or declined.

Figure 74 – Equifax: Inquiries

[22] Member Inquiries:

Date	**Member No**	**Member Name Telephone**
06/03/2004	001BB05697	BANQUE SCOTIA (222) 333-3333
05/08/2004	481FF00722	ASSOCIATES FINANCIAL (111) 222-2222
05/02/2004	057ON00374	PRESIDENTS CHOICE MC (333) 777-7777
10/13/2002	481BB99080	SCOTIABANK (444) 555-5555

The following figure displays the number of inquiries since the file has been opened as well as if there are any inquiries by American members. In this case we can see that there was an inquiry from TD/GM Visa on 06/02/2002

Figure 75 – Equifax: Total Inquiries Since File Opened and Foreign Bureau

[23] Total number of inquiries: 4
[24] Foreign Bureau Inquiries:

Date	**Member No/City**	**Province and Description**
06/02/2002	INTLUSA 401BB17978	TD/GM VISA

The following figure displays the subject's current employer in section 25, and his former employers in sections 27 and 28. If information is recorded on the position, such as how long the subject has been at his current employer, when he left, the position's title, salary and when it was verified, it will be included as shown below.

Figure 76 – Equifax: Employment Section

Employment (Subject 1)
Employment Information:

[25] Current Employer:	TESTS HAIR SALON
[26] Since, Left, Position, Salary:	, , OWNER,
[27] Former Employer:	HILTON HOTEL
Since, Left, Position, Salary:	, , HAIR STYLIST,
[28] Second Former Employer:	DISNEY CRUISE LINE
City, Province:	TOR, ON
Since, Left, Position, Salary:	04/1999, 02/2001, HAIR STYLIST, 1900
Verified, Status:	02/2001,

Summary Section

The following figure displays a summary of the subject's current credit. Pub/Other indicates that our subject has 3 Public Records (Pub) or Other Information (Other) on his file.

01/2001 indicates the oldest opening trade line, or the oldest opening date of credit that appears in the following section. 06/2004 indicates the latest reporting date of credit.

Total-3 indicates that there is a total of 3 trade lines (or items of credit) on the file, and they have balances, as indicated in the High Credit column, between two thousand eight hundred dollars and twenty-eight thousand dollars. 1-One, 1-Two, 1-OTHER indicates the ratings that our subject's trade lines have.

Figure 77 – Equifax: Credit Summary

[29] Summary (Subject 1)

Pub/Other	**Trade Oldest-Newest**	**Total**	**High Credit**	**Rating for R/O/I/M/C**
4	01/2001 - 06/2004	3	2800 - 28K	1-One, 1-Two, 1-Other

The following figure lists the Public Records or Other Information in our subject's file. Note that the date that this sample file was obtained or pulled is in 2004, so the dates of current and past activity are relevant to that date. In other words, something that happened in the year 2000 was just 4 years old when this report was obtained, so it would be relevant at that time.

In this example our subject was bankrupt in January, 2000 and was discharged in October, 2000. If he didn't advise you of this information when taking his application, you must verify it with him now. Obtaining an explanation as to why he went bankrupt may be helpful in explaining the situation to your lender.

Since there were nine months between our subject's filing for bankruptcy and his being discharged it is safe to assume that this was his first bankruptcy. An individual's first bankruptcy is typically discharged after nine months; while a second bankruptcy is discharged after twelve months and a third bankruptcy can take two or more years before a discharge is approved.

Figure 78 – Equifax: Public Records

[30] Public Records/Other Information (Subject 1)

[31] Information from Bankruptcy Superintendent:

Filed	**Type**	**Court Name**	**Court No**	**Liab**	**Asset**	**Filed By**
01/2000	Ind	MIN OF ATTORNEY GEN	472VF00022	28000	480	Subject

Case No/Trustee: 22855 MORRIS ETAL
Disposition: Discharged. 10/2000
Description: Bankrupt Absolute Discharge

The following figure displays that there is an account in third party collections. This indicates that our subject owes an outstanding balance of $482 to Sears. The description indicates that our subject disagrees with this, which requires you to obtain as much information on this collection account as possible, and then explain it to your lender.

Figure 79 – Equifax: Collections

[32] Collection:

Rptd	**Type**	**Amt**	**DLA**	**Bal**	**Reason**	**Ledger Number**
NORDON COLLECTION, 481YC00036						
04/2002	Unpaid	482	01/2002	482	Unknown	1111111

Verified Date: 04/2002
Acct/Creditor: 55555 SEARS
Description: Subject disputes this account

> ***Success Tip - Collections***
> If you see a collection on your client's file, ensure that you ask him or her if it has been paid and, if so, if he or she has proof. If it has been paid, the credit bureau must be notified to have this section reflect that payment and a zero outstanding balance.

The following figure indicates that our subject has a secured loan with Superior Credit, when it was filed (first opened) and when it was to mature. This is not derogatory credit.

Figure 80 – Equifax: Secured Loan

[33] Secured Loan:

Filed	**Court Name**	**Court No**	**Maturity**
08/2002	CENT REG TOR	481VC00214	12/2004

Creditor/Amt: SUPERIOR CREDIT 9 ELLIS AV TOR 3600
Description: Security Disposition Unknown

The following figure shows the reader that our subject has a judgment against him. This also requires that the mortgage agent ask the client for clarification.

Figure 81 – Equifax: Judgment

[34] Judgment:

Filed	**Type**	**Court Name**	**Court No**	**Amt**	**Status**	**Date Vrfd**
05/2002	Jdgm		481VC00297	4800		
Defendant:	Test File					
Case No:	55555/02					
Plaintiff:	TRANS CANADA CREDIT					
Description:	Disposition Unknown					

Success Tip - Notes

All explanations from the client regarding his or her credit must be included in the Notes section of the application before submission to a lender. The lender's underwriter *will* notice negative information on the credit report and *will* ask for an explanation. By providing it with the submission you will save time and prevent confusion.

The following figure is a complete breakdown of the client's current credit into trade lines. As was seen in the Summary section, our subject has 3 trade lines. He has a CIBC loan (we can tell this because of the rating – I2, where the "I" stands for "Installment" as well as the fact that the description describes this as a Personal Loan). He also has a Zellers account, and a TD Visa that is reported as Lost or stolen in the status.

For each trade line it is indicated when the account was last reported by the credit grantor (RPTD), when it was originally opened or created (OPND), the highest credit that the individual has had on that trade line (H/C), the monthly payments or terms (TRMS), the current outstanding balance (BAL), any past due amounts (PDA), the current rating (RT), how many times if any that the account has been delinquent thirty, sixty and ninety days (30/60/90), the number of months that this account has been reported (MR) and finally the last date that there was any activity on this account (DLA).

Therefore, in looking at our subject's Zellers account, it can be seen that it was originally opened on June of 2001, eight months after he was discharged from his bankruptcy. The last payment that he made on this account was in May of 2004 and he is currently up to date. We can see that he has never been late in his payments with his Zellers account, while his CIBC account has been late several times, and he is currently behind on his payments by one month.

Figure 82 – Equifax: Trade Lines

[35] Trade Information (Subject 1)
Member Trades:

Bus/ID Code	Rptd	Opnd	HC	Terms	BAL	PDA	Rt	30/60/90	MR	DLA
CIBC (999) 999-9999										
*J 007BB01351	06/2004	04/2001	28K	555	4200	555	I2	4/3/1	21	04/2004
Prev Hi Rates:	I3-07/2002, I4-06/2002, I5-02/2002									
Account:	8454545									
Description:	Personal Loan Semi-Monthly Payments									
ZELLERS										
*I 650DV00014	01/2004	06/2001	2800	26	2555		R1	0/0/0	16	05/2004
Account:	845555555									
Description:	Amount in H/C Column is credit limit Monthly Payments									
TD VISA (999) 999-9999										
*650ON00044	06/2004							0/0/0		
Status:	Lost or stolen card									

> ### *Success Tip – Questioning credit issues*
> What questions should you ask our subject about his credit problems? The question that should be asked is, "What caused you to miss your payments on your CIBC loan?" The answer must be included in the Notes section of the application.

The following figure provides the percentage of the available credit that our subject has used. This is calculated by dividing his balances by his high credit, which are typically the credit limits.

Figure 83 – Equifax: Credit Utilization

[36] Credit Utilization: 22% 30800 6755

The following figure illustrates what the banking section appears like. This is not normally found on most credit reports.

Figure 84 – Equifax: Banking Information

[37] Banking (Subject 1)

Checking/Saving:

Rptd	Opnd	Amount	Account No	Account Type
BANQUE SCOTIA, 001BB05697, (999) 999-9999				
06/2004	09/1999	L5F		Checking/Saving
Nb NSF, Status:	4 NSF 2002,			

The following figure will indicate that there is a statement that the consumer has added to his or her file and will provide that statement. This is not normally seen on most credit reports, however it is vital that you check if there is a declaration included. In this example it is clear that our subject has been the victim of fraud and therefore all information must be verified.

Figure 85 – Equifax: Narrative

[38] Consumer Declaration (Subject 1)
Rptd, Purge: 06/2004, 06/2005
Declaration: *****WARNING*****CONFIRMED TRUE NAME FRAUD/FRAUDULENT CREDIT APPLICATIONS HAVE BEEN SUBMITTED USING THIS NAME/ IF YOU ACCESS THIS FILE AS PART OF A CREDIT CHECK, PLEASE VERIFY WITH THE CUSTOMER THAT IT IS LEGITIMATE BEFORE EXTENDING CREDIT/PHONE (123)456-7890

The following figure indicates that the report is complete and that there was no more information available on this consumer.

Figure 86 – Equifax: End of Report

End Of Report

14.3 Credit Scores and Analysis

A credit report contains information that is kept on an individual's file for a certain period of time. This can differ from province to province, but in Ontario the following chart illustrates how long both Equifax and Transunion keep specific information.

Figure 87 – Comparison between Equifax and Transunion: Years kept on file

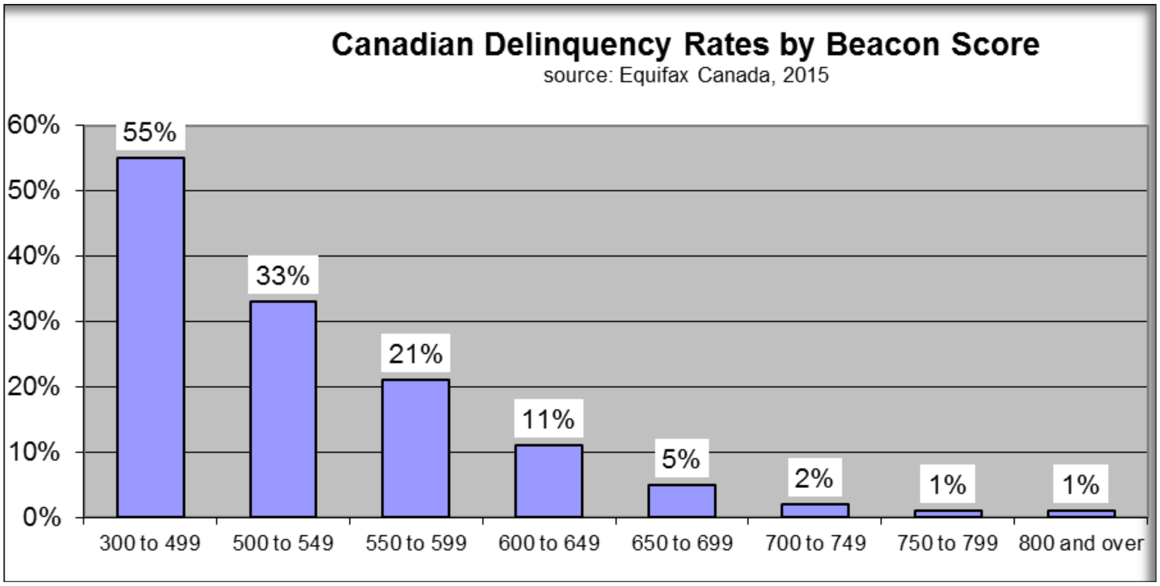
Item	**Years kept on file**	
	Equifax	**Transunion**
Credit transactions, from the date of last activity	6	6
Judgments, from the reporting date	6	7
Collections, from the first date of delinquency	6	6
Secured Loans, from the date opened	6	5
Bankruptcy, from the date of discharge	6	7
Consumer Proposal, from the date satisfied	3	3
Credit Counseling, from the date paid	3	2

Understanding a Credit Score

The credit score is a numerical representation of the subject's current and past credit and can range between 300 (the lowest score representing the worst credit) and 900 (the highest score representing the best credit). The credit-scoring model used by Equifax and Transunion is based on the FICO (Fair Isaac Company) model in the United States.

Equifax's credit score is called the Beacon Score while TransUnion's is called Empirica Score. For the lender, the credit score plays a significant factor in the decision to lend, and in determining the terms and conditions of that loan. The following figure illustrates why this is the case, providing a tabulation of the rates of delinquencies based on an individual's credit score.

Figure 88 – Canadian Delinquency Rates by Beacon Score



There are several major items that affect an individual's credit score, as is illustrated by the following figure.

Figure 89 – Breakdown of a Credit Score[6]

[6] Equifax, Mortgage Credit File Enhancements, March 2016

Items that affect a Credit Score

Equifax released Beacon 9.0 in 2016 that made some minor changes to what affects a credit score. Those changes are reflected in this chapter.

Payment History
Missing or late payments will have a negative effect on a credit score. It is important to ensure that all payments are made on or before their due dates, and in the correct amount. Any judgments, bankruptcies, collections and other public records are considered quite serious and have a significant detrimental impact on a credit score.

Utilizations: Amounts Owed
A good rule of thumb is to keep balances below thirty-percent of the available credit limit. Balances over this amount may lower a credit score. Having several accounts with high balances in relation to the available credit may indicate that the individual is relying heavily on credit to meet his or her daily living needs.

History: Length of Credit History
The longer a trade line has been established, the higher the credit score. Therefore, if an individual is considering closing an account, he or she should consider closing the most recently opened account.

New Credit and Inquiries
Multiple inquiries can lower a credit score. The program can determine that an individual is a credit seeker. However, if an individual is seeking mortgage or auto financing, the program allows for a thirty-day buffer. For example, if an individual applies for a mortgage on November 30th, and the credit report shows three previous inquiries in November, the program will ignore those three inquiries since they took place within the thirty-day buffer zone.

In addition, if the individual has mortgage or auto inquiries on his or her credit report outside of that thirty-day period, the program will only count them as one inquiry provided that they were made within a forty-five-day period (previously a fourteen-day period).

However, multiple applications for other types of credit such as personal loans and credit cards will lower an individual's credit score. The program also takes into account the length of time since the last new account was opened.

Credit Mix: Types of Credit
The best mix of credit is a combination of a store credit card and a major credit card such as a Visa or MasterCard. It is important not to have too many, however, as the number of trades on a file can negatively impact a credit score.

Number of Trades on File
Too many credit cards and loans may also lower an individual's credit score. By having only a few trade lines, an individual's credit score may be improved.

Credit Inactivity
Using credit responsibly is one of the fastest ways to increase a credit score. Unfortunately, those who only use cash to make purchases can have a lower credit score than those who regularly use credit. The following figure provides an example as to how a credit-score might be

calculated. Although this is only part of the model that Fair Isaac uses, the following was disclosed by Fair Isaac when it presented to the Federal Trade Commission in Washington, D.C. on July 22. 1999. Since the credit-scoring models used by the credit bureaus are proprietary, and although the following chart may be modeled on them, this is only for illustration purposes and does not insinuate nor purport to be how Equifax, Transunion, or any other credit bureau determines a credit score.

Figure 90 – Calculating a Credit Score

Own/Rent	Own	Rent	Other	No Info				
	25	15	10	17				
Years at Address	<.5	.5-2.49	2.5-6.49	6.5-10.49	>10.49	No Info		
	12	10	15	19	23	13		
Occupation	Professional	Semi-Prof	Manager	Office	Blue Collar	Retired	Other	No Info
	50	44	31	28	25	31	22	27
Years on job	<.5	.5-1.49	1.5-2.49	2.5-5.49	5.5-12.49	12.5	Retired	No Info
	2	8	19	25	30	39	43	20
Department Store (DS)/ Major Credit Cards (MCC)	None	Dept St	Maj CC	Both	No answer	No Info		
	0	11	16	27	10	12		
Bank Reference	Checking	Savings	Check & Sav	Other	No Info			
	5	10	20	11	9			
Debt Ratios	<15	15-25	26-35	36-49	50+	No Info		
	22	15	12	5	0	13		
Number of Inquiries	0	1	2	3	4	5-9	No Record	
	3	11	3	-7	-7	-20	0	
Years in File	<.5	1-2	3-4	5-7	8+			
	0	5	15	30	40			
Number of Revolving Trades	0	1-2	3-5	6+				
	5	12	8	-4				
% of Limit Used	0-15%	16-30%	31-40%	41-50%	>50%			
	15	5	-3	-10	-18			
Worst Credit	No Record	Any Derog	Any Slow	1 Satisf Lines	2 Satisf Lines	3 Satisf Lines		
	0	-29	-14	17	24	29		

14.4 Key Terms and Definitions

Bankruptcy
A legally declared inability of an individual or organization to pay their creditors

Beacon score
A numerical representation of an individual's credit provided by Equifax

Collections
A debt that has been placed with a collection agency which is a company assigned to collect a debt on behalf of a third party

Consumer proposal
A proposal made by a consumer debtor to his or her creditors under Division II of Part III of the *Bankruptcy and Insolvency Act* (*BIA)*, with the intention being to restructure the debt. A typical proposal will result in the debtor repaying less than the full debt but more than might occur in a bankruptcy

Credit
The granting of a money by one party to another with an arrangement to make periodic payments to the credit grantor to retire the debt

Credit bureau
An agency that collects information on individuals and provides that information to its members

Credit counseling
Credit counseling involves negotiating with creditors to establish a repayment plan that will repay the borrower's debt with more favourable terms for the borrower than are currently in place.

Credit report
A report on an individual's credit. Two types exist: one which is made available to the consumer and one which is provided to a member of a credit bureau

Credit score
A numerical representation of an individual's credit

Empirica score
A numerical representation of an individual's credit provided by Transunion

Equifax
A Canadian credit bureau

Fair Isaac Company (FICO)
Fair Isaac, founded in 1956, is a company that provides software and consulting services. Its software is used by credit bureaus to calculate credit scores

Judgment
A final court ruling resolving the key questions in a lawsuit and determining the rights and

obligations of the opposing parties, such as the awarding of monies to an injured party

Public records
Information that is available to the Canadian public. Credit bureaus include publicly available information such as bankruptcies, judgments, etc. in their credit reports

Secured loan
A loan in which a borrower pledges an asset such as a car that may be sold if the borrower is unable to repay the loan. This is typically registered under the *Personal Property Security Act* (PPSA)

Trade line
Information on a debt, found in a credit report, that contains the date that the credit was granted, the balance, terms and repayment history

Transunion
A Canadian credit bureau

14.5 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Define the term trade line.

2. Discuss the items that are involved in calculating a credit score.

3. What can an individual do to increase his or her credit score?

4. If an individual has a judgment filed against him or her, in what section of a credit report would this information be found?

5. If an individual has an account rated as an R3 on his or her credit report, what type of credit is this rating referring to and how many months in arrears is this account?

6. What is the relationship between a credit score and the delinquency rates of Canadians?

7. How long does a bankruptcy remain on an individual's credit report provided by:
   a) Equifax?
   b) Transunion?

8. How long does credit counselling remain on an individual's credit report provided by:
   a) Equifax?
   b) Transunion?

9. If an individual disputes an item in his or her credit report, what can he or she do?

10. Can a mortgage agent provide a copy of a client's credit report to the client?

Chapter 15: Application Analysis – The Property

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Describe the purpose of an approved real estate appraisal
- ❑ Discuss Automated Valuation Models (AVMs) and risk assessment tools and their impact on valuing properties
- ❑ Explain the three main ways of determining the value of a property
- ❑ Discuss the three main types of appraisal reports and the scope of each

Introduction

A real estate appraisal is a key component in a lender's decision to lend. There are several purposes for completing a real estate appraisal, including to determine:

- The cost to rebuild the home in case of damage, such as by fire (insurable value)
- A value so that a municipality can apply its property tax rate (taxation purposes)
- The price that a real estate investor would pay for a property based on his or her preferred rate of return (investment value)
- The amount that the property can obtain if sold (selling price)
- The future value of a property under construction (future price)
- The value of a property being expropriated by the Crown (expropriation value)
- The market value of a property for a lender to decide on an appropriate loan amount for mortgage financing.

The process in determining value for each reason differs, since the value will differ based on the appraisal's purpose. This chapter will focus on the appraisal process only as it relates to mortgage financing.

15.1 Appraisal Basics

A lender requires an appraisal to be completed on a property to determine the market value of that property. In addition, an appraisal can provide several other pieces of vital information required to make an informed decision to lend. Since lenders will lend based on an LTV, the lender requires an exact estimation of value to determine the exact mortgage amount available.

The Appraiser

The appraiser is the accredited individual who completes the appraisal report. Although a license to conduct appraisals is not required in Ontario, no lender would use a non-accredited appraiser since the decision to lend will typically involve several hundred thousand dollars. The lender must be confident that the appraisal company employs appraisers who are educated in performing appraisals, have proven track records or are supervised by senior appraisers, follow ethical standards as set forth by the industry and are generally known to produce quality reports.

Several lenders will have their own list of approved appraisal companies. These are companies that they have dealt with in the past or who have been through an approval process by the lender that typically involves assessing the appraisal company to ensure that it meets the lender's standards.

Accreditations

Appraisal Institute of Canada (AIC) - www.aicanada.ca
In Ontario, there are several accreditations provided by professional associations, each granting its own designation. The most widely known and accepted designations are offered by the Appraisal Institute of Canada (AIC), a professional appraisal association. The AIC provides two designations, the AACI and the CRA. Both designations have educational requirements such as a university degree as well as experience and continuing education requirements.

- **Accredited Appraiser Canadian Institute, Professional Appraiser (AACI, P.App)**
  This designation is the highest designation provided by the AIC. This designation certifies that the holder is qualified to offer valuation and consulting services on all types of properties, including residential, industrial, commercial, and rural. The designee holds an undergraduate degree from a recognized university and has completed the AACI program of studies and has fulfilled all of the professional requirements of the AIC.

- **Canadian Residential Appraiser (CRA)**
  The designee holds an undergraduate degree from a recognized university and has completed the AACI program of studies and has fulfilled all of the professional requirements of the AIC. The CRA is qualified to offer valuation and consulting services and expertise for individual, undeveloped residential dwelling sites and dwellings containing not more than four self-contained family housing units.

The Canadian National Association of Real Estate Appraisers (CNAREA) - www.cnarea.ca

- **DAR (Designated Appraiser Residential)**
  This designation identifies a member who is qualified to perform appraisal and consultation assignments of residential type properties consisting of no more than four housing units and non-complex commercial properties having a residential component. Requirements for this designation include three thousand hours of full-time appraisal experience and the successful completion of the required Canadian National Association of Real Estate Appraisers educational program or its equivalent.

- **DAC (Designated Appraiser Commercial)**
  This designation identifies a member who is qualified to perform appraisal and consultation assignments of all types of real property including commercial, industrial, and investment. To attain this designation an individual must have the DAR designation, five years of full-time appraisal experience and complete the required Canadian National Association of Real Estate Appraisers educational program or its equivalent.

- **DAC (with a Specialty in Agricultural)**
  This designation identifies a member who is qualified to perform appraisal and consultation assignments of all types of real property. The requirements for this specialty include the DAC designation and the completion of the required Canadian National Association of Real Estate Appraisers educational program or its equivalent.

- **CMAR (Certified Mortgage Appraisal Reviewer)**
  This designation identifies a member who is qualified to perform professional reviews of any residential appraisal report which might be used for mortgage purposes. To attain this designation an individual must have a minimum of 2 years' experience in the mortgage financing profession and complete the required Canadian National Association of Real Estate Appraisers education program.

- **CAR (Certified Appraisal Reviewer)**
  This designation identifies a member who is qualified to perform professional reviews of any appraisal report. To attain this designation an individual must have the DAR designation and complete the required Canadian National Association of Real Estate Appraisers educational program; or, be a registered mortgage broker, hold the AMP designation of Mortgage Professionals Canada, have 5 years mortgage financing experience, and complete the required CNAREA education program.

The Real Estate Institute of Canada - www.reic.ca

- **Fellow of the Real Estate Institute** (FRI)
  Canada's most senior designation for the real estate sales professional, FRI exemplifies the most educated and experienced real estate salesperson.

The Appraisal

An appraisal is a report produced by a designated appraiser that determines the market value of an interest in land using accepted valuation techniques based on the purpose of the appraisal for a specific client.

The client in most cases of mortgage financing is the lender, although the applicant typically pays for the appraisal report. It is an important distinction to make that the client is paying for the service of the appraisal being completed, while the lender owns the report.

The report will base the market value on the lender's specific criteria and include details about the property that the lender may require. In certain circumstances, lenders will require a different emphasis on property characteristics, resulting in the appraisal report being acceptable to one lender while unacceptable to another.

If a lender declines the applicant's request for financing and the applicant wishes to provide the appraisal to another lender, the appraiser must re-address the appraisal to the new lender and the new lender must be willing to accept it. This does not always occur since different lenders have different requirements.

The Value of a Property

It is important to distinguish between market value and price. Price is what may be paid for a property; however, there are many reasons that the price paid for a property may be higher or lower than what someone else may pay for it. For example, if a purchaser is buying a house from a family member the price paid may be lower than the price would be if sold to a non-family member. In addition, a real estate investor may pay more for a property that he or she believes will provide a high return on his or her investment.

Market Value
A lender is interested in knowing what the market will pay for a property under normal circumstances. Therefore, the real estate appraiser must appraise the market value. The market value can be defined as:

The amount, in Canadian funds, for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arms-length transaction after proper marketing, where the buyer and seller have each acted knowledgeably, prudently, and without pressure.

15.2 Calculating the Market Value of a Property

There are three approaches that appraisers use to calculate the value of a property:
- Income Approach
- Cost Approach
- Direct Comparison Approach

The Income Approach
The Income Approach of appraisal calculates the value of income producing properties, such as apartment buildings and other commercial properties. This method takes the net operating income that is generated by the property and applies a capitalization rate (a rate of return typical for the area) to that income. The result is the property's market value. While this process is ideal for income producing properties, it holds no value in determining the market value of a residential property for mortgage financing.

The Cost Approach
The Cost Approach of appraisal calculates the value of a property based on the cost of replacing it. This method takes the cost of rebuilding the structure, less depreciation, plus the cost of the land, resulting in a final value. The value produced by this method is ideal for determining the cost of replacing a building for insurance purposes but holds little value in determining the market value of a residential property for mortgage financing.

This method is included in a typical residential appraisal to illustrate the cost of replacing the property and assist in determining the market value; however, it is not heavily relied upon in making the final valuation of market value.

The Direct Comparison Approach
This approach in determining the market value of a property is the most appropriate for mortgage financing and is therefore relied heavily upon in the appraisal report. This method uses the principle of substitution as its basis. The concept is that if an appraiser knows the price that was paid for a comparable property (an appraisal typically uses three comparables) that is similar to the subject property and has recently sold in the same neighbourhood as the subject property, the subject property should have a market value equal to that comparable property.

This method would be simple if not for the fact that properties are heterogeneous or unique. While two houses may be located next to each other on the same street each will have differences, from its size to such characteristics as a finished basement, the number of bedrooms and washrooms, the type of heating, appliances, and so on.

Because of these differences, the appraiser must make adjustments to the sales price of the comparable property. The following example illustrates this point.

Example
A 2 bedroom, 2 storey home was recently sold for $400,000. An appraiser is being asked to appraise the house next to it for mortgage financing. The homeowner feels that, as the property next door sold for $400,000, his home should be worth more since he has a larger back yard. The appraiser, while using the recently sold house next door as a comparable property, must also use two other properties that are similar to the subject and have recently sold.

In this case the appraiser will determine the characteristics of the comparable property and compare them to the subject property and adjust the value of the comparable property to make it more like the subject property. Once this has been completed the adjusted value of the comparable property should be approximately equal to the market value of the subject property. The following chart provides an example as to how this calculation is completed. In the left column are the characteristics of the properties. In the column to the right is the description of the subject property. The far column describes the comparable property and lists the adjustments to the value necessary to make the comparable property more like the subject property.

- If the comparable characteristic is *superior* to the subject, subtract from the comparable property's value
- If the comparable characteristic is *inferior* to the subject, add to the comparable property's value

Note that to compare characteristics the appraiser must obtain information from several sources on both the subject and comparable properties.

In calculating the adjusted value, the appraiser will add the total adjustments and either add or subtract them from the sale price of the comparable property. In this example the adjustments equal -$15,000 ($5,000 – $20,000 + $5,000 – $5,000) and that amount is therefore subtracted from the sale price of $400,000, resulting in an adjusted value of $385,000.

Therefore, based on this simplified example, the market value of the subject property should be $385,000.

In an actual appraisal, the appraiser will use three comparable properties and will either average the adjusted values or rely more heavily on the most similar property to determine the market value.

Item	Subject Property	Comparable Property 1	
Address	123 Market Street	125 Market Street	
# of days on the market	N/A	45	
Date of Sale	N/A	December 18, 2007	
Sale Price	N/A	$400,000	
Site Size in square feet	40 x 100	35 x 100	+ $5,000
Size Liveable Floor Area (L.F.A)	1,200	Similar	
Age/Condition	35 +/- years	15 +/- years	- $20,000
Building Type and Style	2 story detached	Similar	
Rooms/Bedrooms/Baths	7/3/2	7/2/2	+$5,000
Basement	Finished	Finished	
Garage/Parking	2 car garage/private drive	Similar	
Other		Central Vac	-$5,000
Total Adjustments			-$15,000
Adjusted Value			**$385,000**

The subject property is **superior**

The subject property is **inferior**

Pause for clarification – The number of comparables

Three comparables are used in an appraisal. In the example above only one is shown, but in an actual appraisal three similar properties that have recently sold will be compared to the subject property to provide the appraiser with enough data to make an informed estimate of value.

Automated Valuation Models (AVMs)

Automated Valuation Models are computer programs that typically use public record data on residential properties to calculate the market value of a property. These models have been gaining in popularity throughout the world and are currently most often used by lenders and mortgage default insurers, as well as municipalities for determining values for property tax purposes. AVMs can also be of significant benefit to real estate appraisers in supporting values calculated in an appraisal.

The Municipal Property Assessment Corporation's (MPAC) AVM and Teranet's "reavs" AVM are currently the two AVMs available in Ontario.

While AVMs can provide quick, basic property values, they are not appraisals and do not involve a physical inspection of the property. Therefore, they do not replace the real estate appraiser or a real estate appraisal. They are prone to producing values that may or may not actually be representative of the subject property since an AVM cannot make adjustments for the physical condition of the property.

If a lender relies on an AVM for determining the value for mortgage financing, the lender may open itself up for abuse. There are several examples of property fraud where the property was mortgaged based on an AVM value when the property was in significant disrepair and therefore not worth what the AVM indicated. This can allow a fraudster to obtain financing on a property in excess of its value, then default on the mortgage while keeping the funds. More information on property and mortgage fraud can be found in the chapter, Mortgage Fraud.

While the risk of abuse is present, the use of AVMs by lenders is increasing, partly due to the competitive nature of the mortgage industry. Lenders are making decisions faster than ever before to maintain their market share. As this process continues, increased care should be taken when relying on AVMs for mortgage lending.

Risk Assessment Tools

Although not a valuation model, both CMHC and Genworth use automated underwriting systems that have a component of AVMs in them. CMHC's 'emili' and Genworth's 'excel' are automated programs that will underwrite an application from a lender and make a decision to approve or decline mortgage default insurance. Part of these programs determines whether the property value, as disclosed in the mortgage application, is appropriate for the area in which the property resides. Since there is no physical inspection of the property, the same risks inherent in AVMs are applicable to these risk assessment tools.

15.3 The Types of Appraisals

There are three basic types of appraisal reports, ranging in scope from basic to highly detailed.

Desktop Appraisal (also referred to as a Sales Data Report)

The Desktop Appraisal is typically used when an AVM is unavailable, and the property is located in a marketable area. This report relies on MLS reports, including data on recent sales and data on recent listings. It does not provide detailed information on the property nor is there a physical inspection of the property, which raises the same issues as are applicable to AVMs.

Drive-by Appraisal

This type of appraisal is based on the same information as the Desktop Appraisal; however, it also includes an inspection of the exterior of the property. While AVMs and Desktop Appraisals cannot provide details on whether the property is actually in a physical condition normal for the neighbourhood, a Drive-by Appraisal can at least indicate that the property's exterior is typical or conforms to the neighbourhood. In addition, the Drive-by Appraisal allows the appraiser to view and provide details on the neighbourhood, which is a key element in assessing the marketability of the subject property. The report typically contains exterior photographs of the property as well as the immediate neighbourhood.

If the Drive-by Appraisal results in the determination that the property appears to be in a condition that is not typical of the neighbourhood, a Full Appraisal should be completed.

Full Appraisal

A Full Appraisal expands on the information and techniques used in the Sales Data Appraisal and the Drive-by Appraisal by having a full inspection of the subject property completed. This inspection allows the appraiser to document the characteristics of the subject property, including any upgrades or defects in the home. The report typically contains interior and exterior photographs of the property as well as the immediate neighbourhood. Considered to offer the most information and therefore the highest level of protection for the lender, the Full Appraisal is the appraisal of choice for lenders who rely heavily on the property as security and less on the personal covenant of the borrower. Virtually every sub-prime and private lender will insist on a Full Appraisal.

The following figures are examples of a Drive-by Appraisal report and a Full Appraisal report. They illustrate the differences in the levels of detail contained in the two types of reports.

Figure 91 – Drive-By Appraisal Report

Drive-by Appraisal Report

RESIDENTIAL APPRAISAL REPORT **"DRIVE-BY" FORM**

Client Ref. #: .... File #: ....
Client: .... Address of Property: .... Appraiser: ....
Attention: .... Company: ....
Address: .... Address: ....
....
E-mail: .... E-mail: ....
Phone: .... Province: .... Phone: ....
Fax: ....Postal Code: .... Fax:
Applicant Name: ....

PROPERTY & NEIGHBOURHOOD DATA

LEGAL DESCRIPTION: ....
MUNICIPALITY AND DISTRICT: ....
ASSESSMENT: LAND $ .... IMP $ .... TOTAL $ .... year .... TAXES $ .... year ....
PURPOSE OF APPRAISAL: To estimate market value ☐ or Other ☐ (describe) ....
INTENDED USE OF APPRAISAL: ....
PROPERTY RIGHTS APPRAISED: Fee Simple ☐ Leasehold ☐ Condominium ☐ Cooperative ☐ Other ☐.......................
Is the subject a fractional interest, physical segment or partial holding? No ☐ Yes ☐ (If yes, see comments elsewhere in this report)
OCCUPIED BY: Owner ☐ Tenant ☐ Vacant ☐
HIGHEST AND BEST USE: As improved ☐ or Other ☐ (describe) ....
Note: *If Highest and Best Use is not the current use, or not the use reflected in the report, see comments attached.*

NATURE OF DISTRICT	**TREND OF DISTRICT**	**CONFORMITY OF SUBJECT**		**SUPPLY**
☐ Residential	☐ Improving	AGE:	SIZE:	☐ Good ☐ Fair ☐ Poor
☐ Rural	☐ Stable	☐ Newer	☐ Larger	
☐ Commercial/Industrial	☐ Transition	☐ Older	☐ Smaller	**DEMAND**
☐ Mixed	☐ Deteriorating	☐ Similar	☐ Similar	☐ Good ☐ Fair ☐ Poor
☐ Other	☐ Other			

AVERAGE PROPERTY AGE:	**DISTANCE TO**:	**PRICE RANGE OF PROPERTIES:**
DISTRICT	Elem.School .... Jr. Secondary	IN GENERAL DISTRICT
................to Years	High School .... Downtown	$ .... to $
IMMEDIATE AREA	Public Trans. .... Shopping Fac.	IN IMMEDIATE AREA
................to Years	Other	$ .... to $

SUMMARY: Includes market appeal, apparent adverse influences in area, if any (e.g. railroad tracks, unkempt properties, major traffic arteries, hydro facilities, anticipated public or private improvements, commercial/industrial sites, landfill sites, etc.)

SUBJECT PROPERTY DESCRIPTION

ZONING DES'N: .... **SIZE DIMS**: .... **SITE AREA**: ....**TOPOGRAPHY**:
PRESENT USE: .... **DOES IT CONFORM**? Yes ☐ No ☐ (see comments)
ESTIMATED AGE OF SUBJECT: ....Years **PARKING**: Garage ☐ Carport ☐ Driveway ☐
CURB APPEAL: Good ☐ Average ☐ Fair ☐ Poor ☐ **EXTERIOR CONDITION**: Good ☐ Average ☐ Fair ☐ Poor ☐
EXTERIOR FINISH: **ROOFING MATERIAL**:
☐ Brick Veneer ☐ Solid Brick ☐ Insulbrick ☐ Asphalt Shingle ☐ Wood Shingle ☐ Tar & Gravel
☐ Stone Veneer ☐ Solid Stone ☐ Stucco ☐ Slate ☐ Metal ☐ Other
☐ Wood Siding ☐ Aluminum Siding ☐ Vinyl Siding ....
☐ Other ....
COMMENTS: ....

COMPARABLE SALES DATA

ITEM	**SUBJECT PROPERTY**	**NO. 1**	**NO. 2**	**NO. 3**
Address				
MLS Listing #/(if applicable)				
Days on Market				
Date of Sale				
Sale Price				
Site Size				
Size L.F.A.				
Age / Condition	/	/	/	/
Building Type & Style				
Rooms / Bedrooms / Baths	/ /	/ /	/ /	/ /
Basement				
Garage / Parking				
Other				

Reconciliation/Conclusions: ....

History and analysis of known current Agreements for Sale, prior sales, options, listings or marketing of the Subject in the past year.

Indicated Exposure Time of Similar Properties in the Area: Under 3 months ☐ 3-6 months ☐ Over 6 months ☐
This appraisal report represents the following value (if not current, see comments): Current ☐ Retrospective ☐ Prospective ☐
☐ Update of report completed

RESIDENTIAL APPRAISAL REPORT **"DRIVE-BY" FORM (Cont'd)**

PURPOSE, SCOPE, DISCLOSURES & DEFINITIONS

PURPOSE OF THE APPRAISAL:
This "drive-by" report has been prepared for mortgage lending purposes for the exclusive use of the client and other intended users named. The client is aware that, as the degree of departure from a full appraisal report increases, there is a corresponding decrease in the level of reliability of the report, resulting in a higher level of risk for the user of the report. Due to the limitations of this reporting method, it is not intended for use by third parties and liability to any unintended users is expressly denied. The appraiser assumes diligence by all intended users.

SCOPE OF THE REPORT
1. The client has specifically requested a "drive-by" appraisal to be reported in an abbreviated report format. The Appraiser has been requested to perform an exterior inspection and not to disturb the occupants by entering the building. Both the client and the appraiser understands that NEITHER A PYSICAL INSPECTION OF THE INTERIOR OF THE SUBJECT PROPERTY NOR A STREET INSPECTION OF THE COMPARIABLES HAS BEEN PERFORMED (unless stated herein).
2. It is acknowledged by both parties that a subsequent physical inspection of the subject property and/or a more in-depth investigation could result in a different conclusion.
3. The physical characteristics used to develop this appraisal are based on documents, records, etc. described below and on other information provided by sources identified below. The subject property was observed only from the public street and it is assumed that the information provided by the sources is accurate. Comments (*on the efforts taken to obtain, and the source of, interior and exterior inspection information*): ....
4. Sales and listing information of physically similar properties has been obtained from sources assumed to be reliable and accurate, and/or on information from the appraiser's files.
5. Neither the Income nor the Cost Approaches to value are appropriate methods of valuation for this assignment, considering the limited scope of the type of appraisal requested by the client, and therefore have not been completed.
6. Sales information on physically similar properties has been gathered and analyzed on the assumption that both the interior and exterior condition of the subject property are in average or typical condition for its age and that there are no physical or functional conditions associated with the property that would adversely affect the conclusions contained in this report, unless otherwise stipulated. It is assumed that the subject property is in 100% complete condition unless otherwise stated and the value range contained herein is based on this assumption.

OTHER DISCLOSURES, COMMENTS, ETC.: ....

DEFINITION OF MARKET VALUE
The most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Note: If other than market value is being appraised, see comments attached.

DEFINITION OF HIGHEST AND BEST USE
The reasonably probable and legal use of the property, that is physically possible, appropriately supported, and financially feasible, and that results in the highest value.

ASSUMPTIONS AND LIMITING CONDITIONS
The certification that appears in the "drive-by" residential appraisal report is subject to the following conditions:
1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. No registry office search has been performed and the appraiser assumes the title is good and marketable and free and clear of all encumbrances, including leases, unless otherwise noted in this report. The property is appraised on the basis of it being under responsible ownership.
2. Because market conditions change rapidly and, on occasion, without warning, the estimated market value range expressed as of the date of this appraisal cannot be relied upon as of any other date except with further advice from the appraiser confirmed in writing.
3. The subject property is presumed to comply with government regulations including zoning, building codes and health regulations and, if it doesn't comply, its non-compliance may affect market value.
4. The appraiser will not give testimony or appear in court concerning this appraisal unless required to do so by due process of law.
5. The appraiser has noted in this report any readily apparent adverse conditions that were observed during the street inspection of the subject property or that he or she became aware of during the normal research involved in performing this type of appraisal.
6. Unless otherwise stated in this report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions that would make the property more or less valuable and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this drive-by appraisal report must not be considered as an environmental assessment of the property. The bearing capacity of the soil is assumed to be adequate.
7. The appraiser obtained information, estimates and opinions that were used in this report from sources considered to be reliable and accurate and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of items that were furnished by other parties.
8. The appraiser will not disclose the contents of this report except as provided for by the provisions of the Canadian Uniform Standards of Professional Appraisal Practice ("the Standards").
9. The appraiser has agreed to enter into the assignment as requested by the client named in the report for the use specified by the client, which is stated in the report, which calls for things that are different from the work that would otherwise be required by the Standards. As this is a "drive-by" appraisal, only limited inspections have been undertaken (Extraordinary Limiting Condition). The client has agreed that the performance of this limited scope appraisal and the "drive-by" report format are appropriate for the intended use.
10. Written consent from the author and supervisory appraiser, if applicable, must be obtained before any part of the appraisal report can be used for any purpose by anyone except the client and other intended users identified in the report and, where the client is the mortgagee, its insurer and the borrower, if he or she paid the appraisal fee. Written consent and approval must also be obtained before any part of the appraisal can be altered or conveyed to other parties, including mortgages other than the client and the public through prospectus, offering memoranda, advertising, public relations, news, sales or other media.
11. Other (including any other Extraordinary Assumptions and Limiting Conditions involved in this appraisal):

CERTIFICATION
I certify that, to the best of my knowledge and belief:
1. The statements of fact contained in this report are true and correct.
2. The reported analyses, options and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial and unbiased professional analyses, opinions and conclusions.
3. I have no past, present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent upon developing or reporting a predetermined result, value range or direction in value range that favours the cause of the client, the amount of the estimated value range, the attainment of a stipulated result or the occurrence of a subsequent event.
5. My analyses, opinions and conclusions were developed and this report has been prepared, in conformity with the Canadian Uniform Standards of Professional Appraisal Practice. Please note the Extraordinary Limiting Condition above, indicating the property was not inspected.
6. I have the knowledge and experience to complete this assignment competently. Except as herein disclosed, no other person has provided me with significant professional assistance in the completion of this appraisal assignment.
7. The Appraisal Institute of Canada has a mandatory Recertification Program for designated members. As at the date of this report, the requirements of this program have been fulfilled.

SUPERVISORY APPRAISER'S CERTIFICATION:
If a supervisory appraiser has signed this appraisal report, he or she certifies and agrees that "I directly supervised the appraiser who prepared this appraisal report and, having reviewed the report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certification and am taking full responsibility for the appraisal and the appraisal report."

PROPERTY IDENTIFICATION:
Address: .... City: .... Province: .... Postal Code: ....
Legal Description: ....

AS A RESULT OF MY APPRAISAL AND ANALYSIS OF ALL APPLICABLE DATA AND RELEVANT FACTORS THERETO, IT IS MY OPINION THAT THE SUBJECT PROPERTY IS ESTIMATED TO HAVE A VALUE RANGE OF

From $	To $ ....
As at	
(Effective Date of the Appraisal)	
APPRAISER:	**SUPERVISORY APPRAISER**: (if applicable)
Signature:	Signature: ....
Name:	Name: ....
Designation:	Designation: ....
Date signed:	Date signed: ....
License Info (where applicable):	License Info (where applicable): ....
NOTE: For this appraisal to be valid, an original or EDI signature is required.	

Figure 92 – Full Appraisal Report

Full Appraisal Report

RESIDENTIAL FULL APPRAISAL REPORT

Client Reference No. 103030 BOB No.: 123456 File No.: 6tempo-N7123456

CLIENT

CLIENT: ABC Lender
ATTENTION:
ADDRESS:
CITY: PROVINCE: POSTAL CODE:
PHONE: E-MAIL:

APPRAISER

APPRAISER: Bob Appraiser
COMPANY: Bob's Appraisers Inc.
ADDRESS: 123 Wycombe, Toronto, ON
CITY: Toronto PROVINCE: ON POSTAL CODE: L1M1M1
PHONE: 416-555-1212 E-MAIL: bobsappraisers@gmail.com

SUBJECT

APPLICANT'S NAME: Sam Purchaser
PROPERTY ADDRESS: 6 Tempo Way CITY: Whitby PROVINCE: ON POSTAL CODE: L1M 0E9
LEGAL DESCRIPTION: PLAN 40M2383 PT BLK 1 RP 40R25667 PART 8, Town of Whitby
PURPOSE OF APPRAISAL: ☒ To estimate market value or ☐ Other
INTENDED USE OF APPRAISALS: ☒ Mortgage Financing ☐ Other
INTENDED USERS (by name or type):
REQUESTED BY: ☐ Client Above ☒ Bob's Appraisers Inc.
THE VALUE CONCLUSION IS: (if not current , see comments) ☒ Current ☐ Retrospective ☐ Prospective
☐ Update of original report completed on with an effective date of
PROPERTY RIGHTS APPRAISED: Fee Simple Maintenance Fee:$ / ☒ Month ☐ Year ☐ See Comments
IS THE SUBJECT A FRACTIONAL INTEREST, PHYSICAL SEGMENT OR PARTIAL HOLDING? ☒ No ☐ Yes if Yes, see comments
MUNICIPALITY AND DISTRICT: Town of Whitby MLS District: Durham Whitby
ASSESSMENT: Land $ n/a Imps $ n/a Total $ 275,000 / 2016 Assessment Date: Jan 1, 2012 Taxes $: 3558.73 Year 2016
EXISTING USE: Residential Comments: Occupied by: Tenant

HIGHEST AND BEST USE OF THE LAND AS IF VACANT: ☒ Residential ☐ Other
HIGHEST AND BEST USE OF THE PROPERTY AS IMPROVED: ☒ Existing Residential Use ☐ Other
Note: If highest and best use is not the existing use, or not the use reflected in the report, see additional comments

NEIGHBOURHOOD

NATURE OF DISTRICT ☒ Residential ☐ Rural ☐ Commercial ☐ Industrial ☐ Other
TREND OF DISTRICT ☐ Improving ☒ Stable ☐ Transition ☐ Deteriorating ☐ Other
BUILT-UP ☒ Over 75% ☐ 25-75% ☐ Under 25% ☐ Other
CONFORMITY Age ☐ Newer ☒ Similar ☐ Older ☐ Other
Condition ☐ Superior ☒ Similar ☐ Inferior ☐ Other
Size ☐ Larger ☒ Similar ☐ Smaller ☐ Other

AGE RANGE OF PROPERTIES: 0 to 40 years(+-)
MARKET OVERVIEW Supply: ☐ Good ☒ Average ☐ Fair ☐ Poor
Demand: ☒ Good ☐ Average ☐ Fair ☐ Poor
PRICE TRENDS: ☒ Increasing ☐ Stable ☐ Declining
PRICE RANGE OF PROPERTIES: $ 200,000 to $ 1,000,000
ADVERSE INFLUENCES: ☒ No ☐ Yes , see comments

SUMMARY: INCLUDES VALUE TRENDS, MARKET APPEAL, APPARENT ADVERSE INFLUENCES IN THE AREA, IF ANY(e.g. railroad tracks, unkempt properties, major traffic arteries, Hydro facilities, anticipated public or private improvements, commercial/industrial sites, landfill sites, etc.

The subject is located within the Whitby community known as 'Brooklin' located south of Winchester Road East near Baldwin Street North. In terms of the housing profile, the subject comprises a circa 2009 attached row 2 storey townhouse residence sited on a 19.49 x Irregular shaped lot which backs onto commercial properties nestled among a wide array of housing including commercial/industrial properties.

Please provide an accurate rating of the neighbourhood: ○ Excellent ◉ Good ○ Average ○ Fair ○ Poor

SITE

SITE DIMENSIONS: 19.49 X Irreg ◉ Ft. ○ M.
SITE AREA: 1938 ◉ SQFT ○ SQM ○ ACRE
SOURCE: MPAC
TOPOGRAPHY: Essentially Level Throughout
CONFIGURATION: Irregular Shaped Lot
ZONING: Residential
DOES EXISTING USE CONFORM TO CURRENT ZONING? ☒ Yes ☐ No , see comments
ENVIRONMENTAL HAZARD? ☐ Yes ☒ No ☐ Unknown
EASEMENTS: ☒ Utility ☐ Access ☐ Other

UTILITIES ☒ Telephone ☒ Sanitary Sewer ☐ Septic System ☒ Municipal Water ☐ Well
☒ Natural Gas ☒ Storm Sewer ☐ Open Ditch ☐ Other
FEATURES ☒ Paved Road ☒ Sidewalk ☒ Street Lights ☐ Gravel Road ☒ Curbs
☒ Cablevision ☐ Lane ☐ Other
ELECTRICAL ☒ Underground ☐ Overhead ☐ Other
DRIVEWAY ☒ Private ☐ Mutual ☐ None ☒ Single ☐ Double
☐ Other (Access)
SURFACE ☐ Concrete ☒ Asphalt ☐ Stone ☐ Gravel ☐ Brick
☐ Other
PARKING ☒ Garage ☐ Carport ☒ Driveway ☐ Street ☐ Other
LANDSCAPING ☒ Good ☐ Average ☐ Fair ☐ Poor ☐ N/A, See Comments
CURB APPEAL ☒ Good ☐ Average ☐ Fair ☐ Poor

COMMENTS:(Conformity with zoning, effects of known easements, known restrictions on title, such as judgments or liens, effects of assemblage, environmental contamination, etc..)
WIND TURBINE: ☐ Yes ☒ No UNDERGROUND OIL STORAGE: ☐ Yes ☒ No ☐ Unknown

The subject backs onto commercial properties and comprises a fully serviced residential zoned, interior positioned building lot situated on the west side of Tempo Way with parking provided by a single car width private driveway. Some of the limited site and exterior improvements include a rear fenced yard, various plantings and trees. Further, the appraiser is unaware if any easements that would adversely affect the market value of the subject property in which title has not been formally search.

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RESIDENTIAL FULL APPRAISAL REPORT

BOB No.: 123456 File No.:6tempo-N123456

IMPROVEMENTS

CONSTRUCTION COMPLETE ◉ Yes ○ No | PERCENTAGE COMPLETE: 100 % | HOLD BACK RECOMMENDED ○ Yes ◉ No %

ESTIMATE AGE OF SUBJECT (YEAR BUILT): 8 yrs | EFFECTIVE AGE: 5 years | REMAINING ECONOMIC LIFE (estimated): 50 years

FLOOR AREA: ◉ SQFT ○ SQM

MAIN: 623
SECOND: 847
THIRD:
FOURTH:
TOTAL: 1,470
SOURCE: Measured

PROPERTY TYPE:	Single Family
BUILDING TYPE:	Att/Row/Townhouse
DESIGN/STYLE:	2 Storey
CONSTRUCTION:	Wood
BASEMENT TYPE:	Full
BASEMENT AREA:	Unfinished
WINDOWS:	Wood
FOUNDATION WALLS:	Poured Concrete

ROOFING: Asphalt Shingle
CONDITION: ☒ Good ☐ Average ☐ Fair ☐ Poor
EXTERIOR FINISH: Brick Veneer and Vinyl
CONDITION: ☒ Good ☐ Average ☐ Fair ☐ Poor
☐ See Comments
ASBESTOS: ☐ Yes ☐ No ☒ Unknown ☐ Removed
PYRITE: ☐ Yes ☐ No ☒ Unknown ☐ Removed
GROW-OP: ☐ Yes ☒ No ☐ Unknown ☐ Removed
UFFI: ☐ Yes ☒ No ☐ Unknown ☐ Removed

BEDROOMS(#) / BATHROOMS(#):

BEDROOMS(#)		BATHROOMS(#)	
	Large	1	2-piece 2
3	Average		3-piece
	Small	1	4-piece
			5-piece

INTERIOR FINISH:		Walls	Ceilings
Good	Drywall	☒	☒
Average	Plaster	☐	☐
Fair	Paneling	☐	☐
Poor		☐	☐
		☐	☐

FLOORING: Laminate, Ceramic Tile, Broadloom
ELECTRICAL: ☐ Fuses ☒ Breakers 100 amps Comment
HEATING SYSTEM: Forced Air
FUEL TYPE: Gas
WATER HEATER: Gas Capacity: 227 litres

CLOSETS: ☒ Good ☐ Average ☐ Fair ☐ Poor
INSULATION: ☒ Ceiling ☒ Walls ☒ Basement ☐ Crawlspace
Source: Inspected
PLUMBING LINES: Copper and PVC
FLOOR PLAN: ☒ Good ☐ Average ☐ Fair ☐ Poor
BUILT-INS/EXTRAS: ☐ Garbage Disposal ☒ Central Air ☐ Swimming Pool ☐ Fireplace
☐ Oven ☐ Air Cleaner ☐ Sauna ☒ Garage Opener ☒ Dishwasher
☐ Vacuum ☐ Solarium ☐ Security System ☐ Stove ☐ WhirlPool
☐ Skylights ☐ HR Ventilator ☐
OVERALL INTERIOR CONDITION: ☒ Good ☐ Average ☐ Fair ☐ Poor

BASEMENT FINISHES/UTILITY: The subject comprises a full unfinished basement with 7 1/2 feet ceiling height clearance.

GARAGES/CARPORTS: 1 Single Built In Garage

DECKS,PATIOS,OTHER IMPROVEMENTS: See site description

COMMENTS:(Building,appearance,quality,condition,services,extras,anticipated public or private improvements,etc.)

The subject comprises a circa 2009 attached row 2 storey townhouse residence sited on a 19.49 x Irregular shaped lot which backs onto commercial properties found within the Brooklin North Whitby community. The floor plan provides for 6 rooms/3 bedrooms above grade which includes a combined living and dining room. The subject is original from its 2009 construction showing clean and well maintained and considered to be in good condition throughout.

INTERIOR OR EXTERIOR OR FOUNDATION REPAIRS /DAMAGE: ☒ No ☐ Yes, see comments

MOISTURE/WATER LEAKAGE/MOULD: ☒ No ☐ Yes, see comments

ROOM ALLOCATION

LEVEL:	MAIN	SECOND	THIRD		BASEMENT
ENTRANCE	1	1			1
LIVING	1				
DINING	1				
KITCHEN	1				
FULL BATH		2F			
PART BATH	1P				
BEDROOM		3			
FAMILY					
LAUNDRY					x
OTHER					
TOTAL ROOMS	3	3			

COST APPROACH

SOURCE OF COST DATA: ☒ MANUAL ☐ CONTRACTOR ☐ OTHER Market Data

		COST NEW	DEPRECIATED COST
LAND VALUE:			$ 425,000
BUILDING			
COST 1,470	@ $ 120	$ 176,400	
GARAGE	1 Car Garage	$	$ 10,000
BASEMENT FINISH			
		$	$
OTHER EXTRAS		$	$
		$	$
		$	$
TOTAL REPLACEMENT COST		$ 176,400	
LESS: ACCRUED DEPRECIATION	4 %	$ 7,056	$ 169,344
INDICATED VALUE			$ 604,344
VALUE BY THE COST APPROACH (rounded)			$ 604,000

NOTE: *The construction cost estimates contained herein were not prepared for insurance purpose and are invalid for that use. The Cost Approach is not applicable when appraising individual strata/ condominium type and units.*

RESIDENTIAL FULL APPRAISAL REPORT BOB No.: 123456 File No.:6tempo-N123456

	SUBJECT	COMPARABLE NO. 1 Description	COMPARABLE NO. 1 $ Adjustment	COMPARABLE NO. 2 Description	COMPARABLE NO. 2 $ Adjustment	COMPARABLE NO. 3 Description	COMPARABLE NO. 3 $ Adjustment
6 Tempo		60 Tremount		82 Tempo		51 Tempo	
Way		Street		Way		Way	
Whitby ON L1M 0E9		Whitby ON L1M 1G3		Whitby ON L1M 0G2		Whitby ON L1M 0G1	
APPRX. DIST. FROM SUBJ		1.4 KM		0.2 KM		0.1 KM	
DATE OF SALE	Apr 9, 2017	Apr 18, 2017		Apr 10, 2017		Apr 2, 2017	
SALE PRICE	590,000	551,000		615,000		635,000	
SOURCE	MLS-E3753858	MLS-E3759392		MLS-E3752690		MLS-E3743788	
DAYS ON MARKET	3	6 Days		5 Days		5 Days	
Setting	Backs Commercial	Typical Setting		Backs Greenspace	-20,000	Backs Ravine	-20,000
LOCATION	Brooklin	Subject Area		Subject Area		Subject Area	
SITE SIZE	19.49 X Irreg	19.69 X 108.57		19.48 X 98.72		19.50 X 90.50	
BUILDING TYPE	Att/Row/Townhouse	Att/Row/Townhouse		Att/Row/Townhouse		Att/Row/Townhouse	
DESIGN/STYLE	2 Storey	2 Storey		2 Storey		2 Storey	
AGE/CONDITION	8 yrs. Good	17 yrs. Inferior	25,000	9 yrs. Similar		8 yrs Similar	
GROSS LIVING AREA	1470 SQFT	1362 SQFT	12,000	1510 SQFT	-5,000	1510 SQFT	-5,000
	Total Bdrms	Total Bdrms		Total Bdrms		Total Bdrms	
ROOM COUNT	6 3	6 3		6 3		7 3	
BATHROOM COUNT	2F 1P	1F 1P		2F 1P		2F 1P	
BASEMENT	Unfinished	Full Finished	-10,000	Unfinished		Unfinished W/O	-10,000
PARKING	1 Builtin.	1 Builtin.		1 Builtin.		1 Builtin.	
DRIVEWAY	Pri./0	Pri.		Pri.		Pri.	
Finishing	Built in 2009	Some updates		Built in 2008		Built in 2009	
	Good Quality	Inferior Quality		Similar Quality		Similar Quality	
End Lot	No	No		No		No	
Total Lot Area	1938 SqFt.	2,138 SqFt.		1,879 SqFt.		1722 SqFt.	
ADJUSTMENTS(Gross/Net)		8.53 % 4.9 %	$ 27,000	4.07 % -4.07 %	$ 25,000	5.51 % -5.51 %	$ 35,000
ADJUSTED VALUES		$ 578,000		$ 590,000		$ 600,000	

DIRECT COMPARISON APPROACH

CONCLUSIONS:

The described comprise recent sales of 8-17 year old attached row 2 storey residences sited on similar sized lots all found within the subject's immediate area. Sales #2 and #3 feature greenspace and ravine settings, respectfully with sale #1 considered to be inferior in terms of level of condition/age.

Most emphasis has been placed on sale #2 which requires the least amount of gross adjustments falling at the mid point of the adjusted sales price range and tends to support the noted purchase price.

The bathroom adjustment is reflected in the GLA adjustment as the area utilized for the bathrooms also reflect the dwelling size above grade thus these adjustments have been combined.

Market Rent Required: ☐ No ☒ Yes $ 1,850 to $ 2,000 ◉ monthly ○ annually

Based on the current market data, the current market rent for this type of dwelling ranges between $1,850 - $2,000 per month which is dependent upon the interior condition, site amenities, parking facilities and utilities etc.

Has the subject sold in past 3 years? ◉ Yes ○ No Currently Listed? ○ Yes ◉ No

SALES HISTORY -- ANALYSIS OF KNOWN CURRENT AGREEMENTS FOR SALE, PRIOR SALES, OPTIONS, LISTINGS OR MARKETING OF THE SUBJECT: (minimum of 3 years)

A 3 year search of TREB/MPAC revealed that the subject property was listed for sale on 04/06/17 for $549,900 and sold ABOVE LIST PRICE on 04/09/17 for $590,000 which reflects the subject's current market value. Despite our request, the reader will note that the herein appraiser was not provided and or had the opportunity to review the agreement of purchase and sale in reference to the described transaction.

VALUE BY THE DIRECT COMPARISON APPROACH (rounded): ☒ As Is $ 590,000

EXPOSURE

Comment on Reasonable Exposure Time: ◉ Less than 90 days ○ 90 - 120 days ○ Greater than 120 days ○ Greater than 365 days

If the subject property was re-introduced for sale on the MLS system, a range of 1 to 30 days would be deemed indicative of reasonable exposure assuming the subject property was re-listed at a reasonable and competitive price sensitive to local market conditions. The described range was derived from the listing history of various sales studied within the subject's area

RECONCILIATION

RECONCILIATION AND FINAL ESTIMATE OF VALUE:

The Cost Approach reflects a value which is simply the summation of the values of the land and improved components of the property factoring depreciation however, it is derived without fully reflecting the actions of buyers/sellers in the market place. The Direct Comparison Approach is widely recognized as the primary technique in the valuation of most residential properties. All factors aside, most reliance has been placed on the Direct Sales Comparison Approach in arriving at the Market Value conclusion of the subject property.

AS A RESULT OF MY APPRAISAL AND ANALYSIS OF ALL APPLICABLE DATA AND RELEVANT FACTORS, IT IS MY CONCLUSION THAT THE MARKET VALUE OF THE INTEREST IN THE SUBJECT PROPERTY AS OF **May 9, 2017** (Effective Date of the Appraisal IS ☒ As Is $ **590,000** ☐ As Completed $

THIS REPORT WAS COMPLETED ON: May 9, 2017

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RESIDENTIAL FULL APPRAISAL REPORT BOB No.: 123456 File No.:6tempo-N123456

DEFINITIONS

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market as of the specified date under all conditions requisite to a fair sale, the buyer and the seller each acting prudently and knowledgeably, and assuming the price is not affected by the undue stimulus.
Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: buyer and seller are typically motivated; both parties are well informed or well advised, and acting in what they consider their own best interests; a reasonable time is allowed for exposure in the open market; payment is made in terms of cash in Canadian dollars or in terms of financial arrangements comparable thereto; and the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(Source: Canadian Uniform Standards of Professional Appraisal Practice) *Note: If other than market value is being appraised, see additional comments.*

DEFINITION OF HIGHEST AND BEST USE:
The reasonably probable and legal use of the property, that is physically possible, appropriately supported, and financially feasible, and that results in the highest value.

SCOPE

The scope of the appraisal encompasses the due diligence undertaken by the appraiser (consistent with the terms of reference from the client, the purpose and intended use of the report) and the necessary research and analysis to prepare a report in accordance with the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) of the Appraisal Institute of Canada. The following comments describe the extent of the process of collecting, confirming and reporting data and its analysis, describe relevant procedures and reasoning details supporting the analysis, and provide the reason for the exclusion of any usual valuation procedures. The Appraisal issue that is the focus of this engagement has been discussed and defined with the client, the work required to solve the issue planned, and the necessary market data acquired analyzed and reconciled into an estimate of market value in a manner typically expected in a "form" report. The specific tasks and items necessary to complete this assignment include a summary of the following:

1. assembly and analysis of relevant information pertaining to the property being appraised, including listing and acquisition particulars if acquired within three years prior to the effective date of the appraisal;
2. an inspection of the subject property and the surrounding area;
3. assembly and analysis of the pertinent economic and market data;
4. an analysis of land use controls pertaining to the subject property;
5. a summary discussion and statement of "Highest and Best Use", of most probable use;
6. a discussion of the appraisal methodologies and procedures employed in arriving at the indications of value;
7. inclusion of photographs, maps, graphics and addendum/exhibits when deemed appropriate' and
8. reconciliation of the collected data into an estimate of market value or market value range as at the effective date of the appraisal.
9. The following resources were utilized for this full appraisal report. Multiple Listing Service (MLS)/TREB services and Municipal Property Assessment Corporation (MPAC).

ASSUMPTIONS AND LIMITING CONDITIONS AND EXTRAORDINARY ITEMS

ORDINARY ASSUMPTIONS & LIMITING CONDITIONS
The certification that appears in this appraisal report is subject to the following conditions:

1. This report is prepared at the request of the client and for the specific use referred to herein. It is not reasonable for any other party to rely on this appraisal without first obtaining written authorization from the client, the author and any supervisory appraiser. Liability is expressly denied to any person other than the client and those who obtain written consent and, accordingly, no responsibility is accepted for any damage suffered by any such person as a result of decisions made or actions based on this report. Diligence by the client and all intended users is assumed.
2. Because market conditions, including economic, social and political factors change rapidly and, on occasion, without warning, the market value estimate expressed as of the date of this appraisal cannot be relied upon as of any other date except with further advice from the appraiser and confirmed in writing.
3. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. No registry office search has been performed and the appraiser assumes that the title is good and marketable and free and clear of all encumbrances including leases, unless otherwise noted in this report. The property is appraised on the basis of it being under responsible ownership.
4. The subject property is presumed to comply with government regulations including zoning, building codes and health regulations and, if it doesn't comply, its non-compliance may affect market value.
5. No survey of the property has been made. Any sketch in the appraisal report shows approximate dimensions and is included only to assist the reader of the report in visualizing the property.
6. This report is completed on the basis that testimony or appearance in court concerning this appraisal is not required unless specific arrangements to do so have been made beforehand. Such arrangements will include, but not necessarily be limited to, adequate time to review the appraisal report and data related thereto and the provision of appropriate compensation.
7. Unless otherwise stated in this report, the appraiser has no knowledge of any hidden or unapparent conditions of the property (including, but not limited to, its soils, physical structure, mechanical or other operating systems, its foundation, etc.) or adverse environmental conditions (on it or a neighbouring property, including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable. It has been assumed that there are no such conditions unless they were observed at the time of inspection or became apparent during the normal research involved in completing the appraisal. This report should not be construed as an environmental audit or detailed property condition report, as such reporting is beyond the scope of this report and/or the qualifications of the appraiser. The author makes no guarantees or warranties, express or implied, regarding the condition of the property, and will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. The bearing capacity of the soil is assumed to be adequate.
8. The appraiser is not qualified to comment on environmental issues that may affect the market value of the property appraised, including but not limited to pollution or contamination of land, buildings, water, groundwater or air. Unless expressly stated, the property is assumed to be free and clear of pollutants and contaminants, including but not limited to moulds or mildews or the conditions that might give rise to either, and in compliance with all regulatory environmental requirements, government or otherwise, and free of any environmental condition, past, present or future, that might affect the market value of the property appraised. If the party relying on this report requires information about environmental issues then that party is cautioned to retain an expert qualified in such issues. We expressly deny any legal liability relating to the effect of environmental issues on the market value of the subject property.
9. The analysis set out in this report relied on written and verbal information obtained from a variety of sources we considered reliable.
10. The term "inspection" refers to our observation and reporting of the general material finishing and conditions seen for the purposes of a standard appraisal inspection. The inspection scope of work includes the identification of marketable characteristics/amenities offered for comparison and valuation purposes only, in accordance with the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).
11. The opinions of value and other conclusions contained herein assume satisfactory completion of any work remaining to be completed in a good and workmanlike manner. Further inspection may be required to confirm completion of such work.
12. The contents of this report are confidential and will not be disclosed by the author to any party except as provided for by the provisions of the Canadian Uniform Standards of Professional Appraisal Practice ("The Standards") and/or when properly entered into evidence of a duly qualified judicial or quasi-judicial body. The appraiser acknowledges that the information collected herein is personal and confidential and shall not use or disclose the contents of this report except as provided for in the provisions of the Canadian Uniform Standards of Professional Appraisal Practice (the "Standards") and in accordance with the appraiser's privacy policy. The client agrees that in accepting this report, it shall maintain the confidentiality and privacy of any personal information contained herein and shall comply in all material respects with the contents of the appraiser's privacy policy and in accordance with the appraiser's privacy policy and in accordance with the Personal Information Protection and Electronic Documents Act (PIPEDA).
13. The appraiser has agreed to enter into the assignment as requested by the client named in the report for the use specified by the client, which is stated in the report. The client has agreed that the performance of this appraisal and the report format are appropriate for the intended use.
14. Written consent from the author and supervisory appraiser, if applicable, must be obtained before any part of the appraisal report can be used for any purpose by anyone except the client and other intended users identified in the report. Liability to any other party or for any other use is expressly denied regardless of who pays the appraisal fee.
15. If transmitted electronically, this report will have been digitally signed and secured with personal passwords to lock the appraisal file. Due to the possibility of digital modification, only originally signed reports and those reports sent directly by the appraiser, can be relied upon without fault.
16. Where the intended use of this report is for financing or mortgage lending, and in accordance with the Office of the Superintendent of Financial Institutions Canada (OSFI) Residential Mortgage Underwriting Practices and Procedures B-20, it is the intended user's responsibility to grant mortgage loans on the basis of the borrower's demonstrated willingness and capacity to services his/her debt obligations.
17. Where the intended use of this report is for mortgage insurance, and in accordance with the Office of the Superintendent of Financial Institutions Canada (OSFI) Residential Mortgage Insurance Underwriting Practices and Procedures B-21, it is the intended user's responsibility to insurance mortgage loans on the basis of the borrower's demonstrated willingness and capacity to services his/her debt obligations.

RESIDENTIAL FULL APPRAISAL REPORT BOB No.: 123456 File No.: 6tempo-N123456

18. The opinions of value and other conclusions contained herein assume satisfactory completion of any work remaining it be completed in a good and workmanlike manner. Further inspection may be required to confirm completion of such work.
19. The contents of this report are confidential and will not be disclosed by the author to any party except as provided for by the provisions of the Canadian Uniform Standards of Professional Appraisal Practice ("The Standards") and/or when properly entered into evidence of a duly qualified judicial or quasi-judicial body. The appraiser acknowledges that the information collected herein is personal and confidential and shall not use or disclose the contents of this report except as provided for in the provisions of the Canadian Uniform Standards of Professional Practice ("the Standards") and in accordance with the appraiser's privacy policy. The client agrees that in accepting this report, it shall maintain the confidentiality and privacy of any personal information contained herein and shall comply in all material respects with the contents of the appraiser's privacy policy.
20. The appraiser has agreed to enter into the assignment as requested by the client named in the report for the use specified by the client, which is stated in the report. The client has agreed that the performance of this appraisal and the report format are appropriate for the intend use.
21. Written consent from the author and supervisory appraiser, if applicable, must be obtained before any part of the report can be used for any purpose by anyone except the client and other intended users identified in the report.
Where the client is the mortgagee, liability is extended to its insurer. Liability to any other party or for any other use is expressly denied regardless of who pays the appraisal fee. Written consent and approval must also be obtained before the appraisal (or any part of it) can be altered or conveyed to other parties, including mortgages (other than the client) and the public through prospectus, offering memoranda, advertising, public relations, news, sales or other media.
22. If transmitted electronically, this report will have been digitally signed and secure with personal passwords to lock the appraisal file. Due to the possibility of digital modification, only originally signed reports and those reports sent directly from the appraiser, can be relied upon without fault.
23. Any lender relying on this "form" report should be aware that when preparing an appraisal for financing purposes, appraisers do not confirm or investigate if the prospective loan or mortgage and intended borrower satisfy prudent underwriting criteria. Consequently, no responsibility is assumed for loans made where the borrower lacks the ability, motivation or willingness to repay the loan, or where the lender has not followed prudent industry procedural lending practices, or as may be prescribed by the office of the Superintendent of Financial Institutions Canada. Any decision to loan money as a result of reliance on this "form" report is conditional on the lender completing a through due diligence investigation that concludes that the borrower has the intention and capacity to repay the loan.

Other:

EXTRAORDINARY ASSUMPTIONS & LIMITING CONDITIONS

An extraordinary assumption or limiting condition has been invoked in this appraisal report. ☐ Yes ☒ No If yes, see attached addendum.
If acreage property, appraisal report is based on acres and total site area is acres

HYPOTHETICAL CONDITION

A hypothetical condition has been invoked in this appraisal report. ☐ Yes ☒ No If yes, see attached addendum.

JURISDICTIONAL EXCEPTION

A jurisdictional exception has been invoked in this appraisal report. ☐ Yes ☒ No If yes, see attached addendum.

CERTIFICATION

I certify that, to the best of my knowledge and belief:
1. The statements of fact contained in this report are true and correct;
2. The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and are my impartial and unbiased professional analyses, opinions and conclusions;
3. I have no past, present or prospective interest in the property that is the subject of this report and no personal and/or professional interest or conflict of with respect to the parties involved with this assignment;
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment;
5. My engagement in and compensation for this assignment were not contingent upon developing or reporting predetermined results, the amount of value estimate, or a conclusion favoring the client;
6. My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Canadian Uniform Standards or Professional Appraisal Practice (CUSPAP);
7. I have the knowledge and experience to complete this assignment competently, and were applicable this report is co-signed in compliance with the Canadian Uniform Standards of Professional Appraisal Practice;
8. Except as herein disclosed, no one has preceded significant professional assistance to the person(s) signing this report;
9. As of the date of this report the undersigned has fulfilled the requirements of the Appraisal Institute of Canada Continuing Professional Development Program for members;
10. The undersigned is (are all) members in good standing of the Appraisal Institute of Canada.

SUPERVISORY APPRAISER'S CERTIFICATION If a supervisory appraiser has signed this appraisal report, he or she certifies and agrees that "I directly supervised the appraiser who prepared this appraisal report and, having reviewed the report, agree with the statements and conclusion of the appraiser, agree to be bound by the appraiser's certification and am taking full responsibility for the appraisal and the appraisal report."

PROPERTY IDENTIFICATION

PROPERTY ADDRESS: 6 Tempo Way CITY: Whitby PROVINCE: ON POSTAL CODE: L1M 0E9
LEGAL DESCRIPTION: PLAN 40M2383 PT BLK 1 RP 40R25667 PART 8, Town of Whitby

AS A RESULT OF MY APPRAISAL AND ANALYSIS OF ALL APPLICABLE DATA AND RELEVANT FACTORS, IT IS MY CONCLUSION THAT THE MARKET VALUE OF THE INTEREST IN THE SUBJECT PROPERTY

AS OF: May 9, 2017 (Effective Date of the Appraisal) IS ☒ As Is $ 590,000 ☐ As Completed $

APPRAISER SIGNATURE: Locked	SUPERVISOR SIGNATURE
Appraiser Password: ☐ Notarius	Supervisor Password: ☐ Notarius
NAME: **Bob Appraiser**	NAME:
DESIGNATION CRA MEMBER #123456	DESIGNATION MEMBER #
DATE SIGNED May 9, 2017	DATE SIGNED
DATE OF INSPECTION: Personally Inspected the Subject Property on May 09,2017	DATE OF INSPECTION:
LICENSE INFO (where applicable)	LICENSE INFO (where applicable)
NOTE: For this appraisal to be valid, an original or a password protected digital signature is required.	*NOTE: For this appraisal to be valid, an original or a password protected digital signature is required.*

ATTACHMENTS:

☐ ADDITIONAL SALES ☐ EXTRAORDINARY ITEMS ADDENDUM ☒ NARRATIVE ADDENDUM ☒ PHOTO ADDENDUM ☐ SKETCH ADDENDUM
☒ MAP ADDENDUM ☐ INCOME APPROACH ☒ Plot Map ☐ ☐
☐ ☐

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RESIDENTIAL FULL APPRAISAL REPORT

BOB No.: 123456 File No.:6tempo-N123456

LENDER/CLIENT	ABC Lender
ADDRESS:	
TEL:	

APPRAISER	Bob Appraiser
	Bob's Appraisers, Inc.
ADDRESS:	123 Wycombe, Toronto, ON
TEL:	416-555-1212

Subject Front

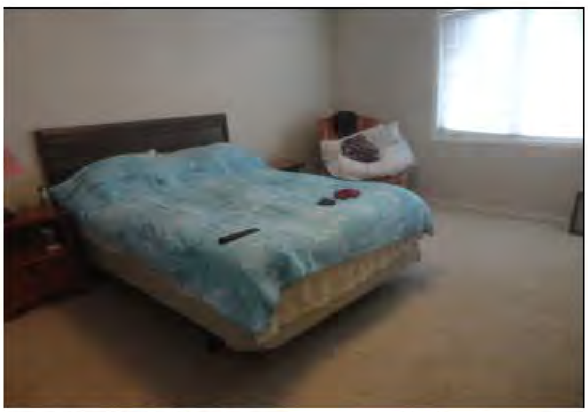
Subject Street

Subject Rear

RESIDENTIAL FULL APPRAISAL REPORT BOB No.: 123456 File No. Stempo-123456

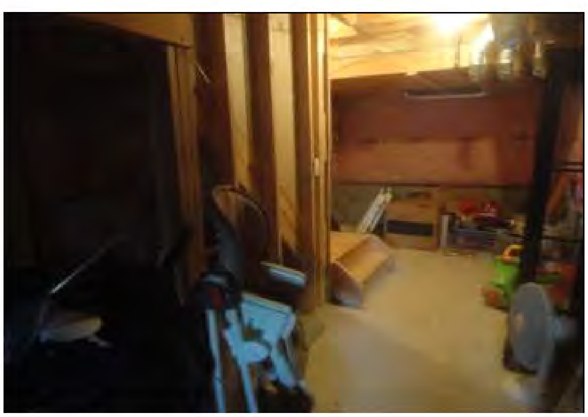
Description: Living Room

Description: Kitchen



Description: Master Bedroom

Description: Bathroom



Description: Basement

Description: Backs Commercial Properties

RESIDENTIAL FULL APPRAISAL REPORT

BOB No.: 123456 File No.: Stempo-N123456

Description: Comparable 1

Description: Comparable 2

Description: Comparable 3

Description:

Description:

Description:

RESIDENTIAL FULL APPRAISAL REPORT BOB No.: 123456 File No.:6tempo-N123456

ADDENDUM

EXTRAORDINARY ITEMS ADDENDUM

EXTRAORDINARY ASSUMPTIONS & LIMITING CONDITIONS

An extraordinary assumption is hypothesis, either supposed or unconfirmed, which, if not true, could alter the appraiser's options and conclusions (e.g. an absence of contamination where such contamination is possible, the presence of a municipal sewer where unknown or uncertain). An extraordinary limiting condition is a necessary modification or exclusion of a Standard Rule which must be explained and justified by the appraiser (e.g. exclusion of a relevant valuation approach.) The appraisal must conclude before accepting the assignment which involves invoking an Extraordinary Limiting Condition that the scope of the work applied will result in opinions and conclusions which are credible. Both must accompany statements of each option/conclusion so affected.

HYPOTHETICAL CONDITIONS

Hypothetical conditions may be used when they are required for legal purposes, for purposes of reasonable analysis or for purposes of comparison. Common hypothetical conditions include proposed improvements and prospective appraisals. For every Hypothetical Condition, an Extraordinary Assumption is required (see above). An analysis based on a hypothetical condition must not result in an appraisal report that is misleading or that relies on actions or events that would be illegal or improbable within the context of the assignment. Following is a description of each hypothetical condition applied to this report, the rationale for its use and its effect on the result of the assignment.

JURISDICTIONAL EXCEPTION

The Jurisdictional Exception permits the appraiser to disregard a part or parts of the Standards determined to be contrary to law or public policy in a given jurisdiction and only that part shall be void and of no force or effect in that jurisdiction. The following comments identify the part or parts disregarded, if any, and the legal authority justifying these actions.

LOCATION MAP

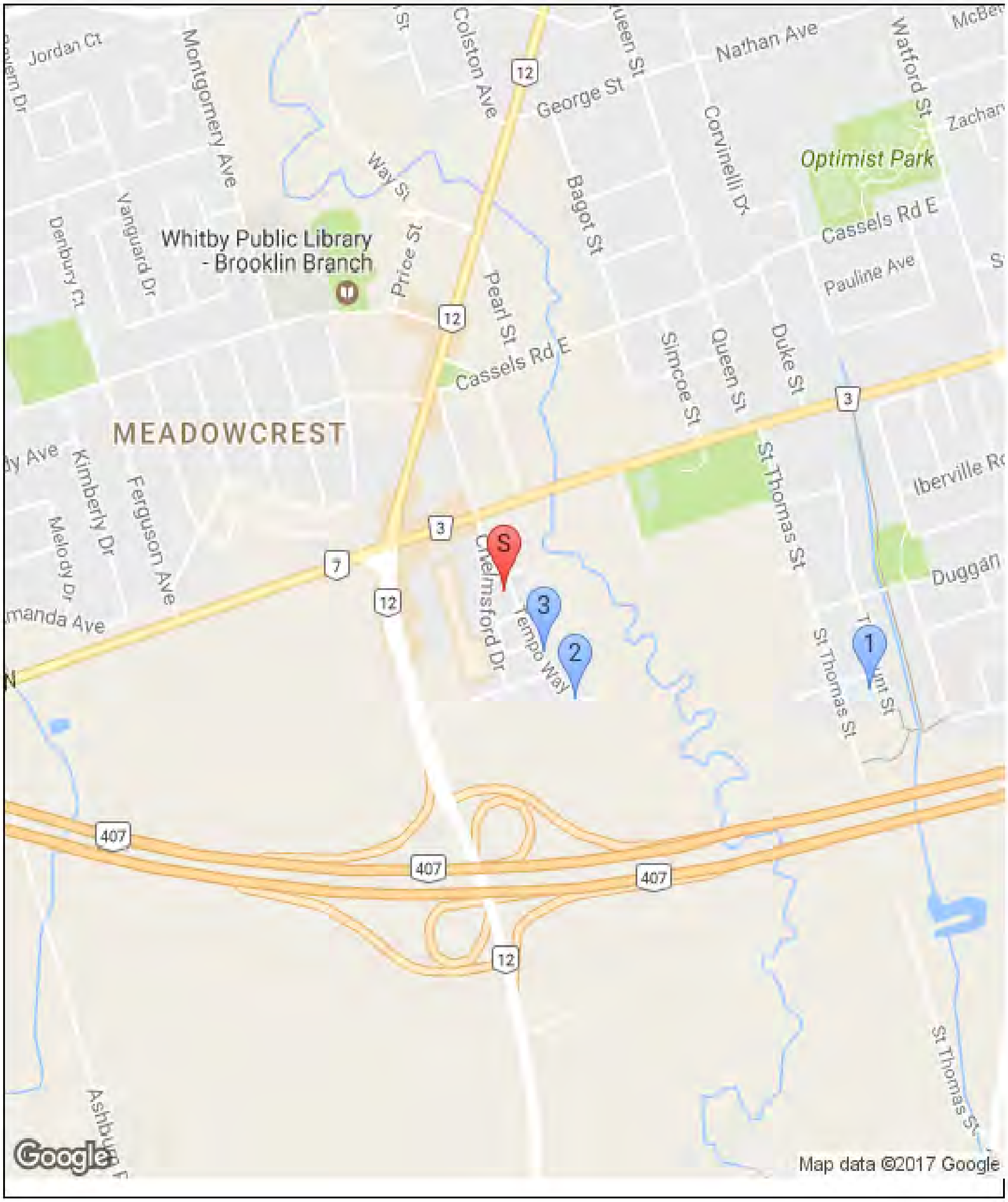
BOB No.: 123456 File No.:6tempo-N123456

APPLICANT'S NAME: Sam Purchaser

PROPERTY ADDRESS: 6 Tempo Way Ref. No.: 103030

CITY: Whitby PROVINCE: ON POSTAL CODE L1M 0E9

LENDER: ABC Lender



RESIDENTIAL FULL APPRAISAL REPORT BOB No.: 123456 File No.:6tempo-N123456

ADDENDUM 1

**TAXES

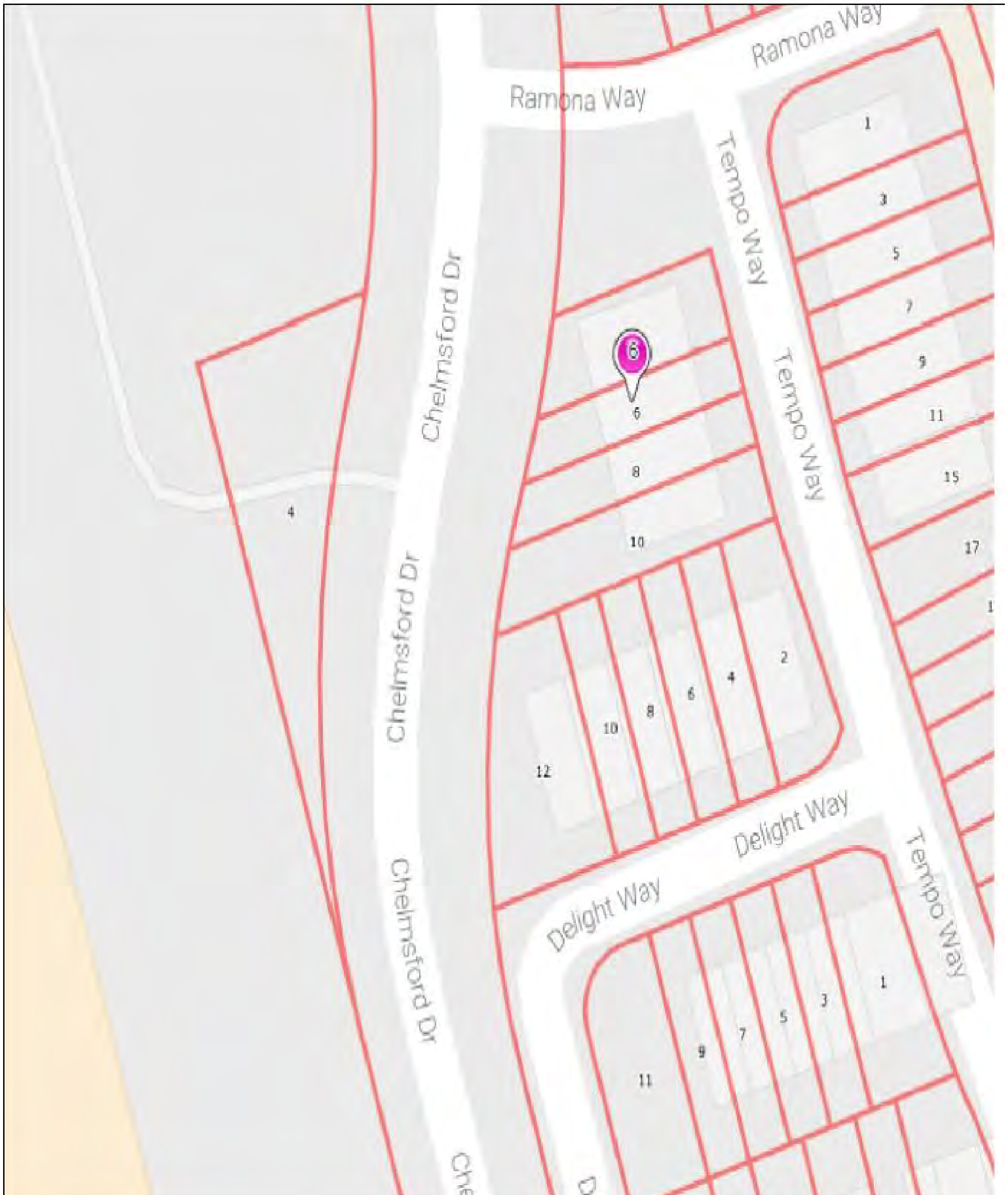
The reader should note that this appraisal indicates the 2016 phased-in assessed value for the subject property. Our firm has contacted various Municipalities to ascertain the new tax rate. We have been informed on a consistent basis that the new tax rate has not been established with most Municipalities indicating that the tax rate will be released to the homeowners and public by the end of June 2017. Thus, we are unable to estimate the 2017 realty taxes for the subject. The appraiser was unable to obtain realty tax information from a reliable source and thus would recommend confirmation of realty taxes from the applicant once the information is available.

RESIDENTIAL FULL APPRAISAL REPORT

BOB No.: 123456 File No.:6tempo-N123456

IMAGE ADDENDUM 1

Description:



15.4 Key Terms and Definitions

Accredited Appraiser Canadian Institute, Professional Appraiser (AACI, P.App)
The highest designation awarded to an appraiser of the Appraisal Institute of Canada

Adjusted value
The value of a comparable property after the appraiser has made adjustments by comparing the comparable property to the subject property

Adjustments
The amount, in dollars, of characteristics which differentiate between a comparable property and a subject property

Appraisal
A report produced by a designated appraiser that determines the market value of an interest in land using accepted valuation techniques based on the purpose of the appraisal for a specific client

Appraisal Institute of Canada (AIC)
A national professional organization that designates and represents professional real estate appraisers and valuation consultants nationwide

Appraiser
The accredited individual who completes the appraisal report. Only reports from accredited appraisers are acceptable in the mortgage industry.

Automated valuation model (AVM)
A computer program that typically uses public record data on residential properties to calculate the market value of a property

Canadian National Association of Real Estate Appraisers (CNAREA)
A national, not for profit, independent association that certifies and regulates real property appraisers in Canada

Canadian Real Estate Association (CREA)
One of Canada's largest single-industry trade associations, representing more than 92,000 real estate brokers and agents working through more than 100 real estate Boards and Associations

Canadian Residential Appraiser (CRA)
A designation awarded to an appraiser by the Appraisal Institute of Canada

Cost approach
An approach to calculating the value of a property by determining the replacement cost of a building, less depreciation plus the cost of the land

Desktop appraisal (also referred to as a Sales Data Report)
A type of appraisal report that determines a value for the subject property based on MLS reports, including data on recent sales and data on recent listings

Direct comparison approach
An approach to calculating the value of a property by comparing it to similar properties that have recently sold

Drive-by appraisal
A type of appraisal report that combines MLS data as well as an inspection of the exterior of the subject property

Emili
CMHC’s automated underwriting system

Excel
Genworth Financial’s automated underwriting system

Full appraisal
A type of appraisal report that combines MLS data with a full interior and exterior inspection of the subject property

Income approach
An approach to calculating the value of an income producing property through the usage of the net operating income and capitalization rate typical for that type of property and the area in which it is located

Market value
The amount, in Canadian funds, for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arms-length transaction after proper marketing, where the buyer and seller have each acted knowledgably, prudently, and without pressure

Real Estate Institute of Canada (REIC)
An association of professionals that has been providing advanced real estate education and certifying specialists in real estate since 1955

Risk assessment tool
An automated underwriting program

15.5 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. List the different purposes for which an appraisal might be required.

2. What is the role of the appraiser in the appraisal process?

3. What organizations award designations to appraisers?

4. What are the different designations that an appraiser may have?

5. How does market value differ from the price for which a property may be sold?

6. Discuss the three approaches to calculating the market value of a property and describe the most relevant approach for mortgage financing.

7. Explain how adjustments are made in the direct comparison approach.

8. Discuss the positives and negatives of AVMs.

9. What is the most detailed type of appraisal report and how does it differ from the other two types of appraisal reports?

Chapter 16: Choosing a Lender

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Differentiate between prime, sub-prime and private lenders
- ❑ Interpret a lender's product and rate sheet
- ❑ Understand the factors that must be considered when choosing a lender

Introduction

Once the mortgage agent has decided on the best product type for his or her client, it is now necessary to choose a lender. There are dozens of lenders in the mortgage market and choosing one specific lender to submit a client's application to can be time consuming and confusing if the mortgage agent is not knowledgeable on lenders' products, services and rates.

In this chapter, the different types of lenders will be explored as well as varying lenders' guidelines. Since lenders have different methods and styles of promoting their products a sample of a lender's product sheet will be reviewed. However, for the mortgage agent to be fully aware of lenders' products, services and rates, it is necessary for him or her to develop relationships with those lenders.

For the mortgage agent who is joining an established mortgage brokerage, those relationships are typically already in place. In this circumstance the mortgage agent needs to ensure that his or her contact information has been provided to the lenders with whom the brokerage deals. The mortgage agent needs to review all of the current information that the brokerage has on those lenders.

It is also important to note that, while most lenders will have relationships with all mortgage brokerages, some will not. Certain lenders will only deal with specific mortgage brokerages. Before joining a mortgage brokerage, the mortgage agent should satisfy himself or herself that the mortgage brokerage which he or she is joining has relationships with a sufficient number of lenders to be competitive in the market. For the new mortgage agent, this can only be accomplished by interviewing with several different mortgage brokerages to determine the best company with which to be affiliated.

16.1 Types of Lenders

The Ontario mortgage industry, the largest in Canada, has dozens of lenders from which the mortgage agent may choose. It is important for the mortgage agent to know who those lenders are and the products, services and rates offered by each to determine the best lender for his or her client.

Many lenders have a dedicated mortgage agent sales force comprised of Business Development Managers (BDMs) or Business Development Officers (BDOs). There are other titles that some lenders provide to their sales force but the terms BDM and BDO are most common. These individuals are tasked with obtaining business from mortgage brokerages and are normally a valuable source of information on their lender's products, services and rates. In addition, a BDM can often assist a mortgage agent to have an application approved by liaising between the mortgage agent and the underwriter.

Lenders are typically categorized by the type of business in which they specialize, either prime mortgage lending or sub-prime mortgage lending.

Prime Mortgage Lending

Prime mortgage lending is defined as lending to clients who are considered to be prime borrowers. A prime borrower is typically an individual who has excellent credit, provable income and stable employment. This type of lending is often referred to as, "A lending" or "Prime lending."

The majority of Canadians fall into this category, as is evidenced by the volumes of mortgage transactions completed by prime lenders. Typical prime lenders include those who deal directly with the public such as Chartered Banks, Trust Companies and Credit Unions. There are also several lenders who deal with the public only through mortgage brokerages and these institutions are normally referred to as non-deposit taking institutions.

Some prime lenders also deal with borrowers who, although not a prime borrower, are not a sub-prime borrower either. These borrowers are typically referred to as Alt-A borrowers. An Alt-A borrower is normally an individual whose credit may be good although not excellent, and who may not be able to prove his or her income but is still considered a good risk by the prime lender.

Sub-Prime Mortgage Lending (also referred to as "Self-Insured" Lending)

The sub-prime mortgage market has developed in Canada over the past several years in response to Canadians with specific mortgage financing needs, and who are not serviced by the lenders in the prime mortgage market.

The increasing sub-prime mortgage market provides the ability for borrowers who have been or who would be declined by prime lenders to obtain financing, either to purchase a home or refinance their existing mortgage. This market has effectively increased the number of potential home buyers by providing financing that would otherwise be unavailable. Although this is viewed as a positive development in the mortgage market, it has also resulted in borrowers being approved who perhaps should not be.

The typical sub-prime borrower is an individual who may have a combination of the following characteristics:

- Current poor credit such as being behind in his or her payments on one or more credit cards, loans or other debts
- Less than two years at his or her current job
- Self-employed
- Has a previous bankruptcy
- Has previous poor credit with no re-established credit
- Requires high LTV financing.

While no single characteristic from the above list may be enough for a prime lender to decline an applicant's application for financing, a combination of those characteristics typically will result in being declined by a prime lender. It has therefore become necessary to provide potential borrowers with alternative financing, which is offered by sub-prime lenders. These lenders normally charge a higher rate of interest than their prime counterparts and may charge the borrower a lender's fee. A lender's fee is a fee charged by the lender, normally paid on closing by the borrower from the mortgage proceeds, as a bonus for providing the financing.

These lenders often refer to their lender's fee as a "self-insurance" fee, and many will call themselves "self-insured" lenders. This simply refers to the fact that they do not offer default insured mortgages, rather they charge a lender's fee that is designed to offset the risk of default by a borrower. Many of these lenders charge fees similar to that of the default insurers, but it is important to note that the term "self-insured" is simply used as a way of explaining their lender's fees, as these lenders do not use any type of default insurance.

The Private Mortgage Market

Private lenders are classified as individuals or groups of individuals who provide mortgage financing. These individuals have money to invest and have decided that mortgage financing offers a profitable rate of return. The typical private lender will deal with mortgage agents or brokerages and use those individuals/firms to locate potential clients.

A client requiring a private mortgage will generally not qualify through a prime or sub-prime lender. This client will normally have equity in his or her property and be able to obtain financing to a maximum of 85% LTV, depending on the area in which the property is located.

Private lenders will charge a higher rate of interest than prime and sub-prime lenders and will normally charge a lender's fee. The profile of a typical private mortgage is an interest only mortgage with monthly payments and a one-year term.

Success Tip – Sub-prime lenders

Most successful mortgage agents will have between two and four prime and two and four sub-prime lenders with whom they normally deal. By choosing a handful of lenders with whom to work, you will become familiar with their guidelines and develop relationships with their BDMs and underwriters. It is, however, also important to know the other lenders' guidelines in case your normal lenders cannot fund a specific transaction.

16.2 Understanding Lender Guidelines

Lenders, with the exception of private lenders, provide mortgage agents with summaries of their products, services and rates. These documents are often referred to as rate sheets and product sheets and are normally communicated to mortgage agents via the lender's BDMs, by email or are provided on the lender's website (a username and password may be required to access this information online). Some lenders have packages that describe their products in detail while others provide basic summaries.

Product Sheets

A product sheet is designed to inform the mortgage agent of the terms and conditions that must be met for approval, as well as the features of the mortgage being described, including the maximum LTV, the amortization and so on. While the format of product sheets differs from lender to lender, the following figure is a sample of a product sheet that contains typical information.

Figure 93 – Sample Product Sheet

ABC Lender Inc. Product Sheet	
Purpose	95% - Purchase 90% - Refinance
Terms	3 and 5 year fixed
Mortgage Amounts	Minimum $50,000 Maximum $600,000 ($700,000 in GTA)
Rate Hold / Rate Drop	45 days, one-time rate drop 7 days prior to closing
Amortization	25, 30 and 35 years
Prepayment Options	Up to 20% prepayment annually + 20% increase in payments once per year
Payout Options	3 months interest or the Interest Rate Differential, whichever is greater
Lender's Fees	2% added to the mortgage
Property Requirements	Owner Occupied only Single family up to a four-plex High- rise condominiums Hobby farms and rural properties on exception basis
Location	Within 25km radius of population of 25k Within 30km radius of population of 30k
Appraisal	Required on all applications. Broker may order using ABC's approved list of appraisers only. Appraisal cost to be paid by borrower
GDS/TDS	No GDS, TDS 50%
Credit	Good credit, minimum 2 years history, no major derogatories, bankruptcy allowed over 2 years discharged
Beacon Score	80% LTV or less: 585 - 649 80.1 to 95% LTV: 650 +
Income/Employment	**Stated Income**: Must meet TDS ratio. Self-Employed: Must prove self-employment via NOA, business license, or Articles of Incorporation, etc. Income will not be verified. Employed: Letter of employment, excluding salary **Full Doc** Self-employed: Based on last 2 years average income verified by most recent financial statements and most recent NOAs Employed: Must provide full income verification by means of job letter, T4s, NOAs, etc for past 2 years.
Down payment	Verification required. Must show 1.5% of purchase price for closing costs in bank account no later than 7 business days before closing
Payment frequency	Monthly, weekly, bi-weekly
Property Taxes	Included in mortgage payment
Portable	Yes
Assumable	Yes – with approval

Means the borrower can provide a letter stating their income without proving it

Means the borrower can provide documentation to prove/verify their income

Rate Sheets

A rate sheet is designed to inform the mortgage agent of the rate charged on a product, based on such factors as the LTV and the Beacon or credit score. While the format of rate sheets differs from lender to lender, the following figure is a sample of a rate sheet that contains typical information.

Figure 94 – Sample Rate Sheet

ABC Lender Inc. – Sample Rate Sheet

Salaried and Business For Self (BFS) Rate Sheet: as of October, 2019

SFD is a "Single Family Dwelling"

ABC LENDER INC. RATE SHEET

Credit Score		**680+**	**650 – 679**	**620 – 649**	**600 – 619**	**580 – 599**	**540 - 579**
SFD Stated Income Salaried/BFS 5 Year Term	LTV	Rate	Rate	Rate	Rate	Rate	Rate
	90.01 - 95%	5.9%	7.4%	7.6%	N/A	N/A	N/A
	85.01 - 90%	5.8%	7.3%	7.5%	8.1%	N/A	N/A
	75.01 - 85%	5.7%	7.2%	7.4%	8%	8.8%	N/A
	60.1 - 75%	5.6%	7.1%	7.3%	7.9%	8.7%	9.1%
	0 - 60%	5.5%	7%	7.2%	7.8%	8.6%	8.9%
SFD Full Doc Salaried/BFS 5 Year Term	LTV	Rate	Rate	Rate	Rate	Rate	Rate
	90.01 - 95%	5.3%	6.4%	6.6%	N/A	N/A	N/A
	85.01 - 90%	5.2%	6.3%	6.5%	7.1%	N/A	N/A
	75.01 - 85%	5.1%	6.2%	6.4%	7%	7.8%	N/A
	60.1 - 75%	5.0%	6.1%	6.3%	6.9%	7.6%	8.1%
	0 - 60%	4.9%	6%	6.2%	6.8%	7.6%	7.9%

BFS is "Business for Self", meaning self-employed

Success Tip – If you're unsure...

If you are ***unsure*** whether a lender will approve your client's application or if you are unsure of the rate, even after reviewing the product and rate sheets, do not guess! Contact either the lender's BDM or underwriter and discuss the client with him or her. This can save time and effort and ultimately your client!

16.3 Choosing a Lender

If the mortgage agent determines the best product for his or her client and only one lender in the industry offers that product, the choice is clear. However, this is not always the case. In all circumstances it is best to rely on the advice of the brokerage for which the mortgage agent works; however, if the brokerage does not specifically recommend a lender, then the mortgage agent should use the following points in determining the best lender to choose.

- Loan to Value: Which lender(s) offer the LTV that the client requires?
- Income Verification: What income verification is required? Can the client provide the appropriate document(s)?
- Property Type: Does the client's property type meet the lender's requirements? I.e., if the client has a rental property, does the lender have a rental product?
- Credit Score: What are the lender's requirements? Does the lender offer a different LTV based on credit scores? If so, does the client qualify?
- Terms: which lender offers the best terms for the client such as prepayment privileges, based on the product chosen for the client?
- Rates: which lender offers the best rate based on the product chosen for the client?
- Speed: which lender provides the quickest response to an application submission?
- Service: which lender provides the best service to both mortgage agents and clients?
- Reputation: which lender has the best overall reputation in the mortgage industry?
- Relationship: does the mortgage agent have a good relationship with the lender/BDM/underwriter that creates loyalty to that lender
- Finder's Fees: if everything else is equal and two or more lenders are appropriate for the client, which of those lenders, if any, pays the highest commission?
- Loyalty Program: if everything else is equal and two or more lenders are appropriate for the client, which of those lenders, if any, offers a loyalty or points program?

In all cases, the right lender must be the lender that is best for the client, regardless of the finder's fees or loyalty program that the lender may or may not have. By consistently doing what is in the client's best interests, the mortgage agent will increase his or her chances of becoming highly successful.

Pause for clarification – Loyalty or points program

A loyalty or points program is a program provided by a lender that rewards the mortgage agent for funding mortgages through it.

16.4 Key Terms and Definitions

BDM / BDO
Business Development Manager / Business Development Officer. These are two of the titles held by representatives of lenders who are tasked with obtaining business from mortgage agents.

BFS
Business For Self. This term applies to those clients who are self-employed.

O/O
Owner occupied property

Prime lending
Refers to mortgage lending to borrowers who are considered very good risks

Private lender
A private lender is typically an individual investor with funds who would like to invest in mortgages. This individual will usually invest through his or her lawyer who may have clients requiring mortgage financing or a mortgage agent. His or her purpose may vary but normally an investor will invest in 2^{nd} mortgages due to their higher rate of return when compared to 1^{st} mortgages and other potential types of investments.

Product sheet
A document provided by a lender that outlines the terms and conditions of its products

Rate drop
Typically refers to the practice of decreasing a client's mortgage rate after he or she has been approved but before the mortgage transaction has closed, when the lender's interest rate on the product has decreased

Rate hold
Typically refers to the practice of maintaining a rate for a specific period of time, whereby the lender will keep the client's mortgage rate at the approved amount after he or she has been approved but before the mortgage transaction has closed, when the lender's interest rate on the product has increased

Rate sheet
A document provided by a lender that lists the interest rates for specific products, based on specific terms

Self-insured lender
A term used to describe a sub-prime lender that charges a lender's fee. This fee is often comparable in amount to the fees charged by default insurers. This fee is used by the lender to offset amounts lost by borrowers who default on their mortgages but is not an actual insurance premium since these lenders do not use default insurance

SFD
Single Family Dwelling

Sub-prime lending
Refers to mortgage lending to borrowers who are considered poor risks or who do not qualify for prime lending

16.5 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Discuss the differences between the prime and sub-prime mortgage market.
2. Discuss the differences between prime and sub-prime mortgages.
3. What factors can cause a borrower to be considered sub-prime?
4. What type of borrower will typically require a private mortgage?
5. What information is typically found in a lender's product sheet?
6. What information is typically found in a lender's rate sheet?
7. What should a mortgage agent do if he or she is unsure if a lender will approve his or her client's application?
8. What factors must a mortgage agent consider when choosing a lender?
9. Which factors are the least important for a mortgage agent when choosing a lender?
10. What impact does a credit score have on the ability of a borrower to access a lender's products?

Chapter 17: Submitting the Application and Obtaining a Commitment

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Discuss the items in an application which must be explained in the notes section of the application
- ❑ Understand the differences between submitting an application to an institutional lender and a private lender
- ❑ Explain the importance of the Investor/Lender Disclosure
- ❑ Complete an Investor/Lender Disclosure
- ❑ Describe the specific information that must be disclosed in the Investor/Lender Disclosure
- ❑ Describe the timing requirements of the Investor/Lender Disclosure
- ❑ Describe the means in which the Investor/Lender Disclosure may be made
- ❑ List the standard information found in a commitment letter
- ❑ Interpret a commitment letter
- ❑ Explain the importance of meeting the lender's conditions of approval

Introduction

Once the needs of the borrower have been determined and a lender chosen, the process of submitting an application is a simple step. However, it is a step that can be mishandled by a new mortgage agent. This chapter will explore submitting an application to both an institutional and private lender, explaining the differences and similarities of both processes.

Success Tip – Only submit to one lender

You should ***only submit an application to one lender***. While this is not a legal requirement it is a best practice. It is your responsibility to choose the best lender for your client. To do so you need to know the lenders' guidelines so that you'll have a high expectation that the application will be approved. Lenders monitor funding ratios (the number of applications submitted to them to the number of applications funded by them) and will refuse to deal with you if your ratio is unacceptable. A high funding ratio means you are a true professional and will lead to greater success!

Once an application has been submitted, the lender will, if everything goes according to plan, approve the application and provide a commitment letter. If declined, the mortgage agent must choose a different lender and begin the process anew.

Given an approval, the commitment letter will contain conditions that must be met. This chapter will discuss meeting those conditions and preparing for the closing process.

17.1 Submitting the Application

Applications may be submitted to a lender in any format that the lender accepts. The most common format is via software approved by the lender. Once the application has been entered into the mortgage agent's origination software and he or she has decided on which lender to whom to submit the application, it is as easy as choosing the lender from a drop-down menu and submitting it. However, before that step occurs the mortgage agent must ensure that the application has been properly completed.

The most common complaint by underwriters is that the mortgage agent does not make proper notes in the application when submitting. All origination software has the capability of allowing the mortgage agent to add his or her notes to an application. These notes are designed to inform the underwriter of items that he or she might need to know to make a decision to lend.

Before submitting the application, the mortgage agent must review the following areas and provide the underwriter with explanatory notes if any area requires further explanation. The areas to review are Credit, Property and Employment. Each is detailed below.

Credit

If the applicant has any derogatory credit such as missed payments in the past or is currently in arrears on any of his or her debts, the mortgage agent must inquire as to the reason for this derogatory credit and include this explanation in his or her notes. Explanations are required if the applicant's credit report contains:

- Current or previously missed payments
- Current accounts currently listed as an R9 with or without an outstanding balance
- Accounts closed by the credit grantor
- Account balances exceeding credit limits
- Excessive recent inquiries
- Any judgments
- One or more previous bankruptcies
- Any accounts now or previously in collections
- Any accounts currently listed as an R7 (which indicate a consumer proposal)
- Any accounts rated a 2 or higher (i.e. R2 or higher, or I2 or higher)

Property

If there are any issues with the property, the mortgage agent must note them in his or her application submission. The property provides the lender with security for its loan. If that security is compromised, the lender's position is weakened. If the property has been valued by an AVM or through CMHC's or Genworth's automated underwriting systems and no physical inspection of the property has occurred, any defects in the property will have been omitted. If the mortgage agent learns of any defects, he or she must investigate and include that information in the application submission. Possible defects or areas of concern may include:

- The property having renters or boarders (if the client has not indicated that this is a rental)
- Water damage in the basement – this may be a sign of a crack in the foundation
- Water damage in the ceiling or walls - this may be a sign of a burst water pipe
- Excessive interior or exterior wear and tear that might impact the value of the property
- Evidence of UFFI or insulbrick
- Signs of insect or rodent infestation

- Signs of improper use of the property such as the presence of commercial machinery in or on the property that may indicate that the property is being used for business purposes.

Employment
The applicant's employment affects his or her ability to repay the mortgage. Items requiring explanation include:
- Having several jobs over the past two or three years
- Any periods of unemployment
- Additional income
- If the mortgage agent cannot verify employment.

By anticipating questions that the underwriter would ask and answering them in the notes section of the application when submitted, the mortgage agent will save time and effort on the underwriter's behalf and may save an applicant from being declined.

17.2 Investor/Lender Disclosure

If the mortgage agent has decided to use a private lender for his or her client's mortgage financing, by law it is necessary to provide more information than is required to be provided to an institutional lender. This information must be provided in the Investor/Lender Disclosure Form.

Before discussing disclosure requirements, it must be noted that a brokerage cannot accept funds from a lender or investor unless in regard to a *specific* mortgage. In other words, a brokerage cannot accept funds from a lender or investor to be held on deposit or in trust unless those funds are for a specific mortgage.

In addition, disclosure is required to be provided to an investor/lender who is *not* a member of a designated class of lenders and investors, as defined by legislation.

Section 31 of *Regulation 188/08* clearly states what must be provided to a potential investor:

Disclosure form for lenders and investors re mortgages
31. (1) A brokerage shall give each lender or investor the following information and documents with respect to a mortgage or a trade in a mortgage that the brokerage presents for the consideration of the lender or investor:
1. A completed disclosure form, in a form approved by the FSRA, signed by a broker.
2. If the investment is in an existing mortgage, a copy of the mortgage instrument.
3. If an appraisal of the applicable property has been done in the preceding 12 months and is available to the brokerage, a copy of the appraisal.
4. If an appraisal of the applicable property is not available as described in paragraph 3, documentary evidence of the value of the property, other than an agreement of purchase and sale.
5. If an agreement of purchase and sale in respect of the property has been entered into in the preceding 12 months and is available to the brokerage, a copy of the agreement of purchase and sale.
6. Documentary evidence of the borrower's ability to meet the mortgage payments.

7. A copy of the application for the mortgage and of any document submitted in support of the application.
8. If the mortgage is a new mortgage, documentary evidence of any down payment made by the borrower for the purchase of the property.
9. A copy of any agreement that the lender or investor may be asked to enter into with the brokerage.
10. All other information, in writing, that a lender or investor of ordinary prudence would consider to be material to a decision about whether to lend money on the security of the property or to invest in the mortgage. O. Reg. 188/08, s. 31 (1).

(2) Subsection (1) does not apply if the lender or investor is a member of a designated class of lenders and investors. O. Reg. 188/08, s. 31 (2).

(3) A brokerage shall obtain the lender's or investor's written acknowledgement that the brokerage has disclosed the information and documents required by this section. O. Reg. 188/08, s. 31 (3).

The following sections expand on the above requirements.

What Must be Disclosed

The disclosure document presented to the investor must include the following information:

- the terms and conditions of the proposed mortgage
- borrower information
- property information
- fees and payments associated with the mortgage
- the role of the brokerage
- the nature of the relationship between the brokerage, borrower and any other party under the proposed mortgage
- any potential conflicts of interest
- the risks associated with the proposed mortgage

Terms and conditions of the proposed mortgage

Typically, an application submitted to an investor/lender, like an application submitted to an institutional lender will rely on the investor/lender setting the terms and conditions of the mortgage in his or her commitment letter. However, in circumstances where the investor/lender may be an individual who relies on the broker/agent to provide a full mortgage scenario that the investor/lender is being asked to invest in, it is the responsibility of the broker/agent to provide complete details related to the terms and conditions of the proposed mortgage. In either case the broker/agent should provide full disclosure on the mortgage being applied for. The disclosure document must therefore include:

- the proposed closing date
- the proposed mortgage amount and frequency
- how the proposed payment can be made, i.e. pre-authorized payment plan or post-dated cheques
- the proposed amortization unless the proposed mortgage is interest only
- the proposed term
- the proposed interest rate as well as its compounding frequency
- the proposed prepayment privileges
- the full civic address and legal description of the property to be mortgaged

- any proposed fees or charges payable by the borrower on default or for NSF fees
- any proposed lender and brokerage fees
- Standard Charge Terms requirements, such as payment of property taxes, maintaining the property and maintaining fire insurance with the investor/lender assigned as first loss payee
- any proposed application fee payable to the investor/lender
- the solicitor under the proposed mortgage
- if the investment is in an existing mortgage, a copy of the mortgage instrument
- other terms and conditions as may be required by an investor of ordinary prudence

Borrower information

The following information must be provided to a prospective investor/lender before he or she can make a decision to lend:

- section 28 of *Regulation 188/08* states that a brokerage cannot sell or otherwise attempt to sell a mortgage that has been in default at any point during the previous twelve months unless it has the lender's written acknowledgment that it has received this disclosure
- documentary evidence of the borrower's ability to meet the mortgage payments
- a copy of the application for the mortgage and of any document submitted in support of the application
- if the mortgage is a new mortgage, documentary evidence of any down payment made by the borrower for the purchase of the property
- all other information, in writing, that a lender or investor of ordinary prudence would consider to be material to a decision about whether to lend money on the security of the property or to invest in the mortgage
- If the investment is in an existing mortgage, a copy of the mortgage instrument.

Property information

The following information must be provided to a prospective investor/lender before he or she can make a decision to lend:

- if an appraisal of the applicable property has been done in the preceding 12 months and is available to the brokerage, a copy of the appraisal
- if an appraisal of the applicable property is not available, documentary evidence of the value of the property, other than an agreement of purchase and sale
- if an agreement of purchase and sale in respect of the property has been entered into in the preceding 12 months and is available to the brokerage, a copy of the agreement of purchase and sale

For renewals:

- if an appraisal of the property has been done in the preceding 12 months and is available to the brokerage, a copy of the appraisal
- if an agreement of purchase and sale in respect of the property has been entered into in the preceding 12 months and is available to the brokerage, a copy of the agreement of purchase and sale
- all other information, in writing, that a lender of ordinary prudence would consider to be material to a decision about whether to renew the mortgage

Fees and payments
As discussed under the terms and conditions, a brokerage is required to disclose any and all payments that the borrower, investor or lender may be required to receive or make under the proposed mortgage.

The role of the brokerage
Section 18 of *Regulation 188/08* states that the brokerage must disclose, in writing to a prospective borrower or lender the following information about the nature of its relationship with borrowers and lenders:
1. Information about whether, and when, the brokerage is acting as a representative of the lender but not the borrower in a transaction.
2. Information about whether, and when, the brokerage is acting as a representative of the borrower but not the lender in a transaction.
3. Information about whether, and when, the brokerage is acting as a representative of both the borrower and the lender in a transaction and is not giving preference to the interests of either. *O. Reg. 188/08, s. 18 (1).*

(2) Subsection (1) does not apply when the brokerage is the mortgage lender. *O. Reg. 188/08, s. 18 (2).*

Role of the brokerage – sample clauses
The following are samples of clauses that can be used to meet the disclosure requirements as discussed in the role of the brokerage.
- *REMIC Mortgages Inc. is acting solely on behalf of the lender in this mortgage transaction.*
- *REMIC Mortgages Inc. is acting solely on behalf of the borrower in this mortgage transaction.*
- *REMIC Mortgages Inc. is acting on behalf of both the lender and the borrower in arranging this mortgage transaction.*

Relationship between brokerage, borrower and others
The brokerage must ensure that any and all relationships between the brokerage, broker and/or agent and the borrower are fully disclosed to the potential investor/lender. This disclosure is necessary for the investor/lender to assist in determining if the proposed mortgage is suitable for him or her. Disclosure must be made in writing and the recipient of the disclosure must acknowledge the disclosure in writing.

Conflicts of interest
The brokerage must disclose to a borrower, lender or investor in the transaction, any potential conflict of interest that the brokerage may have.

Risks
Risk tolerance is a concept that identifies the investor/lender's acceptable level of risk. There are two fundamental requirements when considering risk: understanding the investor/lender's general level of acceptable risk and disclosing the specific risks associated with the mortgage being recommended by the broker/agent. This requirement is described in section 25.1 of *Regulation 188/08, Mortgage Brokerages: Standards of Practice*, and states that, "A brokerage shall disclose in writing to a borrower, lender or investor, as the case may be, the material risks

of each mortgage or investment in a mortgage that the brokerage presents for the consideration of the borrower, lender or investor."

Risks to an investor/lender may include, but are not limited to:

- any risks associated with the borrower's ability to repay the mortgage
- potential loss of investment if the property is not adequately insured and is damaged or destroyed
- potential loss of investment if the mortgage is fraudulently discharged by another party
- potential loss of investment if the property loses value and must be sold for an amount less than the outstanding balance of the mortgage
- potential expenses associated with recovering a mortgage due to default
- potential expenses associated with recovering a mortgage due to fraud or forgery where title insurance was not required
- lack of quick liquidity
- failure to enforce collection proceedings if the investor/lender is a member of a syndicated mortgage – this means that as one of many investors you may not be able to collect on a default. That decision will be up to someone else, depending on the syndication contract.

How Disclosure Must be Made

A brokerage is required to provide detailed disclosure to lenders and investors involved in a mortgage transaction, including a mortgage renewal, unless that lender or investor is a member of a designated class of lenders and investors as previously defined in the Key Terms and Definitions section of Chapter 5. This disclosure must include a completed disclosure form, in a form *approved by the FSRA*, signed by a broker. The disclosure document used to provide disclosure, consent or acknowledgement to an investor or lender must be clear and concise and presented in a manner that is clearly understandable.

When Disclosure Must be Made

Regulation 188/08 states that disclosure must be provided to the lender/investor at the earliest opportunity and, in any case, no later than two business days before the earliest of the following events. This time period can be reduced to one business day if the investor/lender consents in writing.

1. The brokerage receives money from the lender or investor
2. The brokerage enters into an agreement to receive money from the lender or investor
3. The lender enters into an agreement to enter into a mortgage or the investor enters into an agreement to purchase, exchange or sell a mortgage
4. The money is advanced to the borrower under the mortgage
5. The trade completion date, which is:
    a) the date on which an investor, or a brokerage on behalf of an investor, enters into an agreement to trade in the mortgage, or
    b) the date on which the trade in the mortgage is completed.

The Investor/Lender Disclosure Statement for Brokered Transactions

The following figure is the Investor/Lender Disclosure Statement for Brokered Transactions. This form is given to the potential investor/lender before the potential investor/lender can provide the agent/broker with a commitment to fund a mortgage.

This form has been created by FSRA and contains the prescribed information as discussed in the previous sections. This form was updated in 2015 and those updates are reflected by highlights and notes.

Figure 95 – Investor/Lender Disclosure Form updated 2015

Financial Services Commission of Ontario

Ontario

Form 1 - Investor/Lender Disclosure Statement For Brokered Transactions

Mortgage Brokerages, Lenders and Administrators Act, 2006

Transaction Number

Important Disclosure Duties

In this Investor/Lender Disclosure Statement For Brokered Transactions ("Disclosure Statement"), mortgage brokerages are required to provide you with the completed Disclosure Statement that contains important information in connection with this transaction.

A brokerage must:

1. Advise you if the brokerage cannot verify the identity of another party to the transaction.
2. Disclose whether the brokerage is acting for the lender, the borrower, or both the borrower and lender.
3. Disclose to a lender the brokerage's relationship with each borrower, and disclose to an investor the brokerage's relationship with each party to the transaction.
4. Disclose whether the brokerage is receiving a fee or other remuneration for referring you to a person or entity, and disclose the relationship with that person or entity.
5. Disclose material risks about the transaction that you should consider.
6. Disclose actual or potential conflicts of interest that may arise from this transaction.
7. Take reasonable steps to ensure that any mortgage investment the brokerage presents to you is suitable having regard to your needs and circumstances. NEW
8. If applicable, complete the Addendum (Form 1.1) if Construction and Development Loans are involved, including syndicated or non-syndicated mortgages. NEW

If your investment is being administered, the mortgage administrator must:

1. Disclose the relationship, if any, between the administrator and each borrower.
2. Disclose whether the administrator may receive, or may pay, any fees or other remuneration in connection with the administration of the mortgage, the basis for calculating them and the payor's identity.
3. Disclose whether it is receiving a fee or other remuneration for referring you to a person or entity, and disclose the administrator's relationship with that person or entity.
4. Disclose actual or potential conflicts of interest that may arise from the transaction.

You must receive these disclosures in writing and acknowledge receipt of them. You should keep a copy for your records.

Important: This form is required by law and will provide the prospective investor/lender with important information to assist you in making a decision about whether to invest/lend.

This information must be disclosed **at least two business days** before you commit to lend/invest, i.e. two business days before the **earliest** of the following events:

- When the brokerage receives or enters into an agreement to receive money from you.
- When you enter into a mortgage agreement or an agreement to trade in a mortgage.
- The money is advanced to the borrower under the mortgage.
- The trade completion date.

You may agree to reduce the two business day waiting period to one business day by consenting in writing by completing the approved Waiver (Form 1.2).

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Section 1 - Caution

1. This Disclosure Statement has not been filed with the Financial Services Commission of Ontario (FSCO). Neither FSCO nor any other authority of the Government of Ontario has reviewed or approved the completed Disclosure Statement. NEW
2. NEW All mortgage investments carry a risk. There is a relationship between risk and return. In general, the higher the rate of return, the higher the risk of the investment. You should very carefully assess the risk of the mortgage transaction described in this Disclosure Statement, the Addendum (Form 1.2) if applicable and in the supporting documentation before making a commitment.
3. Syndicated mortgages (defined as more than one investor/lender) may carry additional risks pertaining not only to the risk of default but also to the risks associated with participating in a syndication and the financing of real estate transactions. NEW
4. Inexperienced investors are **not** advised to enter into mortgage investments.
5. You should consider inspecting the property or project as identified in section 3 Part A of this Disclosure Statement. REWORDED
6. This mortgage investment is not insured by the Government of Ontario or any other investor protection fund. ADDED
7. You are **strongly** advised to obtain independent legal advice before committing to invest.
8. This mortgage investment cannot be guaranteed by the mortgage brokerage. If you are not prepared to risk a loss, you should not consider mortgage investments.
9. If this investment is for a mortgage to fund a development, construction or commercial project, the repayment of this investment may depend on the suc ADDED mpletion of the project, and its successful leasing or sale.
10. If you are one of several investors in a syndicated mortgage, you may not be able to enforce repayment of your investment on your own if the borrower defaults.
11. You should ensure you have sufficient documentation to support the property valuation quoted in this Disclosure Statement. The property value may decrease over time, including the period between the date of the most recent appraisal and the date you complete the transaction. A decline in property value may also affect the return and/or value on your investment in the event of a default in payments under this mortgage. NEW
12. You should satisfy yourself as to the borrower's ability to meet the payments required under the terms of this mortgage investment. NEW
13. The mortgage administrator, if applicable, cannot make payments to you except from payments of principal and interest made by the borrower under the mortgage. Therefore, the mortgage administrator cannot continue mortgage payments to you if the borrower defaults. NEW
14. If you want to withdraw your money before the end of the term, a new investor/lender may be required and there is no assurance that there will be a market for the resale or transfer of the mortgage. NEW
15. If the contract provides for an extension, you may not be able to opt out of any extension of a mortgage term. You need to review terms relating to the extension of mortgages carefully. NEW
16. This Disclosure Statement, the Addendum (Form 1.2) if applicable and the attached documents are not intended to provide a comprehensive list of factors to consider in making a decision concerning this investment. By law, the mortgage brokerage must disclose in writing the material risks of the mortgage investment. There may be additional risks to the investment. You should satisfy yourself regarding all factors relevant to this investment before you commit to invest. REWORDED & EXPANDED

Print name of Mortgage Broker	Licence number of Mortgage Broker
Signature of Mortgage Broker	Date (yyyy-mm-dd)
Name of Mortgage Brokerage	Licence number of Mortgage Brokerage

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Acknowledgement

I, ____ , of
Print name of Investor/Lender

____
Address

acknowledge receipt of this Caution, signed by the above named mortgage broker.

______________________________ ______________________________
Signature of Investor/Lender Dated by Investor/Lender (yyyy-mm-dd)

CHANGED TO YES/NO QUESTIONS

Section 2 - Declaration by the Mortgage Brokerage

1. *The Mortgage Brokerages, Lenders and Administrators Act, 2006* requires disclosure of the nature of the relationship between the mortgage brokerage and other persons and entities involved in the mortgage transaction. For the purposes of this Disclosure Statement and Addendum, two persons are "related" if they share any relationship other than an arm's length business relationship. For example, a shareholder, director, officer, partner or employee of a mortgage brokerage is related to the mortgage brokerage and to any broker or agent authorized to deal or trade in mortgages on behalf of the mortgage brokerage (referred to below as "its" [the brokerage's] brokers and agents).

   This declaration is made by

   ____

   Name, address and licence number of mortgage brokerage

2. Does the mortgage brokerage or any of its brokers or agents have or expect to have a direct or indirect interest in this property identified in section 3, Part A?

   ☐ No ☐ Yes

   If Yes, explain:

3. Does any person related to the mortgage brokerage or any of its brokers or agents have or expect to have a direct or indirect interest in this property?

   ☐ No ☐ Yes

   If Yes, explain:

4. Is the borrower related to the mortgage brokerage or to any of the officers, directors, partners, employees or shareholders of the brokerage or any of its brokers or agents?

   ☐ No ☐ Yes COMBINES PREVIOUS 5 AND 6

   If Yes, explain:

5. Is the individual or company that appraised the property related to the mortgage brokerage or to any of its brokers or agents?

   ☐ No ☐ Yes

   If Yes, explain:

Investor/Lender Initials: Date:

6. Describe any conflicts or potential conflicts of interest in connection with this mortgage investment, other than those described above.

NEW SPACE FOR CONFLICTS

7. Describe what steps the mortgage brokerage has taken to reduce the risk resulting from any conflicts or potential conflicts of interest.

NEW SPACE FOR RISKS RE CONFLICTS

8. The mortgage brokerage is acting for:

☐ The investor/lender and not the borrower
☐ The borrower and not the investor/lender
☐ Both the borrower and the investor/lender

9. If this investment is a purchase of an existing mortgage or a portion of an existing mortgage, is the mortgage now in default?

☐ No ☐ Yes

Has it been in default in the last twelve months?

☐ No ☐ Yes

If Yes to either, explain:

10. Will the mortgage proceeds be used to refinance, pay out, redeem or reduce an existing mortgage on **this** property?

☐ No ☐ Yes

If Yes, explain:

11. Does the mortgage brokerage or any of its brokers or agents expect to gain any interest or benefit from this transaction other than the fees disclosed in Part D of this Disclosure Statement?

☐ No ☐ Yes

If Yes, explain:

Investor/Lender Initials: Date:

12. The mortgage brokerage is required to disclose in writing the material risks of this investment.

Describe the material risks of this investment.

NEW SPACE FOR MATERIAL RISKS

The mortgage brokerage has fully complied with all requirements of the *Mortgage Brokerages, Lenders and Administrators Act, 2006* and its regulations.

I have fully completed the above Declaration of Brokerage Relationships and Potential Conflicts of Interest in accordance with the *Mortgage Brokerages, Lenders and Administrators Act, 2006* and its regulations and declare it to be accurate in every aspect to the best of my knowledge.

Signature of Mortgage Broker

Date (yyyy-mm-dd)

Print name of Mortgage Broker

Licence number of Mortgage Broker

Acknowledgement

I, ________________________________
Print name of Investor/Lender

acknowledge receipt of this Declaration by the Mortgage Brokerage signed by

Print name of Mortgage Broker

Signature of Investor/Lender

Dated by Investor/Lender (yyyy-mm-dd)

Section 3 - Information Disclosure Summary

Part A. Property/Security to Be Mortgaged

1. Legal and Municipal address of the property:

2. Type of Property:

- ☐ Property with existing buildings
  - ☐ Single family residential
    - ☐ owner occupied NEW
    - ☐ rental NEW
    - ☐ condominium NEW
  - ☐ One-to-four unit residential
  - ☐ Five or more unit residential
  - ☐ Commercial
  - ☐ Industrial
  - ☐ Agricultural NEW
  - ☐ Other, explain below ____________
- ☐ Vacant land, development or construction project. Detail of project/proposed use, including projected starting and completion dates: NEW
- ☐ Other: ____________

3. Purchase Price: NEW

(a) Purchase Price of Property: ____________ (b) Date of Purchase ____________

4. Property Taxes:

(a) Annual property taxes: ____________

Are taxes in arrears?

- ☐ No
- ☐ Yes
- ☐ Investor/Lender's Solicitor to verify taxes prior to closing or ensure coverage under title insurance. NEW

Amount of arrears ____________

5. Condominium Fees (If applicable): NEW

(a) monthly condominium fees ____________

Are fees in arrears?

- ☐ No
- ☐ Yes

Amount of arrears ____________

Investor/Lender Initials: Date:

Part A. Property/Security to Be Mortgaged (continued)

6. Zoning:

Is the zoning on the property appropriate for the proposed use?

- ☐ No
- ☐ Yes
- ☐ Investor/Lender's Solicitor to verify zoning prior to closing or ensure coverage under title insurance. NEW

If No, details:

7. Appraisal

- ☐ An appraisal has not been done on the property within the past 12 months OR NEW
- ☐ An appraisal has been done on the property within the past 12 months NEW

For all properties, appraised "as is" value: __________

If the appraisal was addressed to someone other than the investor/lender of record, provide a transmittal letter. NEW

Date of appraisal: __________

Name and address of appraiser:

Investor/Lender Initials: Date:

Part B. Mortgage Particulars

1. Type of Mortgage:

Your investment represents:

☐ the entire mortgage OR

☐ a portion of the mortgage   Your portion represents ___ % of the total.

Number of other parties that have an interest in this mortgage. _____

In what name(s) will the mortgage be registered?

If the mortgage is not registered in the investor's name, explain:

NEW

2. Existing or New Mortgage:

☐ An existing registered mortgage or portion of an existing registered mortgage is being purchased.

☐ Your investment will fund a new mortgage or portion of a new mortgage that has not yet been registered.

3. Administered Mortgage:

Will the mortgage be administered for you?

Important: A Mortgage Administrator must be licenced under *Mortgage Brokerages, Lenders and Administrators Act, 2006.* NEW

☐ No

☐ Yes

If "Yes", name, address and licence number of administrator:

4. Terms of the Mortgage:

Amount of your investment: ____________

Face value of the mortgage: ____________

Interest rate is fixed at _____ per annum OR

Interest rate is variable. Explain:

Compounding period: ____________

What is the borrower's cost of borrowing as disclosed to the borrower? NEW ____________

Payment frequency NEW ____________

Payments to be made by borrower: ____________

Payments to you: ____________
(See Part D for fees charged to you)

Term: ____________

Amortization: ____________

Maturity date: ____________

Balance on maturity: ____________

Borrower's first payment due: ____________

Borrower's rate of interest if different from the rate of interest to be paid to the investor.

Borrower's rate of interest: NEW ____________

Investor(s) rate of interest: NEW ____________

Terms and conditions of repayment:

Investor/Lender Initials: Date:

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Part B. Mortgage Particulars (continued)

5. Rank of Mortgage (according to information from borrower):

The mortgage to be purchased/advanced is/will be a:

☐ First ☐ Second ☐ Third ☐ Other mortgage ______________________

Can the rank of the mortgage change?

☐ No ☐ Yes NEW

If yes, explain how it might change and is it expected to change?

Prior encumbrances (existing or anticipated):

☐ None OR

a) Priority: ______________________

Face Amount: ______________________

Amount Owing: ______________________

In default?

☐ no ☐ yes ☐ unknown

If yes, explain

NEW

Name of Mortgagee:

b) Priority: ______________________

Face Amount: ______________________

Amount Owing: ______________________

In default?

☐ no ☐ yes ☐ unknown

If yes, explain

NEW

Name of Mortgagee:

Other encumbrances, including environmental, regulatory and/or liens: NEW

6. Loan to value ratio (according to information from borrower):

a) Total of prior encumbrances ______________

b) Amount of this mortgage: ______________

c) Total amount of mortgages: (a + b) ______________

d) Appraised "as is" value: (from Part A) ______________

e) Loan to "as is" value: (c/d X 100) ______________

f) Projected value: (where appropriate): ______________

g) Loan to "projected value" ratio: (c/f X 100) ______________

7. Amount of Mortgage Advance NEW

If the amount of the mortgage advance is less than the face value of the mortgage, provide explanation

i.e construction loan progress advances

Investor/Lender Initials: Date:

Part C. The Borrower

Name and Address of Borrower:

☐ The brokerage has identified the borrower(s) and evidence of identity is attached/will be provided on

Date (yyyy-mm-dd) NEW ______________

☐ The brokerage has not verified the identity of the borrower(s).

Explain what steps the brokerage will take to verify the identity before closing:

Important: Financial information about the borrower's ability to meet the mortgage payments must be attached to this Disclosure Statement.

Part D. Fees

1. Fees and charges payable by the investor/lender

Estimate NEW

Mortgage brokerage fee/commission/other costs: ______________

Approximate legal fees and disbursements: ______________

Administration fees (where applicable): ______________

Any other charges: Specify:

______________________________ ______________

______________________________ ______________

______________________________ ______________

Total: ______________

Are any of the above fees or charges refundable?

☐ No

☐ Yes NEW

Explain:

2. Fees and costs payable by the borrower:

Estimate	Paid to	Purpose
$		

Investor/Lender Initials: Date:

Part E. Attached Documents

Important: You should review the following documents carefully and assess the risks of this investment before committing to invest. You should check that all documents are consistent with this disclosure summary. The following documents should be attached. If not available or applicable, provide comments in the box below. NEW

PREVIOUSLY MUST

	Attached
1. If the statement concerns an existing mortgage, provide a copy of the mortgage.	☐
2a. If an appraisal of the property has been done in the preceding twelve months and is available to the mortgage brokerage, a copy of the appraisal.	☐
2b. If a copy of an appraisal of the property is not delivered to you, documentary evidence of the property value, other than an agreement of purchase and sale.	☐
3. If an agreement of purchase and sale in respect of the property has been entered into in the preceding twelve months and is available to the mortgage brokerage, a copy of the agreement of purchase and sale and all related schedules, amendments and waivers. NEW	☐
4a. Documentary evidence respecting the borrower's ability to meet the mortgage payments.	☐
4b. If you request, a copy of the borrower's application for a mortgage including documents submitted in support of application. NEW	☐
5. If the mortgage is for the purchase of a property, documentary evidence of any down payment made by the borrower for the purchase of the property.	☐
6. A copy of any agreement that you may be asked to enter into with the mortgage brokerage and/or mortgage administrator. NEW	☐
7. Completed Addendum for Construction and Development Loans (Form 1.1) NEW	☐

8. List other documents being provided here.

NEW

9. If other relevant documents are not being provided or the documents are not attached explain:

NEW

Important: The mortgage brokerage is also required to provide you with all other information a lender or an investor of ordinary prudence would consider to be material to a decision whether to lend money on the security of the property or invest in the mortgage, so that you can make an informed decision before you commit to lend/ invest. This information might include the following: NEW

1. If the property is a rental property, details of leasing arrangements, assignment of rent provisions and vacancy status.
2. Environmental considerations affecting the value of the property.
3. If applicable, attach any power of attorney authorizations. NEW

STMT RE CONSTRUCTION MOVED TO ADDENDUM

Investor/Lender Initials: Date:

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Part F. Certification

This Information Disclosure Summary has been completed by:

____
Name, address and licence number of mortgage brokerage

I have fully completed the above Information Disclosure Summary in accordance with the Mortgage Brokerages, Lenders and Administrators Act, 2006 and its regulations and declare it to be accurate in every respect to the best of my knowledge. NEW

Print name of Mortgage Broker	Licence number of Mortgage Broker
Signature	Date (yyyy-mm-dd)

Acknowledgement

I, ____ ,of
Print name of Investor/Lender

____
address

acknowledge receipt of this Information Disclosure Summary, signed by the above named mortgage broker.

Signature of Investor/Lender	Dated by Investor/Lender (yyyy-mm-dd)

One copy of this form must be provided to the prospective lender/investor, and one copy must be retained by the mortgage brokerage

Important: The information in this Disclosure Statement must be provided to you at the earliest opportunity and, in any case, no later than two business days before the earliest of the following events:

NEW

- **When the brokerage receives or enters an agreement to receive money from you.**
- **When you enter into a mortgage agreement or an agreement to trade in a mortgage.**
- **The money is advanced to the borrower under the mortgage.**
- **The trade completion date.**

You may agree to reduce the two business day waiting period to one business day by consenting in writing by completing the approved Waiver (Form 1.2).

17.3 The Commitment Letter

Once the application has been submitted and the underwriter has approved the mortgage application, he or she will send the mortgage agent a commitment letter or approval. This document explains the terms and conditions of the mortgage that the lender is committed to providing along with the conditions that must be met before the lender will fund the mortgage.

The following is a list of information commonly found in a commitment letter:

- Applicants' names
- Property address (address of the security)
- Mortgage amount
- Interest rate
- Payment amount
- Payment frequency
- Term
- Closing date
- Prepayment privileges
- Conditions of approval
- Terms of the approved mortgage (such as fees, appraisal requirements, etc.).

These conditions are typically based on the information contained in the application. For example, if the application states that the applicant has worked for ABC Company for six years as an Accountant and earns $70,000 per year, the lender will include a condition that this information be proven by a job letter, T4s, pay stubs, etc. The required documents must be sent to the lender and the lender must deem them acceptable before the deal can be funded. It is important to note that if conditions are not met to the lender's satisfaction, the lender will revoke the commitment and cancel the mortgage.

Success Tip –Double check the commitment letter

Once you receive the commitment letter, compare it to your file to ensure that all of the information is correct. Look at the mortgage amount, property address, and all of the terms and conditions to confirm that the commitment letter is based on what you submitted to the lender. It can sometimes happen whereby an underwriter will approve an application, but on slightly different terms and conditions then what the broker/agent applied for. For example, the lender may approve the application at a different rate or loan to value than applied for. By checking this information before meeting with the client you will be sure not to be caught by surprise when discussing the commitment with your client.

The following figure is an example of a commitment letter from a fictitious lender.

Figure 96 – Sample Commitment Letter

Mortgage Commitment

Response: December 15, 2012 Page 1 of 4

Broker Information

Name: REMIC Mortgages Inc.
Address: 2175 Sheppard Avenue East, Suite 213, Toronto, ON, M2J 1W8
Attention: Adam Coren Application Reference Number: 1213456-789

Lender Information

Name: SuperBank
Address: 2750 Yonge Street, Suite 6500, Toronto, ON, M1M 1M1
Lender Reference #: 1213456-789 Mortgage Insurance Reference #: TBD

Always check the Commitment to ensure the information, such as the property address, is correct

Applicant Information

Applicant(s): Noreen Borrower, Christopher Borrower
Property Address
Address: 1234 Queen Lane, Toronto, ON, M1S 1M1

With reference to the above noted property SuperBank is pleased to provide the following mortgage loan offer, subject to the following terms and conditions:

Loan		**Terms**		**Payment**	
Purchase Value:	$237,500.00	Mortgage Type:	First	Principal and Interest:	$1,400.25
Down payment:	$11,875.00	Term Type:	Closed	Taxes (Estimated):	$149.58
Amount:	$225,625.00	Interest Rate (compounded semi-annually):	5.390%	Taxes Paid By:	SuperBank
Insurance Premium	$6,201.94	Term (months):	60	Total Installment:	1,549.83
Total Loan:	$231,826.94	Amortization (months):	300		
Other Mortgages:	N/A	Frequency:	Monthly	Commitment Expires	1/22/13
Product:	Supersizer				
Cashback:	N/A				
Closing Date:	3/1/13				

LENDER AUTHORIZATION

All of our normal requirements and, if applicable, those of the mortgage insurer must be met. All costs including legal, survey, mortgage insurance, etc. are for the account of the applicant(s). The mortgage insurance premium (if applicable) will be added to the mortgage. This mortgage is subject to the details and terms outlines as well as the conditions described in the attached Schedule A.

Approved by: John Underwriter, SuperBank Signature: _________________ Date: ________________

CLIENT ACCEPTANCE

I/We the undersigned applicant(s) accept the terms of this mortgage as stated above and agree to fulfill the conditions of approval as outlined in the attached Schedule A to the lender's satisfaction. I/We further certify that the information given on the mortgage application is true and correct.

Applicant: Noreen Borrower Signature: _________________ Date: _________________

Applicant: Christopher Borrower Signature: _________________ Date: _________________

Mortgage Commitment – SCHEDULE A	
ASSUMPTION POLICIES	Page 2 of 4
☒ Assumption Option: The transferee or purchaser may, upon completion of a mortgage application which meets our mortgage approval criteria then in effect, personally assume (with the consent of his or her spouse where required by law) all of your obligations under your mortgage by executing an assumption agreement in the form required by us.	
CONDITIONS	
☒ Mortgage: The mortgage loan to be made to you shall be subject to all extended terms set forth in SuperBank's standard form of mortgage contract, and loans insured by a mortgage insurer will be subject to the requirements of the Certificate of Insurance issued by the mortgage insurer.	
☒ Property Taxes: If stipulated by us, you will pay us monthly, an amount which in our opinion is sufficient to enable us to pay the annual property taxes on your behalf by the due date for the first installment of the tax bill in each year, based on the estimated annual taxes. We shall withhold a tax holdback from our mortgage advance sufficient to accumulate the required credit in your tax account. Any tax bills issued and unpaid at the interest adjustment date shall be paid from the proceeds of the mortgage loan.	
☒ Fire Insurance: We shall require evidence of replacement cost all-risk insurance coverage acceptable to us, taken with an insurer not disapproved by us. Such policy must contain the standard Insurance Bureau of Canada mortgage clause and must indicate our interest as mortgagee.	
☒ Title Insurance: A title insurance policy acceptable to us and obtained by our solicitor at your cost.	
☒ Processing Fee and Costs: Whether or not this loan is funded, you agree to pay the processing fee specified herein, if any, and all legal, appraisal and survey costs incurred by you or us in this transaction.	
☒ CMHC/GEMICO/Canada Guaranty Insurance Fee: Insurance Fee: You agree to pay any mortgage insurance fee, as indicated, and all applicable federal or provincial taxes thereon.	
☒ Interest Adjustment: Interest shall accrue from the date the first advance is made. Interest due to the interest adjustment date will be simple interest calculated daily and will be deducted from the first advance	
☒ Pre-authorized Cheque Plan: You agree to make repayment under the mortgage by a 'pre-authorized cheque plan' or by such other means as may be requested by us.	
☒ Commitment: This commitment is not transferable by you and the benefit may not be assigned by you. It may be assigned by us.	
☒ Representation and Warranty: You warrant to us, and it is a condition of this loan, that all information submitted by you or your broker to us in connection with your loan application is true and accurate, and you agree to supply promptly, on request, any further information concerning yourself, your financial standing or the property to be mortgaged, which may be required by us.	
☒ Title: You represent and warrant to us, and it is a condition of this loan, that you have a good and marketable title to the property to be mortgaged, satisfactory in all aspects.	
☒ Zoning and Work orders: It is a condition of this loan that the mortgaged property and the use thereof comply with all applicable government laws and regulations and that there are no outstanding work orders, notices or directives against the property.	
☐ Construction Loan: In the case of a construction loan, advances will be made at our discretion and we will always retain sufficient funds to complete construction.	
☐ New Homes: If this mortgage loan is for the purchase of a newly constructed home, our solicitor will be required to obtain a certified copy of the New Home Enrolment endorsed by HUDAC (or the equivalent enrolment in any governmental new home warranty program in provinces other than Ontario) before making any mortgage advances.	
Date:______________________________ Initials:__________ Initials: __________	

Mortgage Commitment – SCHEDULE A Continued	
CONDITIONS	Page 3 of 4
☒ No agency: You acknowledge that we may assign this commitment or the mortgage to a third party and may receive a fee in connection with such assignment. We may also receive a fee in connection with the servicing of this loan. We are not acting as your agent or otherwise in any fiduciary capacity in relation to you in connection with the loan described herein.	
☒ Solicitor and Documentation: The solicitor specified by us will act on our behalf in this transaction. You agree to deliver to our solicitor your title documents, insurance policy and survey as soon as possible.	
☒ Entire Agreement: This commitment, when accepted by you, will constitute the entire agreement and understanding between you and us with respect to this loan and will supercede all other agreements or understandings, whether oral or written.	
☒ Survival: You agree that the terms, conditions & covenants contained in this commitment shall survive and will not merge upon registration of the mortgage and the advance of funds thereunder but will remain valid and subsisting obligations.	
☒ Information: You agree that we may conduct credit checks with consumer reporting agencies and make such other investigations and collect such other information concerning you as we may deem advisable, all such information to be used for the purpose of underwriting, assessing the risk associated with, and administering this mortgage loan.	
☒ Privacy: You agree that we may share information concerning you with (a) any proposed assignee of this commitment or the mortgage loan, (b) our duly authorized agents and representatives who are engaged in the processing or servicing of your mortgage, (c) any parties necessary or desirable in connection with any sale or securitization of this mortgage loan and (d) organizations with which the lender has strategic alliances who may use such information to provide you from time to time with information on financial products which may be of interest to you. If you prefer that your personal information not be shared with any party referred to in this document or future documents, you may so advise us in writing at any time and we will not share the information with them.	
PAYMENT FLEXIBILITY OPTIONS	
☒ Circle Payment Option: Weekly Bi-weekly Semi-monthly Monthly	
INSTRUCTIONS	
☒ The terms and conditions of this mortgage commitment will form part of the solicitor's instructions.	
OTHER	
☒ Borrower disclosure required prior to funding	
☒ Title to be taken in the name of Borrower, Noreen and Borrower, Christopher	
☒ Subject to satisfactory confirmation of down payment.	
☒ Subject to satisfactory confirmation of income.	
☒ Subject to CMHC approval	
☒ Subject to signed and dated mortgage application	
☒ Receipt of satisfactory purchase agreement including all addendums and MLS listing.	
☐ Subject to no secondary financing.	
PORTABILITY OPTIONS	
☒ If the mortgagor is not in default and has entered into an agreement to sell or transfer title to the mortgaged property, the mortgagor may exercise the Portability Option.	
Date:______________________________ Initials:__________ Initials: __________	

Mortgage Commitment – SCHEDULE A Continued	
PREPAYMENT POLICIES	Page 4 of 4
☒ Privileges: 15% per year & Double Up ☒ The Mortgagor, when not in default of any terms or conditions contained in the Mortgage, may prepay the whole of the principal sum then outstanding without notice upon payment to the Mortgagee of the greater of i) three months' interest at the interest rate on the principal sum outstanding; or ii) the amount, if any by which interest at the Interest rate exceeds interest at the Mortgagee's current interest rate for reinvestment calculated on the principal sum outstanding. Such amount to be calculated from the date of prepayment to the maturity date of the mortgage.	
RATE ADJUSTMENT POLICIES	
☒ If five days prior to closing our interest rate is lower than the guaranteed interest rate, upon requires, the lower rate will prevail.	
ADMINISTRATION AND SERVICE FEES	
☒ NSFs, Stopped Payment, Returned Items: $150.00 Lender Administration Fee: $750.00	
Date:______________________________ Initials:__________ Initials: __________	

17.4 A Declined Application

If an application is declined by the lender, the mortgage agent should contact the underwriter to gain an understanding of why it was declined. In most cases, an application should not be declined since the mortgage agent has researched the lender and determined that the application suits the lender’s guidelines. If this is not the case, the mortgage agent must determine if he or she misinterpreted the guidelines or if the underwriter found something in the application that he or she did not think met those guidelines.

If the mortgage agent disagrees with the underwriter’s decision to decline the application, he or she may request that the BDM become involved in the process and/or request that the underwriter’s supervisor review the application. The mortgage agent must have a good understanding of the lender’s underwriting guidelines and feel that the application merits approval before undertaking to challenge the decision, however, since disputing a legitimately declined application can harm the mortgage agent’s reputation and relationship with that lender. In cases where the application may meet the lender’s guidelines, but it is not certain, the mortgage agent should contact the BDM or underwriter to discuss the application further.

Whatever the reason for the decline, the mortgage agent must learn from the experience and continue to attempt to obtain the financing for his or her client, if possible. Once the application has been approved and a commitment received, it is time to prepare the borrower disclosure (the disclosure document for the client) and meet with the client to have him or her sign the documents.

17.5 Key Terms and Definitions

Administered mortgage
In a private transaction, the mortgage agent or a third party is handling the collection of payments and/or other duties related to the administration of the mortgage.

Commitment letter
A document illustrating an offer by a lender to a borrower, including the terms and conditions of that offer

Conditions
Terms of a lender's commitment that must be fulfilled before the mortgage will be funded

Cooling off period
A waiting period in which a potential investor cannot provide a commitment letter nor advance funds to a borrower

Face value
The original amount of the mortgage repayable by the borrower

Funding ratio (also referred to as a Pull-Through Ratio)
The ratio of applications submitted to a lender compared to the number of fundings. For example, if a mortgage agent submitted 10 applications to a lender and got 5 funded, he or she would have a funding ratio of 50% (5 divided by 10).

Insulbrick
An inexpensive type of exterior siding designed to provide insulation that is most often found on older homes. Inferior types of insulbrick can pose a fire hazard and are typically grounds for declining a mortgage application.

Investor/Lender Disclosure (Form 1)
A disclosure document required under the *MBLAA* to be provided to a potential private lender

Schedule (in relation to a Commitment Letter)
An addendum to a mortgage commitment that outlines additional terms and conditions of a mortgage approval

UFFI (Urea formaldehyde foam insulation)
Urea formaldehyde foam insulation is a type of insulation that is injected as a mixture of urea formaldehyde resin, an acidic foaming agent, and a propellant such as air. It was commonly used in pre-existing houses by injecting the foam into walls, where it was impractical to provide conventional insulation.

Underwriter
An individual employed by a lender who reviews mortgage applications to determine if they meet the lender's lending guidelines, and who commonly provides a commitment letter when they are deemed to meet those guidelines

17.6 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. List the typical items that must be explained in the notes section of an application and provide an example of each.

2. To how many lenders should a mortgage agent submit an application at the same time?

3. Discuss the impact of funding ratios on a mortgage agent.

4. What is the most common complaint by underwriters when referring to mortgage applications?

5. List ten pieces of information that are commonly found in a commitment letter.

6. What types of documentation might a commitment letter require as proof of:
    a) An employed individual's income?
    b) A self-employed individual's income?

7. What options does a mortgage agent have if his or her client's application is declined by the lender?

Chapter 18: Borrower Disclosure

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Explain the purpose of disclosure to a borrower
- ❑ Understand the circumstances under which disclosure must be made in accordance with the *MBLAA* and its *Regulations*
- ❑ Describe the specific costs that must be included when calculating the cost of borrowing for disclosure purposes
- ❑ Describe the specific information that must be disclosed
- ❑ Describe the timing requirements of disclosure
- ❑ Describe the means in which disclosure may be made

Introduction

The purpose of borrower disclosure is to ensure that there is enough information to make an informed decision regarding the suitability of the transaction. The *MBLAA* and its *Regulations* define what and how disclosure must be made. While trade associations or others may provide form templates for disclosure, ensuring that disclosure is properly made is the responsibility of the brokerage. The *MBLAA* and its *Regulations* clearly define the information that must be disclosed and provide guidelines for borrower disclosure, however neither the *MBLAA*, its *Regulations* nor FSRA provide borrower disclosure forms necessary to make that disclosure. In fact, FSRA's current policy is that it will not approve borrower disclosure documents. Rather, the brokerage must ensure that these documents are compliant based on interpretation of the *MBLAA* and its *Regulations*, and when a brokerage is audited FSRA will check these documents for compliance.

Therefore, while forms used by brokerages to provide disclosure may appear different, the information to be disclosed and how it is disclosed must be the same for each brokerage. Section 6.4 of *Regulation 191/08, Cost of Borrowing and Disclosure to borrowers*, states that, "A disclosure statement, or a consent in relation to a disclosure statement, must be written in plain language that is clear and concise and it must be presented in a manner that is logical and likely to bring to the borrower's attention the information that is required to be disclosed."

In addition, if the brokerage does not require the borrower to pay for any of its services, including disbursements, transaction or other activities in relation to the mortgage, *and* the lender is a prescribed lender as found in section 1.2, *and* the lender provides its own disclosure that contains the information required by this disclosure, the brokerage is not required to provide the borrower with its own disclosure document. This is typically not the case because most lenders do not disclose all of the information that is required by the *MBLAA*.

The purpose of this chapter is to explore the disclosure requirements for borrowers, including *what* information must be disclosed, *how* it must be disclosed and *when* it must be disclosed.

18.1 Amendments to Ontario Regulations – January, 2016

As of January 1, 2016 seven major amendments to *Regulation 187/08, 188/08* and 189/08 took effect. The following is the update that FSRA published summarizing these amendments.[1]

Amendments to *Ontario Regulations 187/08*, *188/08* and *189/08* Took Effect on January 1, 2016

Mortgage fraud is a growing problem that is estimated to cost hundreds of millions of dollars in Canada each year. In a continued effort to combat mortgage fraud and raise awareness of this important issue, the Government of Ontario made amendments to three existing regulations under the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (*MBLAA*):

Ontario Regulation 187/08 – Mortgage Brokers and Agents: Standards of Practice
Ontario Regulation 188/08 – Mortgage Brokerages: Standards of Practice
Ontario Regulation 189/08 – Mortgage Administrators: Standards of Practice

These changes were made in response to the Report to the Minister on the Five-Year Review of the *MBLAA*. The updated regulations came into effect on January 1, 2016. A summary of the changes that have been made to these standards of practice regulations are provided below. As of January 1, 2016, all mortgage brokerages, administrators, brokers and agents must be compliant with these regulations as amended.

Summary of Changes to the Standards of Practice Regulations

Mortgage brokerages, administrators, brokers and agents are prohibited from acting, or doing anything, or failing to do anything, in circumstances where they ought to know that they are being used to facilitate fraud, dishonesty, crime or illegal conduct. (This is required under section 14.2 of *Ontario Regulation 188/08*, section 10.1 of *Ontario Regulation 189/08* and section 3.1 of *Ontario Regulation 187/08*.)

Brokerages are prohibited from acting as a representative of a borrower, lender or investor if the brokerage has "reason to doubt" that the mortgage, its renewal, or the investment in it is lawful. (This is required under section 12 of *Ontario Regulation 188/08*.) Similarly, mortgage administrators are prohibited from administering a mortgage if they have "reason to doubt" that the mortgage, its renewal, or the investment in it is lawful. (This is required under section 10 of *Ontario Regulation 189/08*.)

Brokerages are required to take reasonable steps to verify a borrower's legal authority to mortgage a property. (This is required under section 13 of *Ontario Regulation 188/08*.)
The brokerage's duty to inform the lender if they have to reason to doubt the accuracy of a borrower's application or a borrower's legal authority to mortgage a property will continue after the borrower enters into a mortgage agreement. (This is required under section 14.1 of *Ontario Regulation 188/08*.)

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[1] FSCO, http://www.fsco.gov.on.ca/en/mortgage/Pages/2015-amendments-to-oregs.aspx

The requirement to disclose conflicts of interest was amended to replace "any conflict of interest" with "any conflict of interest or potential conflict of interest." (This is required under sub-sections 27(1) and 40(3)5 of *Ontario Regulation 188/08*.)

The principal amount in the requirement concerning advance payment by a borrower has been amended to $400,000 or less. (This is required under sub-section 37(1) of *Ontario Regulation 188/08.)*

Policies and procedures on fraud prevention have been added to the topics that must be covered in a brokerage's written policies and procedures. (This is required under subsection 40(3)(8) of *Ontario Regulation 188/08*.)

18.2 Borrower Disclosure – What must be disclosed

The *MBLAA* states that the borrower disclosure must include the following information:
1. Fees and payments associated with the mortgage
2. The relationship between the brokerage and lender under the proposed mortgage
3. The role of the brokerage
4. The number of lenders the brokerage represented during the previous year
5. Potential conflicts of interest
6. Risks associated with the proposed mortgage
7. Terms and conditions of the proposed mortgage
8. Estimated costs
9. The cost of borrowing

Pause for clarification – Borrower disclosure is NOT a contract
The borrower disclosure document is not a contract. It is disclosure. By signing the borrower disclosure document the potential borrower is acknowledging receipt of the document, *not* agreeing to its contents. For example, this means that the potential borrower is *not* liable for any brokerage fees disclosed in this document if the potential borrower cancels the application.

1. Fees and payments associated with the mortgage

The *MBLAA* and *Regulations* speak to several topics related to fees and other payments: representation of fees and costs, disclosure of fees in writing to a borrower, disclosure of the cost of borrowing and accepting payments. Each is described below.

Sections 20 – 23 of *Regulation 188/08* specify that a brokerage is not allowed to make any form of representation that any fees or costs payable to the brokerage (in connection with carrying on the business of dealing or trading in mortgages or acting as a mortgage lender) are set or approved by any government authority, unless they are in respect to disbursements to register or deposit instruments under the *Land Titles Act* or the *Registry Act*.

Pause for clarification – Fees are not regulated

The *MBLAA* makes it clear that a brokerage cannot state or insinuate that a brokerage fee is set or approved by the government or any governing body. The *MBLAA* doesn't state what is a minimum or maximum fee, nor does it state what is appropriate to be charged; this is up to the brokerage. However, section 347 of the *Criminal Code* makes it a criminal offense to charge in excess of 60%, which for a mortgage includes the fees and costs payable by the borrower in addition to the interest charged by the lender. This figure is represented in the borrower disclosure as the cost of borrowing.

A brokerage must disclose, in writing, to a borrower if the brokerage, broker or agent may, or will, receive a fee or other remuneration in connection with the mortgage or a mortgage renewal, from whom it may or will be received and the basis for calculating the amount. The borrower must acknowledge in writing that he or she has received this disclosure. The same disclosure applies if the brokerage may, or will, pay any fee or other remuneration to another person or entity in connection with the mortgage or mortgage renewal.

As per Sections 37 – 39 of *Regulation 188/08*, a brokerage cannot accept an advance payment from the borrower on transactions where the principal amount of the mortgage is $400,000 or less. If funds are received and are considered deemed trust funds (funds that are payable to another party) the brokerage must provide a written statement to the person or entity providing the funds.

Example:
You are arranging a mortgage for a client who requires a private second mortgage. The client wants to pay cash for the appraisal. You have ordered the appraisal, but the client has said he won't be home at the time of the appraisal and that his son will be giving the appraiser access to the home. The client doesn't want to leave the cash with his son, preferring to give the cash to you to pay the appraiser.

Under these circumstances this money would be deemed to be trust funds because it is being given to you but is meant for another party. Therefore, you would have to deposit it into your brokerage's trust account and give your client a written statement that explains if interest is being paid and when this money will be paid either to the appraiser or returned to him.

In this scenario the best solution would be for the client to leave a cheque with his son payable to the appraiser or be at the home with cash when the appraiser arrives. As you can see, handling trust funds is a considerable responsibility.

Fees and Payments - sample clauses
Where the brokerage is receiving a fee from the lender and/or other remunerations, such as points or volume bonus to which the broker/agent will be paid a percentage, a clause may be worded as follows:

- *REMIC Mortgages Inc. will receive a fee and/or other remuneration by the lender on completion of this transaction based on a percentage of the loan proceeds to which the broker/agent is entitled a percentage.*

Where the brokerage is paying a referral fee to another party for obtaining the transaction a clause may be worded as follows:

- *REMIC Mortgages will pay a fee to Mortgage Referrals Inc. on completion of this transaction based on a percentage of the loan proceeds.*

2. The relationship between the brokerage and lender under the proposed mortgage

A brokerage is required to disclose to the borrower, in writing, the "nature of the relationship between the brokerage and each lender" under the proposed mortgage, including if the brokerage is the lender. Disclosure must be made in writing and the recipient of the disclosure must acknowledge the disclosure in writing.

Relationship between brokerage and lender – sample clauses

Where the brokerage is the lender a clause may be worded as follows:

- *REMIC Mortgages Inc. is the lender under this proposed mortgage.*

Where the brokerage is the owner of the lender, such as a separate corporation a clause may be worded as follows:

- *The lender under this proposed mortgage is a subsidiary of REMIC Mortgages Inc.*

3. The role of the brokerage

Section 18 of *Regulation 188/08* states that the brokerage must disclose, in writing to a prospective borrower or lender the following information about the nature of its relationship with borrowers and lenders:

1. Information about whether, and when, the brokerage is acting as a representative of the lender but not the borrower in a transaction.
2. Information about whether, and when, the brokerage is acting as a representative of the borrower but not the lender in a transaction.
3. Information about whether, and when, the brokerage is acting as a representative of both the borrower and the lender in a transaction and is not giving preference to the interests of either.

This does not apply when the brokerage is the mortgage lender.

Role of the brokerage – sample clauses

Clauses may be worded as follows:

- *REMIC Mortgages Inc. is acting solely on behalf of the lender in this mortgage transaction.*
- *REMIC Mortgages Inc. is acting solely on behalf of the borrower in this mortgage transaction.*
- *REMIC Mortgages Inc. is acting on behalf of both the lender and the borrower in arranging this mortgage transaction.*

4. The number of lenders the brokerage represented during the previous year

Section 19.1 of *Regulation 188/08* states that the brokerage must disclose, "in writing to a borrower the number of lenders on whose behalf the brokerage acted as a representative during the previous fiscal year and shall indicate whether the brokerage itself was a lender."

In addition, section 19.3 of *Regulation 188/08* states that upon request, "a brokerage shall disclose the following information in writing to a borrower:

1. Whether the brokerage itself was the lender for more than 50 per cent of the total number of mortgages and mortgage renewals completed by the brokerage during the previous fiscal year.
2. The name of the lender, if any, with whom the brokerage arranged mortgages during the previous fiscal year if the mortgages constituted more than 50 per cent of the total number of mortgages and mortgage renewals completed by the brokerage during the previous fiscal year. *O. Reg. 188/08, s. 19 (3)."*

Number of lenders dealt with in the previous year – sample clauses
Clauses may be worded as follows:

- *REMIC Mortgages Inc. acted as a mortgage lender and represented XX lenders in 20__.*
- *REMIC Mortgages Inc. acted as the lender in more than 50% of its transactions in 20__.*
- *REMIC Mortgages Inc. arranged over 50% of its transactions through (name of lender) in 20__.*

5. Potential conflicts of interest

The brokerage must disclose to a borrower, lender or investor in the transaction, any potential conflict of interest that the brokerage may have.

Pause for clarification – Conflict of interest

A potential ***conflict of interest*** is present when a brokerage, broker or agent has a direct or indirect interest in the mortgage being arranged resulting in a situation where the broker/agent must choose between his or her best interests and the interests of his or her borrower, investor or lender, as the case may be.

Conflicts of interest – sample clauses
Where the brokerage/broker/agent is related to the lender a clause may be worded as follows:

- *The brokerage/broker/agent in this transaction is the (state the specific nature of the relationship to the lender such as wife, husband, brother, sister, director, etc.) of the lender.*

Where the brokerage/broker/agent will obtain a benefit at a future date a clause may be worded as follows:

- *The brokerage/broker/agent in this transaction expects to (state the specific nature of the benefit such as "obtain a stake in the mortgage", "receive a financial or non-financial payment," etc.) in relation to this transaction at a future date.*

Where the broker/agent has sold the borrower a higher rate than the lender's lowest rate to obtain some benefit a clause may be worded as follows:

- *The broker/agent in this transaction will receive a higher fee and/or other remuneration for providing you with a rate higher than the lender's lowest rate based on your application.*

6. *Risks associated with the proposed mortgage*

Risk tolerance is a concept that identifies the borrower's acceptable level of risk. There are two fundamental requirements when considering risk: understanding the borrower's general level of acceptable risk and disclosing the specific risks associated with the mortgage being recommended by the broker/agent. This requirement is described in section 25.1 of *Regulation 188/08, Mortgage Brokerages: Standards of Practice*, which states that, "A brokerage shall disclose in writing to a borrower, lender or investor, as the case may be, the material risks of each mortgage or investment in a mortgage that the brokerage presents for the consideration of the borrower, lender or investor."

Furthermore, in its October 24, 2008 webinar, FSRA clearly stated that it if a brokerage is using a standardized disclosure form it may consider providing the disclosure of risks in a cover letter. Regardless of how the disclosure is made it must be directly relevant to the specific mortgage being recommended.

Risks – sample clauses

Variable rate mortgage:

- *The mortgage being recommended is a variable rate mortgage. This type of mortgage has inherent risks which you must be made aware of. These risks include the possibility of the interest rate rising, based on market conditions. To prevent the possibility of negative amortization, an increase in the interest rate may require you to increase the amount of your periodic payment; reduce the total amount of the loan amount then owing by making a lump sum payment sufficient to reduce such total amount to a point below the designated amount; or convert the mortgage to a fixed rate mortgage having equal monthly payments. If you are unable to take any of these actions then the mortgage, at the lender's option, may immediately become due and payable.*

Extended amortization:

- *The mortgage being recommended has an extended amortization (an amortization in excess of 25 years) of XX years. If you do not reduce this amortization period on renewal of the mortgage, you may pay substantially more in interest over the lifetime of this mortgage than you would on a mortgage with a 25 year amortization. If you decide to keep the extended amortization over the life of this mortgage and do not make any additional prepayments, you will pay $_____ more than you would have on a mortgage with a 25 year amortization.*

Shortened amortization:

- *The mortgage being recommended has an amortization period less than that for which you qualify. While this will decrease the amount of interest that you pay the lender over the life of this mortgage, you may be at risk of financial hardship due to the impact of a higher mortgage payment on your cash flow. If your financial situation changes during the term of this mortgage and you are unable to meet your payment obligations you may not be able to decrease your mortgage payment without refinancing this mortgage, which may result in additional costs to you such as prepayment penalties, legal fees and/or other costs associated with refinancing.*

High TDS ratio:

- *The mortgage being recommended allows you to have a higher total debt service ratio than typically allowed in the mortgage industry. By having a total debt service ratio of XX* *you may be at risk of financial hardship due to a reduced amount of cash flow and/or disposable income than you would have had if you had taken a mortgage with lower payments and/or if you had fewer monthly obligations.*

Interest only mortgage:

- *The mortgage being recommended is an interest only mortgage. This means that you will not be reducing the amount of your outstanding principal during the term of this mortgage, resulting in the same amount owing at the end of the term as was borrowed at the beginning of the term. By not reducing the principal outstanding, you may be at risk of having less equity in your property than you would have had if you had taken an amortized mortgage if the value of your property remains the same or decreases.*

Accelerated mortgage payment:

- *The mortgage being recommended has an accelerated mortgage payment, which is a payment that is higher than that of a non-accelerated mortgage payment. This may put you at risk of financial hardship due to a reduced amount of cash flow and/or disposable income than you would have had if you had taken a mortgage with lower payments.*

Cash back option

- *The mortgage being recommended has a cash back option which provides you a lump sum of cash on closing. This option may put you at risk of having to repay some or all of this amount if you repay this mortgage before the end of the term. For example, if you repay this mortgage in the twelfth month you will be required to pay to the lender, in addition to any other penalties that may be charged, a pro-rated amount of $____ which may hinder your ability to repay this mortgage before the term expires.*

Closed mortgage:

- *The mortgage being recommended is closed. This means that you can only repay the mortgage before the term expires if you sell your property. You cannot refinance the mortgage before the term expires. This option may put you at risk of not being able to refinance this mortgage if interest rates decrease, if you wish to refinance your mortgage with another lender during the term, or if you need to repay this mortgage for any other reason other than sale of the property during the term of this mortgage.*

Failure to abide by the terms and conditions of the Standard Charge Terms:

- *Every mortgage has terms and conditions which a borrower must abide by. You understand that this mortgage contains a set of Standard Charge Terms that governs your rights and obligations under this mortgage contract. There is a risk to you if you fail to meet these obligations which may include penalties assessed by the lender or an action to remedy the contravention by the lender's use of the power of sale process.*

7. Terms and conditions of the proposed mortgage

As stated in section 24 of the *MBLAA*, in regards to term mortgages the brokerage must disclose the prepayment privileges, if any rebates are being made for a cost included in the cost of borrowing, if any charges or penalties are chargeable if prepayment is made, if any regular payment is missed, or the mortgage is not paid in full at maturity, and if the borrower has any rights or obligations under the mortgage related to these items.

If the brokerage is also a lender, it may impose charges on the borrower, in addition to the interest charged, for the sole purpose of recovering the costs reasonably incurred for legal expenses and expenses related to processing a dishonoured cheque, if applicable.

If the brokerage is acting as the lender in the transaction and requires the borrower to obtain insurance, it must inform the borrower that he or she may purchase insurance through any lawful provider, unless the brokerage has reasonable grounds to disapprove of the provider.

Terms and Conditions – sample clauses
A clause may be worded as follows:

- *This mortgage contains the following terms and conditions:*
    - *If you repay this mortgage before the term expires you must pay a 3 month interest penalty or the interest rate differential, whichever is higher*
    - *Dishonoured payments will be charged a $XX NSF fee by the lender*
    - *You are permitted to make a lump sum payment, credited directly to the outstanding principal amount of this mortgage at the time of the payment, in the amount of XX% of the original mortgage amount once per calendar year*
    - *You are not allowed to rent or lease your property without the written authorization of the lender.*
    - *You must maintain your property, pay your property taxes and maintain acceptable property insurance at all times. Failure to do so can be considered default by the lender.*
    - *You must abide by all of the terms and conditions as expressed in this mortgage's Standard Charge Terms. Failure to do so can be considered default by the lender.*

8. Estimated costs

Regulation 188/08, Mortgage Brokerages: Standards of Practice describes how information must be disclosed if it is unknown. Section 34 of the *Regulation* states that:
(1) The information to be disclosed under this *Regulation* to a borrower, lender or investor may be an estimate or may be based upon an assumption if, when the disclosure is made, the brokerage cannot know the actual information to be disclosed and if the estimate or assumption is reasonable.
(2) If the information disclosed under this *Regulation* to a borrower, lender or investor is an estimate or is based upon an assumption, the brokerage shall so notify the borrower, lender or investor, as the case may be, in writing.

Estimated costs – sample clauses
Where the cost of legal fees is unknown a clause may be worded as follows:

- "Estimated legal fees of $____ plus disbursements"
- "Estimated legal fees of $____ including disbursements"

9. The cost of borrowing

Disclosure of the cost of borrowing is critical for compliance purposes and is covered in *Regulation 191/08.* The *MBLAA* outlines that the cost of borrowing must include the interest rate and any amount payable by the borrower in connection with the mortgage. The *MBLAA* allows for certain items to be excluded from the cost of borrowing, as detailed in the *Regulation*.

Pause for clarification – The cost of borrowing: dollars and cents
While the cost of borrowing must be disclosed as an annual percentage rate, section 8.1 of *Regulation 191/08* states that it must also be disclosed in dollars and cents over the course of the term for all fixed and variable rate mortgages.

The *MBLAA* imposes requirements on what constitutes the cost of borrowing and how it must be expressed, as well as items of additional disclosure. The *MBLAA* states that a brokerage must disclose the cost of borrowing based on the assumption that all obligations of the borrower are met and that it be expressed as a rate per annum, except if indicated otherwise by regulation. In addition, section 27 prohibits advertising the cost of borrowing unless it contains information as required by *Regulation 191/08*. This *Regulation* clearly describes *what* information must be provided to borrowers and *how* it is to be provided.

The cost of borrowing is calculated using the formula:

$$APR = C / (T \times P) \times 100$$

in which,

- "APR" means the annual percentage rate cost of borrowing,
- "C" is the total of all costs legally required to be disclosed,
- "P" is the average of the principal of the mortgage outstanding at the end of each period for the calculation of interest under the mortgage, before subtracting any payment that is due at that time, and
- "T" is the term of the mortgage in years, expressed to at least two decimal points.

The APR may be rounded off to the nearest eighth of a per cent and if the mortgage is a variable rate mortgage (VRM), the rate as of the date of the calculation must be used. In addition, the cost of borrowing for a line of credit or credit card is the annual rate that applies on the date of the disclosure.

Pause for clarification – Calculating the APR/cost of borrowing
While the formula to calculate the APR appears straightforward, it cannot be calculated using a regular calculator. This is due to the fact that "P" represents the average principal of the mortgage outstanding at the end of each period. In other words, one must calculate the outstanding balance at the end of each payment, add them all and divide by the number of payments to arrive at "P." This calculation is no different than required under the previous *Mortgage Brokers Act*; therefore all mortgage origination software should continue to accurately calculate the APR/cost of borrowing for the broker/agent.

18.3 Cost of Borrowing – Expanded Explanation

The cost of borrowing is a topic that confuses many new mortgage agents because it is not easily explained, so we're going to try to expand on its explanation in more detail than we've seen in the previous section.

The cost of borrowing is a representation of how much the mortgage will cost in total over the term of the mortgage. This total will include, of course, the interest that the lender is charging to borrow the funds, but also all of the other costs that the borrower has had to pay or will have to pay to get the mortgage. Regardless of if the cost has been paid at the time of disclosure, or has yet to be paid, if it has to be paid to obtain the mortgage it must be included in the cost of borrowing.

For example, Mary is borrowing $500,000 at rate of 3% compounded semi-annually, amortized over 25 years with a 5-year term. To her the cost of borrowing this money may simply seem to be 3%. However, she has to pay $1,500 in legal fees, $400 as an appraisal fee, $450 for title insurance and $1,000 as a brokerage fee to get this mortgage. These costs are all part of borrowing this money. In other words, to borrow this money she must pay these other costs in addition to the 3% interest being charged by the lender.

Therefore, the total cost of borrowing must combine these other costs with the lender's interest rate.

The confusion, of course, is that the interest rate is disclosed as a percentage, and the other costs are disclosed in dollars and cents. So, to meet the requirements of the *MBLAA* we have to convert everything to a percentage *and* convert everything to dollars and cents and disclose both of these figures in the borrower disclosure document.

When the total cost of borrowing is expressed as a percentage this means the total of all costs, payable up front or over the term of the mortgage, combined with the rate of interest being charged during the term, expressed as a percentage. In Mary's example, the total cost of borrowing will not be 3%, but 5.6096%

When the total cost of borrowing is expressed in dollars and cents this means the total of all costs, payable over the term of the mortgage, expressed in dollars and cents. In Mary's case, the total cost of borrowing will be the interest charged by the lender in dollars and cents plus the costs of obtaining the mortgage, which results in $72,696.66.

Luckily most origination software programs used by brokerages in today's market will calculate these amounts for you, so you don't have to know the math of how to covert dollar costs to percentages, for example.

When determining if a cost is included or excluded from the cost of borrowing, the general rule is that costs associated with obtaining a mortgage, such as those listed below, must be included in the cost of borrowing, while all other costs, such as costs associated with buying a home, are not included.

Cost of Borrowing – Included and excluded costs

As per the *MBLAA*, items that ***must be*** included in the cost of borrowing/APR calculation include:

- administrative charges including charges for services, transactions or any other activity in relation to the mortgage
- lawyer's fees, including disbursements, for a lawyer hired by the lender and paid by the borrower (the majority of cases)

- insurance charges, excluding those below (i.e. title insurance required by the lender is included)
- appraisal, inspection or survey costs payable by the borrower, when required by the lender

As per the *MBLAA* items ***not*** included in the Cost of Borrowing/APR calculation include:

- optional insurance charges, or if the borrower is the beneficiary (such as property insurance)
- charges for overdrafts
- charges to register documents
- penalties for prepaying the mortgage
- additional services of a lawyer not related to the transaction or for the borrower's own lawyer
- title insurance where the borrower has chosen the provider and is the beneficiary
- appraisals, inspections or surveys ordered directly by, and received by, the borrower
- default insurance premiums for high-ratio mortgages
- charges for tax accounts that are optional or required for a high-ratio mortgage
- any charges to discharge a security interest, or
- default charges

Based on the above, let's have a look at some specific costs and discuss if they are included in or excluded from the cost of borrowing.

Default insurance
CMHC/Genworth/Canada Guaranty mortgage default insurance fees, while required to obtain the mortgage are not included in the cost of borrowing. However, the PST charged on those fees are included.

Title insurance
In the majority of cases the lender will require that the borrower purchase title insurance for their mortgage. In this case, because it is required by the lender and the lender will be the beneficiary, the cost of this insurance must be included. If, however, the borrower obtains a policy on his or her own, chooses the insurer and is the beneficiary, it will not be included.

Penalties
Penalties, such as NSF fees, discharge fees, prepayment penalties, etc. are not included in the cost of borrowing because they have not yet occurred, may never occur, and are not required to be paid to obtain the mortgage. They are only payable at a future point if the reason for them occurs. For example, an NSF fee is only payable if the borrower's cheque is returned non-sufficient funds.

Legal fees
Legal fees plus disbursements associated with the mortgage transaction are included in the cost of borrowing. If they are unknown at the time of the disclosure, a good faith estimate must be used. Legal fees for other purposes, such as the purchase of a property, are not included in the cost of borrowing as they are not being paid as a cost of obtaining the mortgage. This same rule applies to other costs not associated with the mortgage.

The legislation states that legal fees for "additional services of a lawyer not related to the transaction or for the borrower's own lawyer" are excluded from the cost of borrowing.

However, even if the borrower chooses the lawyer to close the mortgage, that lawyer is closing the mortgage on behalf of the lender and the costs are therefore still included in the cost of borrowing. If the borrower's own lawyer is giving the borrower independent legal advice, for example, that cost is not included in the cost of borrowing. But to be clear, legal fees to close the mortgage transactions are included in the cost of borrowing regardless of who chooses the lawyer.

Appraisal
In most cases where an appraisal is being conducted it will be at the request of the lender. The lender wants to determine the value of the property for lending purposes, and it is therefore required to get the mortgage. As such the cost of the appraisal, if paid by the applicant, is included in the cost of borrowing.

Property tax payments
Property tax payments are not included in the cost of borrowing as they are not associated with obtaining the mortgage.

Discharge fees
Discharge fees are not included in the cost of borrowing, as per the *MBLAA*.

Closing adjustments
On closing a purchase there are often adjustments for municipal utility accounts, such as Hydro, water, etc. that may be prepaid by the vendor. These are not associated with obtaining the mortgage and are therefore not included in the cost of borrowing.

Other costs
In general, any cost required to obtain a mortgage is included in the cost of borrowing. If in doubt speak to your brokerage for clarification or include it.

18.4 Borrower Disclosure – Specific Circumstances

The *Regulation* is very explicit about the information that must be provided in the following circumstances:
1. Fixed interest mortgage for a fixed amount
2. Variable interest mortgage for a fixed amount
3. Line of credit
4. Credit card applications
5. Credit cards

Each is detailed below. The following information is taken directly from the *Regulation* and must be included in every disclosure document provided to the borrower in these circumstances.

1. Disclosure - Fixed interest mortgage for a fixed amount
Regulation 191/08, Section 8, subsection 1 states that a mortgage brokerage that enters into or arranges a mortgage for a fixed interest rate for a fixed amount, (for example a partially amortized, blended, constant payment mortgage with a fixed rate, as discussed in chapter 3) to

be repaid on a fixed future date or by instalment payments, must give the borrower an initial disclosure statement that includes the following information:

1. The principal amount of the mortgage
2. The amount of each advance of the principal and when each advance is to be made
3. The total amount of all payments
4. The cost of borrowing over the term of the mortgage, expressed in dollars and cents
5. The term of the mortgage, and the period of amortization if it is different from the term
6. The annual interest rate and the circumstances, if any, under which it is compounded
7. The APR, if it differs from the annual interest rate
8. The date on and after which interest is charged and information concerning any period during which interest does not accrue
9. The amount of each payment and when it is due
10. The fact that each payment made on the mortgage must be applied first to the accumulated cost of borrowing and then to the outstanding principal
11. An amortization schedule for the term of the mortgage showing the principal amount, the due date and amount of each periodic payment, the portion of each periodic payment that is charged as interest or is applied on principal, the outstanding balance of the mortgage after each periodic payment and the principal amount at maturity
12. Information about any optional service in relation to the mortgage that the borrower accepts, the charges for each optional service and the conditions under which the borrower may cancel the service, if that information is not disclosed in a separate statement before the optional service is provided
13. The information required by paragraphs 1 to 4 of section 24 of the *Act*, including a description of any components of a formula used to calculate a rebate, charge or penalty to be imposed on the borrower if the borrower exercises a right to repay the amount borrowed before the maturity of the mortgage
14. If section 16 of this *Regulation* applies with respect to the mortgage, the formula set out in subsection 16 (3)
15. The particulars of the charges or penalties referred to in paragraph 5 of section 24 of the *Act*, including default charges that may be imposed under section 17 of this *Regulation*
16. The property in which the lender takes a security interest under the mortgage
17. Any charge for a brokerage, if the brokerage charges are included in the amount borrowed and are paid directly by the lender to the brokerage
18. The fact that there is a charge to discharge a security interest and the amount of the charge on the day that the statement was provided
19. The nature and amount of any charge other than an interest charge. *O. Reg. 191/08, s. 8 (1).*

(2) If the outstanding balance of the mortgage is increased because the borrower has missed a scheduled instalment payment or because a default charge is levied on the borrower for missing a scheduled instalment payment, such that the amount of each of the subsequently scheduled instalment payments does not cover the interest accrued during the period for which a payment is scheduled, and if the brokerage is a lender under the mortgage, the brokerage must give the borrower a subsequent disclosure statement not more than 30 days after the missed payment or the imposition of the default charge that describes the situation and its consequences.
O. Reg. 191/08, s. 8 (2).

2. Disclosure - Variable interest mortgage for a fixed amount

Regulation 191/08, Section 9, subsection 1 states that a mortgage brokerage that enters into or arranges a mortgage with a variable interest rate for a fixed amount, (for example, the variable rate mortgages discussed in chapter 3) to be repaid on a fixed future date or by instalment payments, must give the borrower an initial disclosure statement that includes the following information:

1. The information described in section 1 above for a fixed interest rate for a fixed amount
2. The annual rate of interest that applies on the date of the disclosure statement
3. The method for determining the annual interest rate that applies after the date of the disclosure statement and when that determination is made
4. The amount of each payment based on the annual interest rate that applies on the date of the disclosure statement and the dates when those payments are due
5. The total amount of all payments and of the cost of borrowing based on the annual interest rate that applies on the date of the disclosure statement
6. If the loan is to be paid by instalment payments and the amount to be paid is not adjusted automatically to reflect changes in the annual interest rate that apply to each instalment payment (for example, a variable rate mortgage with fixed payments),
   i. the annual interest rate above which the amount of a scheduled instalment payment on the initial principal does not cover the interest due on the instalment payment, and
   ii. the fact that negative amortization is possible
7. If the loan does not have regularly-scheduled payments,
   i. the conditions that must occur for the entire outstanding balance, or part of it, to become due, or
   ii. the provisions of the mortgage that set out those conditions. *O. Reg. 191/08, s. 9 (1)*

(2) If the variable interest rate for the loan is determined by adding or subtracting a fixed percentage rate of interest to or from a public index that is a variable rate, and if the brokerage is the lender under the mortgage, the brokerage must give the borrower an additional disclosure statement at least once every 12 months that contains the following information:

1. The annual interest rate at the beginning and end of the period covered by the disclosure statement
2. The outstanding balance at the beginning and end of the period covered by the disclosure statement
3. The amount of each instalment payment due under a payment schedule and the time when each payment is due, based on the annual interest rate that applies at the end of the period covered by the disclosure statement. *O. Reg. 191/08, s. 9 (2)*

(3) If the variable interest rate for the mortgage is determined by a method other than that referred to in subsection (2), and if the brokerage is the lender under the mortgage, the brokerage must give the borrower an additional disclosure statement no more than 30 days after increasing the annual interest rate by more than 1 per cent above the most recently disclosed rate and the disclosure statement must contain the following information:

1. The new annual interest rate and the date on which it takes effect
2. The amount of each instalment payment and the time when each payment is due, for payments that are affected by the new annual interest rate. *O. Reg. 191/08, s. 9 (3)*

3. Disclosure - Line of credit

Regulation 191/08, Section 10, subsection 1 states that a mortgage brokerage that enters into or arranges a mortgage securing a line of credit must give the borrower an initial disclosure statement that includes the following information:

1. The initial credit limit, if it is known at the time the disclosure is made
2. The annual interest rate, or the method for determining it if it is variable

3. The nature and amounts of any non-interest charges
4. The minimum payment during each payment period or the method for determining it
5. Each period for which a statement of account is to be provided
6. The date on and after which interest accrues and information concerning any grace period that applies
7. The particulars of the charges or penalties referred to in paragraph 5 of section 24 of the *Act*, including default charges that may be imposed under section 17 of this *Regulation*
8. The property in which the lender takes a security interest under the mortgage
9. Information about any optional service in relation to the mortgage that the borrower accepts, the charges for each optional service and the conditions under which the borrower may cancel the service, if that information is not disclosed in a separate statement before the optional service is provided
10. A local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information about the account during the lender's regular business hours
11. Any charge for a brokerage, if the brokerage's charges are included in the amount borrowed and are paid directly by the lender to the brokerage. *O. Reg. 191/08, s. 10 (1)*

(2) If the initial credit limit is not known when the initial disclosure statement is made, and if the brokerage is a lender under the mortgage, the brokerage must disclose it,

(a) in the first statement of account provided to the borrower; or

(b) in a separate statement that the borrower receives on or before the date on which the borrower receives that first statement of account. *O. Reg. 191/08, s. 10 (2)*

(3) Subject to subsection (4), if the brokerage is a lender under the mortgage, the brokerage must give the borrower an additional disclosure statement at least once a month that contains the following information:

1. The period covered by the disclosure statement and the opening and closing balances in the period
2. An itemized statement of account that discloses each amount credited or charged, including interest, and the dates when those amounts were posted to the account
3. The sum for payments and the sum for credit advances and interest and other charges
4. The annual interest rate that applied on each day in the period and the total of interest charged at those rates in the period
5. The credit limit and the amount of credit available at the end of the period
6. The minimum payment and its due date
7. The borrower's rights and obligations regarding any billing error that may appear in the statement of account
8. A local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information about the account during the brokerage's regular business hours. *O. Reg. 191/08, s. 10 (3)*

(4) The additional disclosure statements described in subsection (3) are not required for a period during which there are no advances or payments and,

(a) there is no outstanding balance at the end of the period; or

(b) the borrower has notice that the mortgage has been suspended or cancelled due to default and the lender has demanded payment of the outstanding balance. *O. Reg. 191/08, s. 10 (4)*

4. Disclosure - Credit card applications

Regulation 191/08, Section 11, subsection 1 states that a mortgage brokerage that issues a credit card secured by a mortgage or arranges a mortgage securing a credit card and distributes an application form for credit cards must specify the following information in the application form or in a document accompanying it, including the date on which each of the matters mentioned takes effect:

1. The annual interest rate for a credit card with a fixed rate of interest
2. If the credit card does not have a fixed rate of interest, the fact that the variable interest rate is determined by adding or subtracting a fixed percentage rate of interest to or from a public index, the public index and the fixed percentage rate to be added or subtracted from it
3. The day on and after which interest accrues and information concerning any grace period that applies
4. The amount of any charges other than interest charges. O. *Reg. 191/08, s. 11 (1)*

(2) Subsection (1) does not apply if, on the application form or in a document accompanying it, the mortgage brokerage prominently discloses,

(a) a local or toll-free telephone number, or a telephone number with a prominent indication that collect calls are accepted, that the borrower may use to get information required by subsection (1) during the mortgage brokerage's regular business hours, and

(b) the fact that the applicant may obtain the information otherwise required by subsection (1) at that telephone number. *O. Reg. 191/08, s. 11 (2)*

(3) If an individual applies for a credit card by telephone or any electronic means, the mortgage brokerage must give the applicant the information required by paragraphs 1 and 4 of subsection (1) when the application is made. *O. Reg. 191/08, s. 11 (3)*

(4) If a mortgage brokerage solicits applications for credit cards secured by a mortgage in person, by mail, by telephone or by any electronic means, the information required by paragraphs 1 and 4 of subsection (1) must be disclosed at the time of the solicitation. *O. Reg. 191/08, s. 11 (4)*

5. Disclosure - Credit cards

Regulation 191/08, Section 12, subsection 1 states that a mortgage brokerage that enters into or arranges a mortgage secured by a credit card must give the borrower an initial disclosure statement that includes the following information:

1. The information described in paragraphs 1 and 3 to 11 of subsection 10 (1)
2. The manner in which interest is calculated and the information required by paragraph 1 or 2, as the case may be, of subsection 11 (1)
3. If the credit agreement requires the borrower to pay the outstanding balance in full on receiving a statement of account,
   i. mention of that requirement,
   ii. the grace period by the end of which the borrower must have paid that balance, and
   iii. the annual interest rate charged on any outstanding balance not paid when due
4. If a lost or stolen credit card is used in an unauthorized manner, the fact that the maximum liability of the borrower is the lesser of $50 and the maximum set by the credit agreement
5. If a transaction is entered into at an automated teller machine by using the borrower's personal identification number, the fact that the liability incurred by the transaction is the borrower's maximum liability, despite paragraph 4

6. If the mortgage brokerage has received a report from the borrower, whether written or verbal, of a lost or stolen credit card, the fact that the borrower is not liable for any transaction entered into through the use of the card after the mortgage brokerage receives the report. *O. Reg. 191/08, s. 12 (1)*

(2) If the initial credit limit is not known when the initial disclosure statement is made, the mortgage brokerage must disclose it,

(a) in the first statement of account provided to the borrower, or

(b) in a separate statement that the borrower receives on or before the date on which the borrower receives that first statement of account. *O. Reg. 191/08, s. 12 (2)*

(3) Despite section 13, if a credit agreement for a credit card is amended, the mortgage brokerage must give the borrower a written statement at least 30 days before the amendment takes effect, and the statement must set out the changes to the information that was required to be given to the borrower in the initial disclosure statement, excluding information about the following changes:

1. Any change in the credit limit
2. Any extension to the grace period
3. Any decrease in charges other than interest charges and default charges referred to in paragraphs 3 and 7 of subsection 10 (l)
4. Any change concerning information about any optional service in relation to the credit agreement that is referred to in paragraph 9 of subsection 10 (1)
5. Any change in a variable interest rate referred to in paragraph 2 of subsection 11 (1) as a result of a change in the public index referred to in that paragraph. *O. Reg. 191/08, s. 12 (3)*

18.5 Borrower Disclosure – How Disclosure Must be Made

Brokerages must provide written disclosure to borrowers (as per sections 6 of *Regulation 191/08*) that meet the following four key requirements:

1. it may be a separate document ***or*** part of another document
2. in cases where amounts required to be disclosed cannot reasonably be known, disclosure may be based on an assumption or estimate, as long as the assumption or estimate is reasonable and the borrower is told that it is an assumption or estimate
3. it must be written in clear, plain language that brings the required information to the attention of the borrower
4. it may be provided electronically, provided that the borrower consents in writing

Pause for clarification – What disclosure documents MUST be given to the borrower?

The *MBLAA* requires that when the borrower signs the borrower disclosure document the mortgage agent must give the borrower:

1. A signed copy of the borrower disclosure, and
2. An amortization schedule for the full term of the proposed mortgage

18.6 Borrower Disclosure – When Disclosure Must be Made

Disclosure must be provided to the borrower at least two business days before the borrower is required to make any payment or enter into the mortgage agreement; however, the two business days may be waived if the borrower consents in writing and the disclosure is still made before the borrower is required to make any payment or enter into the mortgage agreement.

18.7 Sample Borrower Disclosure

Disclaimer: The following sample borrower disclosure documents are intended for illustration purposes only and are not warranted to be compliant. It is the responsibility of the mortgage agent to use only those forms approved by his or her brokerage.

Case Study – Fixed rate mortgage

The following is a case study that is used to provide an example of the potential disclosure document for use by a brokerage arranging a fixed rate mortgage for a borrower. Adam Coren is a licensed mortgage agent with REMIC Mortgages Inc. Adam has recently arranged a fixed rate mortgage with constant payments for his clients, Noreen and Christopher Borrower to purchase a new home in Toronto.

Adam is not charging a brokerage fee since he is being paid directly by the lender. Given this scenario Adam has completed a borrower disclosure document as provided by REMIC Mortgages Inc. The first document below is the lender's commitment letter. The following document is the borrower disclosure based on this commitment letter.

Figure 97 – Sample mortgage commitment Letter for use in disclosure

Mortgage Commitment

Response: December 15, 2012

Broker Information

Name: REMIC Mortgages Inc.
Address: 2175 Sheppard Avenue East, Suite 213, Toronto, ON, M2J 1W8
Attention: Adam Coren Application Reference Number: 1213456-789

Lender Information

Name: SuperBank
Address: 2750 Yonge Street, Suite 6500, Toronto, ON, M1M 1M1
Lender Reference #: 1213456-789 Mortgage Insurance Reference #: TBD

Applicant Information

Applicant(s): Noreen Borrower, Christopher Borrower

TBD means To Be Determined

Property Information

Address: 1234 Queen Lane, Toronto, ON, M1S 1M1

With reference to the above noted property SuperBank is pleased to provide the following mortgage loan offer, subject to the following terms and conditions:

Loan		**Terms**		**Payment**	
Purchase Value:	$237,500.00	Mortgage Type:	First	Principal and Interest:	$1,399.64
Down payment:	$11,875.00	Term Type:	Closed	Taxes (Estimated)	$149.58
Amount:	$225,625.00	Interest Rate	5.390%	Taxes Paid By:	lender

		(compounded semi-annually):			
Insurance Premium	$6,201.94	Term (months):	60	Total Installment:	1,549.22
Total Loan:	$231,826.94	Amortization (months):	300		
Other Mortgages:	N/A	Frequency:	Monthly	Commitment Expires	12/22/2012
Product:	Supersizer				
Cashback:	N/A				
Closing Date:	03/01/2013				

LENDER AUTHORIZATION

All of our normal requirements and, if applicable, those of the mortgage insurer must be met. All costs including legal, survey, mortgage insurance, etc. are for the account of the applicant(s). The mortgage insurance premium (if applicable) will be added to the mortgage. This mortgage is subject to the details and terms outlines as well as the conditions described in the attached Schedule A.

Approved by: John Underwriter, SuperBank Signature: __________________ Date: _________________

CLIENT ACCEPTANCE

I/We the undersigned applicant(s) accept the terms of this mortgage as stated above and agree to fulfill the conditions of approval as outlined in the attached Schedule A to the lender's satisfaction. I/We further certify that the information given on the mortgage application is true and correct.

Applicant: Noreen Borrower Signature: __________________ Date: __________________

Applicant: Christopher Borrower Signature: __________________ Date: __________________

Mortgage Commitment – SCHEDULE A
ASSUMPTION POLICIES
☒ Assumption Option: The transferee or purchaser may, upon completion of a mortgage application which meets our mortgage approval criteria then in effect, personally assume (with the consent of his or her spouse where required by law) all of your obligations under your mortgage by executing an assumption agreement in the form required by us.
CONDITIONS
☒ Mortgage: The mortgage loan to be made to you shall be subject to all extended terms set forth in SuperBank's standard form of mortgage contract, and loans insured by a mortgage insurer will be subject to the requirements of the Certificate of Insurance issued by the mortgage insurer.
☒ Property Taxes: If stipulated by us, you will pay us monthly, an amount which in our opinion is sufficient to enable us to pay the annual property taxes on your behalf by the due date for the first installment of the tax bill in each year, based on the estimated annual taxes. We shall withhold a tax holdback from our mortgage advance sufficient to accumulate the required credit in your tax account. Any tax bills issued and unpaid at the interest adjustment date shall be paid from the proceeds of the mortgage loan.
☒ Fire Insurance: We shall require evidence of replacement cost all-risk insurance coverage acceptable to us, taken with an insurer not disapproved by us. Such policy must contain the standard Insurance Bureau of Canada mortgage clause and must indicate our interest as mortgagee.
☒ Title Insurance: A title insurance policy acceptable to us and obtained by our solicitor at your cost.
☒ Processing Fee and Costs: Whether or not this loan is funded, you agree to pay the processing fee specified herein, if any, and all legal, appraisal and survey costs incurred by you or us in this transaction.
☒ CMHC/GEMICO/Canada Guaranty Insurance Fee: Insurance Fee: You agree to pay any mortgage insurance fee, as indicated, and all applicable federal or provincial taxes thereon.
☒ Interest Adjustment: Interest shall accrue from the date the first advance is made. Interest due to the interest

adjustment date will be simple interest calculated daily and will be deducted from the first advance
☒ Pre-authorized Cheque Plan: You agree to make repayment under the mortgage by a 'pre-authorized cheque plan' or by such other means as may be requested by us.
☒ Commitment: This commitment is not transferable by you and the benefit may not be assigned by you. It may be assigned by us.
☒ Representation and Warranty: You warrant to us, and it is a condition of this loan, that all information submitted by you or your broker to us in connection with your loan application is true and accurate, and you agree to supply promptly, on request, any further information concerning yourself, your financial standing or the property to be mortgaged, which may be required by us.
☒ Title: You represent and warrant to us, and it is a condition of this loan, that you have a good and marketable title to the property to be mortgaged, satisfactory in all aspects.
☒ Zoning and Work orders: It is a condition of this loan that the mortgaged property and the use thereof comply with all applicable government laws and regulations and that there are no outstanding work orders, notices or directives against the property.
☒ Construction Loan: In the case of a construction loan, advances will be made at our discretion and we will always retain sufficient funds to complete construction.
☐ New Homes: If this mortgage loan is for the purchase of a newly constructed home, our solicitor will be required to obtain a certified copy of the New Home Enrolment endorsed by HUDAC (or the equivalent enrolment in any governmental new home warranty programme in provinces other than Ontario) before making any mortgage advances.
ASSIGNMENT POLICIES
☒ No agency: You acknowledge that we may assign this commitment or the mortgage to a third party and may receive a fee in connection with such assignment. We may also receive a fee in connection with the servicing of this loan. We are not acting as your agent or otherwise in any fiduciary capacity in relation to you in connection with the loan described herein.
☒ Solicitor and Documentation: The solicitor specified by us will act on our behalf in this transaction. You agree to deliver to our solicitor your title documents, insurance policy and survey as soon as possible.
☒ Entire Agreement: This commitment, when accepted by you, will constitute the entire agreement and understanding between you and us with respect to this loan and will supercede all other agreements or understandings, whether oral or written.
☒ Survival: You agree that the terms, conditions & covenants contained in this commitment shall survive and will not merge upon registration of the mortgage and the advance of funds thereunder but will remain valid and subsisting obligations.
☒ Information: You agree that we may conduct credit checks with consumer reporting agencies and make such other investigations and collect such other information concerning you as we may deem advisable, all such information to be used for the purpose of underwriting, assessing the risk associated with, and administering this mortgage loan.
☒ Privacy: You agree that we may share information concerning you with (a) any proposed assignee of this commitment or the mortgage loan, (b) our duly authorized agents and representatives who are engaged in the processing or servicing of your mortgage, (c) any parties necessary or desirable in connection with any sale or securitization of this mortgage loan and (d) organizations with which the lender has strategic alliances who may use such information to provide you from time to time with information on financial products which may be of interest to you. If you prefer that your personal information not be shared with any party referred to in this document or future documents, you may so advise us in writing at any time and we will not share the information with them.
PAYMENT FLEXIBILITY OPTIONS
☒ Circle Payment Option: Weekly Bi-weekly Semi-monthly Monthly
INSTRUCTIONS
☒ The terms and conditions of this mortgage commitment will form part of the solicitor's instructions.

OTHER
☒ Borrower disclosure required prior to funding
☒ Title to be taken in the name of Borrower, Noreen and Borrower, Christopher
☒ Subject to satisfactory confirmation of down payment.
☒ Subject to satisfactory confirmation of income.
☒ Subject to CMHC approval
☒ Subject to signed and dated mortgage application
☒ Receipt of satisfactory purchase agreement including all addendums and MLS listing.
PORTABILITY OPTIONS
☒ If the mortgagor is not in default and has entered into an agreement to sell or transfer title to the mortgaged property, the mortgagor may exercise the Portability Option.
PREPAYMENT POLICIES
☒ Privileges: 15% per year & Double Up ☒ The Mortgagor, when not in default of any terms or conditions contained in the Mortgage, may prepay the whole of the principal sum then outstanding without notice upon payment to the Mortgagee of the greater of i) three months' interest at the interest rate on the principal sum outstanding; or ii) the amount, if any by which interest at the Interest rate exceeds interest at the Mortgagee's current interest rate for reinvestment calculated on the principal sum outstanding. Such amount to be calculated from the date of prepayment to the maturity date of the mortgage.
RATE ADJUSTMENT POLICIES
☒ If five days prior to closing our interest rate is lower than the guaranteed interest rate, upon request, the lower rate will prevail.
ADMINISTRATION AND SERVICE FEES
☒ NSFs, Stopped Payment, Returned Items: $150.00
Date:______________________________ Initials:__________ Initials: __________

Figure 98 – Sample Borrower Disclosure document

Borrower Disclosure Page 1 of 4

REMIC Mortgages Inc.

To: Noreen Borrower, Christopher Borrower
1234 Borrower Lane, Toronto, ON, M1M 1M1

We are pleased to inform you that we have arranged the following mortgage on your behalf:

Details of the mortgage we have arranged on your behalf		
Address of property to be mortgaged: 1234 Queen Lane, Toronto, ON, M1S 1M1		
Purpose: Purchase	Closing Date: 03/01/2013	
Commitment Expires: 12/22/2012		
Loan	**Terms**	**Payment**
Purchase Value: $237,500.00	Mortgage Type: First	Principal and Interest: $1,399.64
Down payment: $11,875.00	Term Type: Open on Penalty	Taxes (Estimated) $149.58
Amount: $225,625.00	Interest Rate: Fixed at 5.390%	Taxes Paid By: Lender
Insurance Premium $6,201.94	Compounding: Semi-Annual	Total Installment: 1,549.22
	Term (months): 60	
Total Loan: $231,826.94	Amortization (months): 300	Due Date: 1st of each month
Other Mortgages: N/A	Frequency: Monthly	
Product: Supersizer	All mortgage payments are applied to interest first, followed by principal	

Other Terms and Conditions

Prepayment Privileges:

✓ When not in default of any terms or conditions contained in the mortgage, you may prepay the whole of the principal sum then outstanding *without notice* upon payment to the mortgagee of the greater of three months' interest at the interest rate on the principal sum outstanding; or the amount, if any by which interest at the Interest rate exceeds interest at the mortgagee's current interest rate for reinvestment calculated on the principal sum outstanding. Such amount to be calculated from the date of prepayment to the maturity date of the mortgage.

✓ 15% per year & Double Up

Rate Guarantee

✓ If five days prior to closing our interest rate is lower than the guaranteed interest rate, upon request, the lower rate will prevail.

Portability Option

✓ If the mortgagor is not in default and has entered into an agreement to sell or transfer title to the mortgaged property, the mortgagor may exercise the Portability Option.

Borrower Disclosure Continued Page 2 of 4

Assumability Option

✓ The transferee or purchaser may, upon completion of a mortgage application which meets our mortgage approval criteria then in effect, personally assume (with the consent of his or her spouse where required by law) all of your obligations under your mortgage by executing an assumption agreement in the form required by us.

Administration and Service Fees

✓ NSFs, Stopped Payment, Returned Items: $150.00

Other Obligations

✓ You must maintain your property, pay your property taxes and maintain acceptable property insurance at all times. Failure to do so can be considered default by the lender.

✓ You must abide by all of the terms and conditions as expressed in this mortgage's Standard Charge Terms. Failure to do so can be considered default by the lender.

✓ You understand that time is of the essence and that you must meet all of the terms and conditions of the attached mortgage approval. Failure to do so may result in cancellation of the mortgage commitment without recourse by you resulting in potential financial loss.

Other information about your mortgage

As with all mortgages borrowing involves a certain degree of risk. The potential risks associated with this mortgage include:

✓ Standard Charge Terms

Every mortgage has terms and conditions which a borrower must abide by. You understand that this mortgage contains a set of Standard Charge Terms that governs your rights and obligations under this mortgage contract. There is a risk to you if you fail to meet these obligations which may include penalties assessed by the lender or an action to remedy the contravention by the lender's use of the power of sale process.

About REMIC Mortgages Inc.

✓ REMIC Mortgages Inc. will receive a fee and/or other remuneration by the lender on completion of this transaction based on a percentage of the loan proceeds to which the broker/agent is entitled a percentage.

✓ REMIC Mortgages Inc. is acting on behalf of both the lender and the borrower in arra this mortgage transaction.

✓ REMIC Mortgages Inc. acted as a mortgage lender and represented 23 lenders in 201

The cost of borrowing is expressed as a percentage…

Cost of Borrowing and APR

The total APR of this transaction is 5.646% and includes the following costs of borrowing:

Cost		Details
Appraisal fee:	$250.00	You have already paid this amo
Legal fees plus disbursements (this is an estimate):	$1,500.00	To be deducted on closing
Total Costs:	**$1,750.00**	

… and in dollars and cents

Over the term of this mortgage if all of your payments are made on time and you do not make any prepayments you will have paid $26,482.83 in principal and $61,089.57 in interest and your outstanding balance at the end of 60 payments will be $215,161.49

Borrower Disclosure Continued Page 3 of 4

Brokerage Acknowledgement

I, Adam Coren, a licensed mortgage agent on behalf of REMIC Mortgages Inc., have completed this disclosure document in accordance with the *Mortgage Brokerages, Lenders and Administrators Act, 2006.*

_________________________________ _________________________________

Signature of Adam Coren, Broker Date

Borrower Acknowledgement

By signing below, we, Noreen Borrower and Christopher Borrower acknowledge that we have read and understand this document, including the terms and conditions of this mortgage and have received an amortization schedule. We understand that this disclosure must be made at least two business days before we are asked to make a payment, enter into the mortgage agreement or incur any other obligation in relation to this proposed mortgage unless we consent in writing to waive these two business days. By signing below, we ☒ waive this waiting period, or ☐ do not waive this waiting period.

By signing below, we further acknowledge that we understand that time is of the essence and we must meet the terms and conditions of the attached mortgage commitment letter and will undertake to do so immediately. We understand that failure to do so may result in this mortgage approval being cancelled without recourse. We further understand that if this mortgage approval is cancelled based on my/our failure to meet the terms and conditions of this transaction that we may suffer financial harm, in which case we agree to hold harmless and indemnify REMIC Mortgages Inc. from all liability.

We further acknowledge that we may obtain independent legal advice, at our own cost regarding this transaction and that REMIC Mortgages Inc. has not advised us against this.

_____________________________________ _____________________________________

Signature of Noreen Borrower Date

_____________________________________ _____________________________________

Signature of Christopher Borrower Date

Borrower Disclosure Continued Page 4 of 4

Amortization Schedule
(this must be included with every Borrower Disclosure document)

Loan Amount:	$500,000	Compounding Frequency:	Semi-Annual
Interest Rate:	5%	Payment Frequency:	Monthly
Term:	1 year	Monthly Payment:	$2,908.03
Amortization:	25 years	Interest Adjustment Date:	February 26, 2013

Payment Number	Payment Date	Payment Amount	Amount to Principal	Cumulative Principal	Amount to Interest	Cumulative Interest	Balance
1	03/01/2013	$2,908.03	$846.07	$846.07	$2,061.95	$2,061.95	$499,153.93
2	04/01/2013	$2,908.03	$849.56	$1,695.63	$2,058.47	$4,120.42	$498,304.37
3	05/01/2013	$2,908.03	$853.06	$2,548.69	$2,054.97	$6,175.39	$497,451.31
4	06/01/2013	$2,908.03	$856.58	$3,405.27	$2,051.45	$8,226.84	$496,594.73
5	07/01/2013	$2,908.03	$860.12	$4,265.39	$2,047.91	$10,274.75	$495,734.61
6	08/01/2013	$2,908.03	$863.66	$5,129.05	$2,044.37	$12,319.12	$494,870.95
7	09/01/2013	$2,908.03	$867.22	$5,996.27	$2,040.81	$14,359.93	$494,003.73
8	10/01/2013	$2,908.03	$870.80	$6,867.07	$2,037.23	$16,397.16	$493,132.93
9	11/01/2013	$2,908.03	$874.39	$7,741.46	$2,033.64	$18,430.80	$492,258.54
10	12/01/2013	$2,908.03	$878.00	$8,619.46	$2,030.03	$20,460.83	$491,380.54
11	01/01/2014	$2,908.03	$881.62	$9,501.08	$2,026.41	$22,487.24	$490,498.91
12	02/01/2014	$2,908.03	$885.25	$10,386.33	$2,022.78	$24,510.02	$489,613.66

18.8 Borrower Disclosure Checklist

The following checklist can be used to assist in developing borrower disclosure form(s).

Figure 99 – Borrower Disclosure Checklist

Does our disclosure form(s) include?
☐ All fees and payments associated with the mortgage, including brokerage fees?
☐ The nature of the relationship between the brokerage and lender?
☐ The role of the brokerage?
☐ The number of lenders the brokerage represented during the previous year?
☐ Any potential conflicts of interest?
☐ The risks associated with the mortgage?
☐ The terms and conditions of the proposed mortgage, including prepayment penalties and NSF fees?
☐ The cost of borrowing expressed as an APR?
☐ The cost of borrowing expressed in dollars and cents?
☐ Good faith estimates for costs unknown at the time of disclosure?
☐ The amount of the mortgage?
☐ The interest rate of the mortgage and how it is compounded?
☐ The amount of each mortgage payment and when it is due?
☐ An amortization schedule?
☐ Information on any optional services, such as a home warranty or other insurance?
☐ Costs associated with discharging the mortgage?
☐ Any other items covered by the *MBLAA* and its *Regulations* and/or any items we want disclosed to our borrowers? List below: ☐ ____ ☐ ____ ☐ ____ ☐

18.9 Summary

Proper disclosure to borrowers, investors and lenders is vital to ensuring that they are aware of all of the risks, potential conflicts of interest, costs, rights and obligations and other important information associated with a proposed mortgage so that they can make an informed decision about the transaction. The brokerage is responsible for providing this disclosure in all transactions and will be held accountable even in cases where a broker or agent was at fault for improper or non-compliant disclosure.

To make certain that compliant disclosure is made in every transaction requires the brokerage to have the policies and procedures in place to adequately supervise all of its brokers/agents and oversee all transactions in which anyone acting on its behalf is involved in.

Full disclosure to borrowers, lenders and investors will assist in limiting misunderstandings that can potentially lead to complaints being lodged against the brokerage with FSRA. It can also ensure that the borrowers fully understand the risks associated with the proposed mortgage and that it is suitable for them based on their needs and circumstances.

Full disclosure to investors/lenders will assist in preventing them from investing in mortgages that have a higher level of risk than they are prepared to accept and ensure that they fully understand the risks and rewards associated with the proposed investment, allowing them to make an informed decision.

Full disclosure is not only necessary for the purposes of compliance, but necessary to ensure that a brokerage's borrowers, lenders and investors are satisfied customers, thereby providing an ongoing source of borrowers and investment funds that can assist the brokerage in its success and in maintaining its good reputation. As Warren Buffet once said, "It takes 20 years to build a reputation and five minutes to ruin it. If you think about that, you'll do things differently."

18.10 Key Terms and Definitions

Conflict of interest
A brokerage, broker or agent with a direct or indirect interest in the mortgage being arranged resulting in a situation where the broker/agent must choose between his or her best interests and the interests of his or her borrower, investor or lender, as the case may be

Cost of borrowing
The *MBLAA* defines the cost of borrowing as "the interest or discount applicable to the mortgage; any amount charged in connection with the mortgage that is payable by the borrower to the brokerage or lender; any amount charged in connection with the mortgage that is payable by the borrower to a person other than the brokerage or lender, where the amount is chargeable, directly or indirectly, by the person to the brokerage or lender, and; any charge prescribed as included in the cost of borrowing, but does not include any charge prescribed as excluded from the cost of borrowing. It must be disclosed as either a percentage or in dollars and cents depending on the disclosure requirements of the *Regulations*."

Disclosure
The act of making something evident. There are several disclosure requirements mandated by the *MBLAA* and its *Regulations* with relation to a mortgage being recommended to a borrower, investor or lender by a brokerage.

Disclosure form
A form, prescribed or otherwise, used to provide disclosure to a borrower, lender or investor, as the case may be, in accordance with the *MBLAA* and its *Regulations*

Fees and payments
This phrase is used to describe all payments involved in arranging a mortgage transaction, excluding repayment of the mortgage

Relationship between brokerage and lender
This phrase is used to describe the nature of the relationship between the brokerage and lender, specifically if there is any relationship other than an arm's length relationship between the two. This information must be disclosed to every potential borrower.

Risk
A concept that identifies the borrower's or investor's acceptable level of risk. There are two fundamental requirements when considering risk: understanding the borrower's or investor's general level of acceptable risk and disclosing the specific risks associated with the mortgage being recommended by the broker/agent

Role of the brokerage
This phrase is used to describe the nature of a brokerage's relationship with borrowers and lenders, specifically on whose behalf the brokerage is acting, and must be disclosed in every mortgage transaction

18.11 Sample Borrower Disclosure - FIOLOGIX

Transaction #

Mortgage Brokerages, Lenders and Administrators Act

This document must be provided to the borrower 2 business days prior to the signing of any mortgage instruments, unless waived below.

Disclosure to Borrower

Cost of Borrowing Disclosure:

Property to be mortgaged (address and description):

Details of Mortgage:

The principal amount of the _______ mortgage $ ___________, will be repayable in __________ installments of $ ___________, including interest / interest only, starting on___________________________. The net advance of funds is $_______________. The total amount of all payments over the___________ term will be $_______________. The mortgage will be amortized over ______________ years / months.

Interest:

The date on which interest begins to accrue is: ___________________ and if any grace period is given, the details are:

The annual interest rate is _________% and the compounding period is _____________.
Interest for each payment period is calculated against the balance owing. Each payment is applied first to the accumulated cost of borrowing, and then to the outstanding principal. Any interest unpaid becomes part of the balance owing for the purposes of calculating the interest charged in future payment periods.
Where the annual interest rate may change, the method of determining the annual interest rate is:

Fees and Costs Payable by Borrower:

	Comments	Value	Included In APR
Total Costs:			

Total Cost of Borrowing:

Total Cost of Borrowing (including interest) to be paid over the term of the mortgage:$_________________ APR: __________%

The APR is not the contract rate of the mortgage. It is the interest costs, plus the non-interest costs required to obtain the mortgage, expressed as a percentage of the average mortgage balance over the term of the mortgage.

Terms and Conditions:

Conflict of Interest Disclosure:

1 of 2

Transaction #

Mortgage Brokerages, Lenders and Administrators Act

This document must be provided to the borrower 2 business days prior to the signing of any mortgage instruments, unless waived below.

Disclosure to Borrower

Referral Fees to Brokerage and/or Broker/Agent:
Describe any direct or indirect interest that the Brokerage has or, as currently contemplated, may acquire in the transaction for which this disclosure statement is provided.

___*Referral Fees to Brokerage and/or Broker/Agent:*

___*Mortgage - Commissions*

___*Other Compensation*
The Lender involved in this transaction may provide the brokerage fees or incentives dependent on the interest rate and the term(s) accepted by the borrower. The brokerage may retain the fees and incentives or may use them for the benefit of another of the brokerage's clients.

Information on Brokerage:
The Brokerage is representing ____________________ in this transaction.

The brokerage has placed over 50% of its business with ____________________ during the previous fiscal year.

The Brokerage has acted for _____ lenders during the previous fiscal year.

Name and Address of Brokerage: ____________________

Licence #: ____________________

Name of Authorized Person signing on behalf of Brokerage: ____________________ Licence #: ____________________

Date: ____________________ Authorized Signature: ____________________

Disclosure of Material Risks:
The brokerage has reviewed with the borrower the general risks associated with a mortgage commitment.
These risks include:

Acknowledgment

I / we acknowledge receipt of a copy of this form, and corresponding Amortization Schedule and that I / we have reviewed the information.

Date: ____________________ Borrower: ____________________

Date: ____________________ Borrower: ____________________

I / we waive the 2 business days requirement for this disclosure.

Date: ____________________ Borrower: ____________________

Date: ____________________ Borrower: ____________________

18.12 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

True or False Questions

1. One of the things that must be disclosed to the borrower is the role of the brokerage.

2. The nature of the relationship between the brokerage and the borrower must be included in the disclosure document to the borrower.

3. A brokerage fee must be disclosed to the borrower and included in the cost of borrowing.

4. To comply with the *MBLAA* and its *Regulations* a borrower disclosure document should state "refer to the lender's commitment' to disclose the lender's terms and conditions.

5. If a prospective mortgage was default insured by CMHC, the insurance fee would have to be included in the cost of borrowing.

6. Lawyer's fees, excluding disbursements, must be included in the cost of borrowing.

Short Answer Questions

1. List the types of information (e.g., risks) that must be included in a borrower disclosure form.

2. Explain the timing requirements of providing disclosure to a borrower.

3. List the specific costs that must be included when calculating the cost of borrowing.

4. How must the cost of borrowing be expressed in a borrower disclosure form?

5. When or under what circumstances would a broker not have to supply his or her borrower with a borrower disclosure form?

Chapter 19: Closing the Transaction

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ List common closing costs
- ❑ Estimate common closing costs
- ❑ Explain how documents related to the transaction are electronically registered
- ❑ Summarize the lawyer's tasks in a purchase transaction with a mortgage, a sale transaction and a standalone mortgage transaction
- ❑ Explain the steps involved in closing a mortgage transaction
- ❑ Explain the interest adjustment date (IAD)
- ❑ Calculate an interest adjustment payment

Introduction

Properly preparing the borrower for the closing process is a step that can be overlooked by the new mortgage agent, resulting in confusion on the part of the borrower and/or the borrower's failure to have adequate funds to pay the closing costs.

In this chapter, the closing process will be discussed, common closing costs will be described and the lawyer's role in the closing process will be explained. By understanding this process, the mortgage agent can advise his or her client on what to expect, thereby reducing or removing the confusion and stress experienced by the borrower.

19.1 Estimating Closing Costs

Before a transaction can close, it is vital that the borrower understand and be prepared for the closing costs associated with the transaction. Failure to prepare for these costs has caused many transactions to be cancelled at the lawyer's office because the borrower did not have the funds to close. The exact amount required by the borrower on closing differs based on the type of transaction, but a mortgage agent should ensure that the borrower has between 1.5% and 3% of the purchase price set aside for closing costs. To estimate the costs involved in closing, the mortgage agent should advise the borrower of common closing costs.

Common Closing Costs

Mortgage Default Insurance

Depending on the amount of the mortgage and the down payment, this number will vary. While the default insurance premium is typically included in the mortgage, the PST charged on this premium is not. When calculating the premium, note the amount of PST that will be payable on closing.

Land Transfer Tax (LTT) – all of Ontario
If the transaction is a purchase, the buyer must have funds for the land transfer tax. This tax is calculated based on the following formula (the percentages are calculated on the amount of the purchase price that falls within each category):

Purchase Price of the Property	Land Transfer Tax
On the first $55,000	0.5%
On the excess between $55,000 - $250,000	1% of the excess amount
On the excess between $250,000 - $400,000	1.5% of the excess amount
On the excess over $400,000	2% of the excess amount

Example
If the purchase price were $300,000, the Land Transfer Tax would be calculated as follows:

The first $55,000

$250,000 - $55,000 = $195,000

Value of $300,000 - $250,000 = $50,000

($55,000 x .005) + ($195,000 x .01) + ($50,000 x .015)

= $275 + $1,950 + $750

= $2,975

City of Toronto Municipal Land Transfer Tax (MLTT) – payable in addition to the LTT
In addition to the provincial LTT, the City of Toronto introduced the following tax that must be added to the LTT as of February, 2008. First time purchasers can receive a rebate on this tax up to $3,725.00. In the above noted example this is not a first-time purchase so the MLTT would add an additional $2,725 to the LTT for a total payable of $5,700.

Purchase Price of the Property	Land Transfer Tax
On the first $55,000	0.5%
On the excess between $55,000 - $400,000	1% of the excess amount
On the excess over $400,000	2% of the excess amount

Home Inspection - Purchase
While prices vary, this cost can be estimated at between $250 and $300

Appraisal Fee
While some lenders will waive the appraisal fee or reimburse the fee on closing, it is important to advise the borrower of the typical charge which ranges from $250 to $400. Though the borrower may have to pay this fee before the transaction closes, it should be considered by the borrower since it may reduce the amount that he or she has for closing costs.

Legal Fees
Legal fees associated with closing will vary depending on whether the transaction is a purchase or a refinance or equity take-out. In April, 2007 the Working Group on Lawyers and Real Estate, comprised of the Ontario Bar Association, the County and District Law Presidents Association and the Ontario Real Estate Lawyers Association published a "Suggested Fee Schedule for Residential Real Estate Transactions" that suggests fees for transactions of average complexity. The following is an interpretation of those suggestions and may or may not accurately reflect the Working Group's current or future opinions.

The suggested fees are based on the following formulas:

Purchase of a Residential Property with One Mortgage

Purchase Price of the Property	Fees
On the first $100,000	$850
On the excess between $100,000 - $300,000	0.5% of the excess amount
On the excess over $300,000	0.25% of the excess amount

These fees are based on completing the following tasks:
- Purchaser's Solicitor for reviewing executed agreement of purchase and sale (but not including negotiating or drafting agreement) and advising
- Investigating title and checking the description
- Making requisitions on title and on other matters recited in the agreement
- Searching the arrears of realty and all other taxes and rates constituting statutory liens
- Advising on the applicability of GST legislation
- Searching for executions
- Searching for work orders
- Discussing with the purchaser all matters relating to title, zoning and statement of adjustments
- Reviewing and executing mortgage instructions
- Advising the client concerning insurance requirements
- Advising the client with respect to Rule 2.02(10)-(13) of the Law Society of Upper Canada and options for assuring title, including Solicitor's Opinion Letter and title insurance where appropriate for rural properties

- Advising client with respect to road access, shore allowance, septic issues, water potability and well issues
- Where appropriate advising the purchaser regarding Tarion warranties and claim periods
- Attending on execution of documents
- Attending to the closing
- Giving opinion on title or securing Title Insurance policy
- Reporting within 30 days of closing and all other required services.

Purchase/Sale of a Residential Property with no mortgage

Sale Price of the Property	Fees (based on 66% of a Purchase transaction)
On the first $100,000	$560
On the excess between $100,000 - $300,000	0.33% of the excess amount
On the excess over $300,000	0.165% of the excess amount

These fees are based on the completion of the following tasks:
- Vendor's Solicitor for reviewing executed agreement of purchase and sale (but not including negotiating or drafting agreement) and advising
- Preparing transfer, answering requisitions on title
- Preparing Statement of Adjustments and advising
- Advising on the applicability of GST legislation
- Advising on the applicability of any non-resident taxes
- Reviewing charge taken back (if any)
- Attending on execution of documentation
- Attending to the closing and completing the sale
- Reporting to client and all other required services.

In the case of a condominium unit, if required, supplying or arranging for copies of condominium status certificate and related documents, including the declaration, by-laws, management contract, insurance trust agreement, and up-to-date insurance certificate.

Registration of a Mortgage Only
The amount to register a mortgage is recommended to be $650.00, subject to adjustment for the time spent, the complexity of the transaction, the amount involved, the result obtained, and the requirements of the lender and any title insurer involved. There are also several tasks that a lawyer may be requested to perform in addition to the average transactions as listed above. Additional tasks will likely result in additional fees.

Title Insurance
Title Insurance typically costs between $200 and $300 but can go significantly higher from there depending on the type of policy, the property type and the value of the property. This is a *one-time* premium. Try the title insurance calculator at https://quote.fct.ca/ to estimate the cost.

Property Insurance
Depending on the type of coverage, this amount ranges. An average of $50 per month is appropriate under most circumstances.

Interest Adjustment Amount
The interest adjustment amount is an amount payable to a lender for the period of time that mortgage proceeds are held by the borrower before the period covered by the first mortgage payment. This amount will vary based on the mortgage's interest rate and the number of days between the mortgage advance and the interest adjustment date.

New Home Warranty
Tarion, the new name for the Ontario New Home Warranty Program, regulates the home building industry in Ontario. Tarion steps in to protect consumers when builders fail to complete purchase agreements and construction contracts or fail to fulfill their mandatory warranty obligations in the *Ontario New Home Warranties Plan Act*. Tarion pays claims to consumers. The builder and/or vendor pays the warranty enrolment fee to Tarion before construction and will either include it in the purchase price of the home or show it as a separate item on the Statement of Adjustments. The fee ranges from $325 to $750 based on the sale price. (More information can be found by visiting www.tarion.com)

New Hydro Account
If the purchaser has not had hydro in his or her name before a deposit of $200 will likely be required.

Status Certificate Fee – Condominiums only (previously referred to as an Estoppel certificate)
The common fee is $100.

Closing Adjustment
An estimate should be made for closing adjustments for bills that the seller has prepaid such as property taxes, utility bills, and other charges. The borrower's lawyer will inform him or her of the exact amounts once the appropriate searches have been completed.

HST (formerly the GST)
On a *new* home, HST is charged; however, the builder may include it in the purchase price. If it is not included, it must be paid on closing. In addition, there is an HST rebate applicable to new homes, substantially renovated homes, and modular and mobile homes for which an application must be completed. More information on the HST rebate can be found at Canada Revenue Agency at www.cra.gc.ca.

PST on Default Insurance
In Ontario there is still 8% PST (not HST) payable on the premium. For example, a CMHC fee of $10,000 would result in a tax of $800.[1]

The following is an example of the potential closing costs associated with a sample transaction.

---

[1] CMHC, How much does CMHC loan insurance cost? http://www.cmhc-schl.gc.ca/en/co/moloin/moloin_005.cfm

Example
Bob and Mary are purchasing a resale, single family detached home for $420,000 in Barrie, Ontario and are putting $37,800 (9%) down. The CMHC premium at 91% LTV is 4.% of the $382,200 mortgage, or $16,800. They are moving in 10 days before the end of the month. This means that there will be 10 days of interest, which is the interest adjustment, required on closing. The closing costs for this transaction may be approximately:

Item	**Cost (all rounded)**
Appraisal Fee – not required on this CMHC insured mortgage	$0
Closing Adjustments (as per the lawyer)	$350
HST – not applicable as this is not a new home	$0
Status Certificate Fee – not a condominium	$0
Home Inspection	$300
Interest Adjustment (based on 10 days at J2=6%)	$641
Land Transfer Tax – LTT only as not in the GTA	$4,875
Legal Fees	$2,150
New Home Warranty – this is a resale home	$0
New Hydro Account	$200
Property Insurance – first month's premium payment	$50
PST on CMHC Premium @ 8%	$1,344
Title Insurance	$250
Total	**$10,160 or 2.42% of the purchase price**

Success Tip – Closing Cost Worksheet

Provide your client with a ***Closing Cost Worksheet*** (Appendix 3) and prepare him or her at the initial consultation for the costs involved. It is best to know up front if your client is going to have troubles getting cash to pay the closing costs. This can assist you in determining the mortgage product that best suits your client's needs as well as helping the client make an informed decision on the house that he or she is about to purchase. The odds of losing a client at closing due to a lack of funds will be greatly reduced, which will help you close more business!

19.2 Electronic Land Registration

Electronic Land Registration (e-reg) is a system that has revolutionized the way documents are produced and registered in Ontario. The 200-year-old paper-based system was replaced by e-reg, a completely electronic, paperless system where documents are created, registered and warehoused in an electronic format. The system contains records for over 5.7 million parcels of land in Ontario.

Produced and modified online, these documents do not have to be printed on paper to be legal. Registration is completed electronically, eliminating the need for registering documents at a Land Registry Office.

The province of Ontario, through the Province of Ontario Land Registration Information System (POLARIS), in partnership with Teranet Land Information Services Inc., a private sector corporation created in 1991, has developed e-reg. 1994 saw the provincial legislature pass legislation creating the statutory framework for e-reg, and Teranet has developed the software, called Teraview, used to access and use the e-reg system. The first electronic land registration occurred on January 25, 1999 in London in the county of Middlesex.

Transfers, charges, discharges, and other conveyancing documents are prepared by the lawyer or a person authorized on his or her behalf, using a computer. These documents are completed and electronically signed by the lawyers involved in the transaction, not by the client. However, client authorization is required to allow this process to occur. This authorization is generated by the client signing an Acknowledgement and Direction document that the lawyer must keep on file.

In a purchase transaction, a Document Registration Agreement (DRA) is completed by both the vendor's lawyer and the purchaser's lawyer. This document allows the lawyers to handle the client's documents and funds and by signing this document, both lawyers agree to undertake their professional obligations as to the handling of these documents and funds.

Before the documents are registered, the lawyers involved in the transaction must show their approval of these documents by signing for completeness. In so doing, all lawyers agree that the documents meet their clients' requirements, are accurate and ready to be registered.

Through Teraview, the lawyer can complete the following pre-closing and closing procedures:
- Automated title searching
- Writ searching
- Subsearching
- Creation of drafts and documents ready to be registered
- Calculation and payment of land transfer taxes
- Electronic registration of documents, as well as other procedures.

As of 2012 there are approximately 2 million annual transactions done electronically, representing over 99% of registrations in Ontario. The result has been and continues to be a streamlined process that saves time and simplifies the process of land registration in Ontario.

19.3 The Closing Process

The following is a brief description of the process involved in closing a mortgage transaction and includes the steps involved in the purchase of a property with a mortgage. This process begins where an agent's involvement typically ends, although it is in the agent's best interests to be aware of how the process is progressing to ensure that the mortgage does in fact close. Once the agent has met all of the lender's conditions, the process is in the hands of the lender, the lawyer and the borrower.

1. The purchaser's lender is satisfied that all conditions have been met
2. Client or lender decides on which lawyer to use

This step may have been done earlier in the process. It is always best to have the lawyer chosen early in the process so that as soon as the lender is satisfied that all conditions have been met it can proceed to the next step.

Certain lenders will have a specific lawyer they wish to use to close the transaction, while others will allow the client to use his or her own lawyer. If the client uses his or her own lawyer it is important to note that this lawyer is working for the lender, and while the lawyer has a responsibility to provide disclosure to the client, his or her main responsibility is to the lender.

3. The lender sends the closing lawyer an "Instructions to Solicitor" package
   This package commonly contains:
   - A copy of the lender's mortgage approval
   - The lender's disclosure statement
   - Solicitor's Final Report and Certificate of Title document for the lawyer to fill in
   - Solicitor's Interim Report and Requisition for Funds document for the lawyer to fill in
   - Pre-authorized Debit Form
   - Acknowledgement and Direction
   - Instructions on the requirements for title-insured mortgages and non-title-insured mortgages
   - Requirements regarding property insurance, surveys, condominium units, proof of identity, etc.

   In addition, if the lender is prohibiting secondary financing such as a vendor take-back or a 2nd mortgage, the lawyer is required to inform the lender if he or she becomes aware of any secondary financing. This may cause the transaction to be cancelled.

4. Lawyer meets with the client
   The lawyer performs due diligence such as obtaining proof of identity in the form of photo ID, and has the client sign the Acknowledgement and Direction (see the Appendix for a sample Acknowledgment and Direction). This document allows the lawyer to act on the client's behalf, register documents electronically and includes authorization to use the Document Registration Agreement (DRA) (see the Appendix for a sample DRA). The DRA allows Solicitors to exchange documents, cheques, and keys before closing.

5. The purchaser's lawyer prepares and sends documents
   The purchaser's lawyer prepares a draft e-reg deed, performs the required searches/subsearches in POLARIS, and sends a Requisition letter to the vendor's lawyer.

Pause for clarification - Subsearch

A ***subsearch*** is an update of a previously completed full search, commonly performed on behalf of a purchaser by his or her lawyer immediately prior to registration of a transfer, and on behalf of mortgagees immediately prior to the registration of a mortgage.
A subsearch typically consists of performing searches on the title of the main property and adjoining properties for easements, restrictive covenants, etc., as well as execution searches, chattel searches and other land-related searches.

6. The vendor's lawyer receives documents
   The vendor's lawyer receives the Requisition letter, reviews the e-reg deed, and confirms use of the DRA by responding to the purchaser's lawyer.

7. The purchaser's lawyer receives documents
   The purchaser's lawyer receives a response to the Requisition letter, updates the e-reg deed if necessary, and finalizes the registration documents.

8. The vendor's lawyer sends the purchaser's lawyer the closing documents

9. The purchaser's lawyer requests funds from the purchaser's lender

10. The lender sends funds to or deposits funds into the purchasing lawyer's trust account

11. The purchaser's lawyer sends documents and closing funds to the vendor's lawyer

12. The vendor's lawyer receives all documents and monies

13. The purchaser's lawyer registers the discharge/cessation of mortgage, transfer/deed, charge/mortgage and advises the vendor's lawyer of registration

14. The vendor's lawyer releases funds and documents and sends money to the original lender to discharge the current mortgage (if applicable)

15. The purchaser obtains keys, garage door opener, security codes, etc.

16. The purchaser's lawyer advises the Tax and Assessment departments and condominium corporation (if applicable) of the change of ownership

17. The purchaser's lawyer reports to the title insurer and remits the premium (if applicable)

18. The purchaser's lawyer sends closing reports to the vendor's lawyer, the lender and the new homeowner

19. The lender remits insurance premium to the mortgage default insurer (if applicable)

20. The lender sends the mortgage brokerage its finder's fee (if applicable)

21. The mortgage brokerage pays the mortgage agent the contracted percentage of the finder's fee

19.4 The Interest Adjustment Date (IAD)

Mortgage payments are made in arrears, meaning that a monthly payment made on October 1st, for example, actually covers the payment due for the month of September. If a mortgage is funded exactly one month before the first payment, the first payment will cover the principal and interest due for that month exactly. However, if the mortgage is advanced on August 15th, for example, and the repayments are monthly on the first of every month, the first regularly scheduled monthly payment must begin on October 1st. Therefore, the first monthly payment will only pay the principal and interest due from September 1st until October 1st. This leaves interest due from the date of advance to the period exactly one month before the first payment.

In this example, the borrower would have the mortgage proceeds from August 15th until September 1st without paying interest on those funds. The due date for the payment of this interest is referred to as the Interest Adjustment Date. The borrower is advised by the lender of this amount, normally by letter or by the lawyer closing the transaction, and a cheque is due on that date. Some lenders will deduct the amount of this interest on the date of closing, saving the borrower the aggravation of having to make an additional payment. However, if all of the mortgage proceeds are required on closing, the borrower can pay the interest adjustment on the interest adjustment date.

With flexible mortgage repayment dates, a payment may be set up to be made exactly one month after closing. However, a borrower may prefer the payment to be set at the beginning, middle, or end of the month based on his or her specific budget. If the mortgage is advanced at any time greater than a month before the first payment, an interest adjustment payment is required. The same is true for any other payment frequency. For example, if the payment is weekly and the mortgage is advanced ten days before the first payment, there is an interest adjustment amount payable.

When an interest adjustment payment is calculated, the term and amortization of the mortgage are not involved. The following calculation demonstrates calculating an interest adjustment payment using the HP10BII financial calculator. Please note that the following calculation is an advanced calculation and will not be included in the course's final exam.

Example 1
Mr. Borrower is receiving a mortgage for $250,000 on August 15th. The mortgage bears interest at a rate of 6% per year, compounded semi-annually, not in advance. The mortgage has monthly payments that begin on October 1st. What is the amount of the interest adjustment payment due on September 1st?

Solution
Although this mortgage has a 5-year term amortized over 25 years, these facts are not used in calculating the interest adjustment payment.

N
The first step is to determine the number of days between the mortgage advance date and the interest adjustment date. The **day** of the advance is always included in this calculation. Therefore, the interest adjustment date is August 31 (since there are thirty-one days in August) and the mortgage was advanced on August 15th, the calculation is:

31 (Interest adjustment date) – 15 (**date** of advance) = 16 + 1 (the **day** of the advance) = 17

You can also look at this as the number of days before the first payment. That is 16 as the first payment is on the 17th. One is added to sixteen in this example to include the actual date of the advance, September 17th. This number will be used as N.

P/YR
This calculation will be used to accrue interest on the mortgage proceeds from August 15th for a period of seventeen days. Since the frequency of the compounding is daily and the contracted interest rate is semi-annually, the interest must be converted to its daily equivalent. Therefore, the interest rate must be converted to its J365 equivalent.

PV
The mortgage amount advanced on August 15th will be inputted as the present value (PV) and will accrue interest for seventeen days.

PMT
Since there are no payments made during the seventeen days in which interest is accruing, the payment must be entered as zero.

FV
The unknown in this transaction is the future value (FV). Once this amount is calculated, the mortgage advance is deducted from it and the remaining amount is the interest adjustment payment.

Therefore, the calculation is as follows:

6 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 6.09

365 SHIFT P/YR

SHIFT NOM% 5.91223922637

250,000 +/- PV

17 N

0 PMT

FV 250,689.304206

Therefore, there will be $250,689.30 outstanding as of September 1st. To determine the amount of interest payable, the original mortgage advance must be subtracted from the current balance and the difference paid to the lender as the interest adjustment amount.

$250,689.30 - $250,000 = $689.30

Therefore, on September 1st the borrower must pay $689.30 to the lender.

Example 2
The lender is advancing a mortgage for $250,000 on August 15th, at a rate of J2=6% with weekly payments and a 20-year amortization. If the first weekly payment begins on August 27th, what is the interest adjustment date and how much interest is payable on that date?

Solution

The interest adjustment date is August 20th, since the first payment is on August 27th and will cover the period of August 21st up to August 27th.

20 (Interest adjustment date) – 15 (**date** of advance) + 1 (**day** of advance) = 6

6 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 6.09

365 SHIFT P/YR

SHIFT NOM% 5.91223922637

250,000 +/- PV

6 N

0 PMT

FV 250,243.067146

$250,243.07 - $250,000 = $243.07

Therefore, the interest adjustment payment due on the interest adjustment date is $243.07.

If the interest adjustment date is set at the same time of advance, then the interest adjustment payment is deducted from the mortgage proceeds. The calculation for determining this amount is slightly different. In both cases, the outstanding balance, exactly one payment before the first payment is due, must be the face value of the mortgage (the amount the borrower is contracted to repay).

When the interest adjustment payment is due one payment before the start of the first regular payment, the mortgage amount advanced accrues interest until that date, at which time the accrued interest is paid, leaving an outstanding balance the same as the face value of the mortgage. When the interest is deducted from the advance, the amount received by the borrower is less than the face value of the mortgage. This amount will now accrue interest so that on the date of payment before the start of the first regular payment, the outstanding balance will be exactly equal to the face value of the mortgage contract.

While this may appear complicated, the net result is simply switching the face value of the mortgage from the PV to the FV and solving for the PV.

Using the same scenario from Example 2, consider that, instead of advancing $250,000 on August 15th, the interest adjustment payment is deducted from the advance. The method of calculating the amount of that advance is as follows:

6 SHIFT NOM%

2 SHIFT P/YR

SHIFT EFF% 6.09

365 SHIFT P/YR

SHIFT NOM% 5.91223922637

250,000 FV

6 N

O PMT

PV –249,757.168951

Therefore, the amount of the advance with the interest adjustment payment deducted is $249,757.17

One final observation can be made when comparing paying the interest adjustment payment after the mortgage advance or from the mortgage advance. The actual amount of the interest adjustment payment in this scenario, when deducted from the mortgage advance on the 15th is:

$250,000 - $249,757.17 = $242.83

The amount of the interest adjustment payment when made on the 20th is $243.07 or a difference of $0.24. The reason there is a difference is that under the first scenario interest is accruing for six days on $250,000, while in the second scenario interest is accruing for six days on $249,757.17. Although this is hardly enough to make a borrower change when he or she wishes to make the interest adjustment payment, he or she might be curious as to why there is a difference between the two options.

19.5 Key Terms and Definitions

Acknowledgment and Direction (A&D)
The Acknowledgment and Direction, signed by the client, provides the lawyer with the authorization to electronically register documents

Closing costs
The costs associated with closing a real estate and mortgage transaction

Document Registration Agreement (DRA)
The document, signed by the vendor's and purchaser's lawyers that allows for closing an electronic transaction

e-reg
The gateway used to access POLARIS and create and register land titles documents electronically in Ontario

Interest adjustment amount
The interest payable to a lender for the period of time that mortgage proceeds are held by the borrower before the period covered by the first mortgage payment

Interest adjustment date (IAD)
The date that the interest adjustment payment is due

Land transfer tax
A tax payable to the Provincial Government by the purchaser of a property upon the transfer of title from a seller

POLARIS
Province of Ontario Land Registration Information System

Solicitor's Final Report and Certificate of Title
The document sent to the lender detailing the successful mortgage transaction

Teranet
The province of Ontario's private sector partner in the creation of the electronic land registration system

Teraview
Teranet's software that provides access to e-reg and POLARIS

19.6 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. List the common closing costs associated with a purchase of a resale home when a mortgage is used to complete this purchase.
2. What might be the legal fees on a purchase of a $750,000 residential property?
3. Under what circumstances is HST charged in the purchase of a property?
4. What tax is charged on the mortgage default insurance premium?
5. List the pre-closing and closing procedures that a lawyer can complete using Teraview.
6. Explain the significance of the Acknowledgement and Direction in the closing process.
7. What purpose does the DRA serve?
8. In a title-insured transaction, who remits the insurance premium to the title insurer?
9. Define the IAD.
10. Ms. Homeowner is receiving a mortgage for $350,000 on February 11th. The mortgage bears interest at a rate of 5.4% per year, compounded semi-annually, not in advance. The mortgage has monthly payments that begin on April 1st. What is the amount of the interest adjustment payment due on March 1st?

Appendix 1: Acknowledgment and Direction

ACKNOWLEDGEMENT AND DIRECTION

TO: ______________________________
(insert Lawyer's name)

AND TO: ______________________________
(insert Lawyer's name)

RE: ______________________________ ("the transaction")
(insert brief description of transaction)

This will confirm that:

- I/we have reviewed the information set out this Acknowledgement and Direction and in the documents described below (the "Documents"), and that this information is accurate;
- You, your agent or employee are authorized and directed to sign, deliver, and/or register electronically, on my/our behalf the Documents in the form attached.
- You are hereby authorized and directed to enter into an escrow closing arrangement substantially in the form attached hereto being a copy of the version of the Document Registration Agreement, which appears on the website of the Law Society of Upper Canada as of the date of the Agreement of Purchase and sale therein. I/we acknowledge the said Agreement has been reviewed by me/us and that I/we shall be bound by its terms;
- The effect of the documents has been fully explained to me/us, and I/we understand that I/we are parties to and bound by the terms and provisions of the Documents to the same extent as if I/we had signed them; and
- I/we are in fact the parties named in the Documents and I/we have not misrepresented our identities to you.
- I, ______________________, am the spouse of ______________________, the (Transferor/Chargor), and hereby consent to the transaction described in the Acknowledgement and Direction. I authorize you to indicate my consent on all the Documents for which it is required.

DESCRIPTION OF ELECTRONIC DOCUMENTS

The Document(s) described in the Acknowledgement and Direction are the document(s) selected below which are attached hereto as "Document in Preparation" and are:

□ A Transfer of the land described above.

□ A Charge of the land described above.

□ Other documents set out in Schedule "B" attached hereto.

Dated at ______________ **, this** ______________ **day of** ______________ **, 20**________ **.**

WITNESS
(As to all signatures, if required)

______________________________ ______________________________

Properties

PIN *Interest/Estate*
Description
Address

Consideration

Consideration

Transferor(s)

The transferor(s) hereby transfers the land to the transferee(s)

Name
Acting as an individual

Address for Service

I am at least 18 years of age

This document is not authorized under Power of Attorney by this party

Transferee(s) *Capacity* *Share*

Name Owner
Acting as an individual

Date of Birth

Address for Service

Calculated Taxes

Retail Sales Tax

Land Transfer Tax

Appendix 2: Document Registration Agreement (DRA)

DOCUMENT REGISTRATION AGREEMENT

BETWEEN:

____
(hereinafter referred to as the "**Purchaser's Solicitor**")

AND:

____
(hereinafter referred to as the "**Vendor's Solicitor**")

RE: _____________________ (the "**Purchaser**") purchase from_____________ (the "**Vendor**") of _____________________ (the "**Property**") pursuant to an agreement of purchase and sale dated_________________ , as amended from time to time (the "**Purchase Agreement**"), scheduled to be completed on _____________________ (the "**Closing Date**")

FOR GOOD AND VALUABLE CONSIDERATION (the receipt and sufficiency of which is hereby expressly acknowledged), the parties hereto hereby undertake and agree as follows:

Holding Deliveries In Escrow

1. The Vendor's Solicitor and the Purchaser's Solicitor shall hold all funds, keys and closing documentation exchanged between them (the "Requisite Deliveries") in escrow, and *shall* not release or otherwise deal with same except in accordance with the terms of this Agreement. Both the Vendor's Solicitor and the Purchaser's Solicitor have been authorized by their respective clients to enter into this Agreement. Once the Requisite Deliveries can be released in accordance with the terms of this Agreement, any monies representing payout funds for mortgages to be discharged shall be forwarded promptly to the appropriate mortgage lender. [1]

Advising of Concerns with Deliveries

2. Each of the parties hereto shall notify the other as soon as reasonably possible following their respective receipt of the Requisite Deliveries (as applicable) of any defect(s) with respect to same.

Selecting Solicitor Responsible for Registration

3. The Purchaser's Solicitor shall be responsible for the registration of the Electronic Documents (as hereinafter defined) unless the box set out below indicating that the Vendor's Solicitor will be responsible for such registration has been checked. For the purposes of this Agreement, the solicitor responsible for such registration shall be referred to as the "Registering Solicitor" and the other solicitor shall be referred to as the "Non-Registering Solicitor":

Vendor's Solicitor will be registering the Electronic Documents ☐

Responsibility of Non-Registering Solicitor

and

Release of Requisite Deliveries by Non-Registering Solicitor

4. The Non-Registering Solicitor shall, upon his/her receipt and approval of the Requisite Deliveries (as applicable), electronically release for registration the Electronic Documents and shall thereafter be entitled to release the Requisite Deliveries from escrow forthwith following the earlier of:

a) the registration of the Electronic Documents;

b) the closing time specified in the Purchase Agreement unless a specific time has been inserted as follows [________ a.m./p.m. on the Closing Date] (the "**Release Deadline**"), and provided that notice under paragraph 7 below has not been received; or

c) receipt of notification from the Registering Solicitor of the registration of the Electronic Documents.

If the Purchase Agreement does not specify a closing time and a Release Deadline has not been specifically inserted the Release Deadline shall be 6.00 p.m. on the Closing Date.

Responsibility of Registering Solicitor

5. The Registering Solicitor shall, subject to paragraph 7 below, on the Closing Date, following his/her receipt and approval of the Requisite Deliveries (as applicable), register the documents listed in Schedule "A" annexed hereto (referred to in this agreement as the "**Electronic Documents**") in the stated order of priority therein set out, as soon as reasonably possible once same have been released for registration by the Non- Registering Solicitor, and immediately thereafter notify the Non-Registering Solicitor of the registration particulars thereof by telephone or telefax (or other method as agreed between the parties).

Release of Requisite Deliveries by Registering Solicitor

6. Upon registration of the Electronic Documents and notification of the Non-Registering solicitor in accordance with paragraph 5 above, the Registering Solicitor shall be entitled to forthwith release the Requisite Deliveries from escrow.

Returning Deliveries where Non-registration

7. Any of the parties hereto may notify the other party that he/she does not wish to proceed with the registration[2] of the Electronic Documents, and provided that such notice is received by the other party before the release of the Requisite Deliveries pursuant to this Agreement and before the registration of the Electronic Documents, then each of the parties hereto shall forthwith return to the other party their respective Requisite Deliveries.

Counterparts & Gender

8. This Agreement may be signed in counterparts, and shall be read with all changes of gender and/or number as may be required by the context.

Purchase Agreement Prevails if Conflict or Inconsistency

9. Nothing contained in this Agreement shall be read or construed as altering the respective rights and obligations of the Purchaser and the Vendor as more particularly set out in the Purchase Agreement, and in the event of any conflict or inconsistency between the provisions of this Agreement and the Purchase Agreement, then the latter shall prevail.

Telefaxing Deliveries & Providing Originals if Requested

10. This Agreement (or any counterpart hereof), and any of the closing documents hereinbefore contemplated, may be exchanged by telefax or similar system reproducing the original, provided that all such documents have been properly executed by the appropriate parties. The party transmitting any such document(s) shall also provide the original executed version(s) of same to the recipient within 2 business days after the Closing Date, unless the recipient has indicated that he/she does not require such original copies.

Appendix 3: Closing Costs Worksheet

Closing Costs Worksheet

Client Name(s):

Item	**Cost**
☐ Appraisal Fee	
☐ Broker's Fee and/or lender's Fee	
☐ Closing Adjustments	
☐ Condominium Status Certificate Fee	
☐ HST (formerly GST – on new homes only)	
☐ Home Inspection	
☐ Interest Adjustment (based on anticipated closing date and 1st payment date)	
☐ Land Transfer Tax @ ___% of Purchase Price: $_____________	
☐ New Home Warranty	
☐ Legal Fees	
☐ New Hydro Account	
☐ Property Insurance	
☐ PST on CMHC Premium @ 8% x $_____________ (if applicable)	
☐ Title Insurance	
Total	**$**

Chapter 20: Contract Law

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Explain what constitutes a valid contract
- ❑ Explain the types of defects that may be present in a contract
- ❑ Discuss the rights provided by a contract
- ❑ Explain the ways in which a contract may be discharged
- ❑ Define a breach of contract
- ❑ Explain the remedies available under a breach of contract

Introduction

Contracts form the basis of all transactions in the mortgage industry and it is therefore necessary to have a basic understanding of contract law. However, this chapter is not designed to be a replacement or substitution for a qualified legal opinion, nor should any legal decisions be based on this information. The information contained in this chapter is a general overview of contract law and therefore does not provide an exhaustive discourse on the topic. There are exceptions to every generally accepted rule or concept discussed in this chapter, as is evidenced by the number of court cases involving contract law at any given time.

In any situation where the mortgage agent is requested by a client to provide his or her opinion on a legal matter, it is necessary for the mortgage agent to suggest that the client contact a lawyer.

If a mortgage agent does offer advice on legal matters, the client may assume that he or she is speaking as a professional and not simply offering a personal opinion and rely on that advice in matters of contract law. That could result in the client suffering a loss. If that occurs, the client will most likely sue the mortgage agent for the faulty advice. Since the advice was provided in a professional capacity, the client may be able to win that suit. For this reason, it is necessary for the mortgage agent to understand that a basic comprehension of contract law is helpful in his or her mortgage practice but he or she is not qualified to provide any form of legal advice, whether or not that advice is ultimately determined to be correct.

20.1 What is a Contract?

Simply stated, a contract is a legally enforceable agreement made between two or more parties. Contracts are made and fulfilled every day. Going to a restaurant and having lunch is a contract. Buying a newspaper is a contract. Even when virtually instantaneously fulfilled or performed, contracts form the basis of our interactions as consumers.

Contracts can be either in writing or verbal, although verbal contracts are not necessarily prudent. If two parties enter into a verbal contract it is possible that although both parties have the best of intentions, a misunderstanding or faulty remembering of the terms of the contract might result in the contract not being completed in the manner that one or both had agreed to.

In that sense, all contracts should be in writing, if for no other reason than to ensure that both parties clearly understand the terms and conditions of the contract. Take, for example, a contract of employment. There are several conditions in most employment contracts, from non-compete clauses to income considerations. If this contract was made verbally, it is entirely possible that one or both parties would simply forget terms and conditions that had originally been agreed to.

Pause for clarification – Real estate contracts must be in writing
Although verbal contracts are legal, contracts for the purchase and sale of real estate must be in writing. This requirement is found in the Ontario legislation, *Statute of Frauds*, Chapter S.19, subsection 1.

20.2 The Elements of a Valid Contract

To be considered a valid, legally enforceable contract, several elements must be present.

The Offer

An offer is a promise to do something. For example, Samir enters a coffee shop and goes to the counter where he meets Bob, who is working behind the counter selling coffee. Samir asks Bob how much a cup of coffee is. Bob tells Samir that he will sell him a cup of coffee if Samir gives him two dollars. At this stage Bob has made an offer to Samir but there is no contract in place because Samir has not indicated his acceptance of this offer.

An offer can be terminated in several ways, including by the offeror (the person making the offer) who can rescind or take back the offer before it has been accepted. It can also be terminated by the offeree (the person accepting the offer) through the process of making a counter-offer. A counter offer occurs when the offeree rejects the offer and proposes a change to that original offer.

Acceptance of the Offer

Acceptance is a promise to accept the offer. Continuing with the previous example, if Samir tells Bob that he will purchase the cup of coffee, then Samir is telling Bob that he promises to accept the coffee and pay him the purchase price. This exchange of promises completes the process of an offer and acceptance as long as the promises are for acts that are occurring now or will occur in the future, whether that is two minutes from now or two years from now.

If, however, Bob had taken a cup of coffee with him onto the sidewalk and had seen Samir walking and simply gave Samir the cup of coffee for whatever reason (perhaps Samir looked like he needed a cup of coffee) without Samir first asking for the cup of coffee, Bob could not then demand payment for that cup of coffee. While this example is simplistic, it illustrates the fact that a contract is binding on future acts, not acts that have been committed where no contract had existed.

Intention to Create a Legal Relationship

The parties entering into an agreement must intend to form a legally binding agreement. If one party does not perform his or her promise, the other party may seek a remedy from the courts. Although the example of Bob and Samir might not appear to meet this test, upon closer inspection it will. Bob fully expects that he will be paid for the coffee once it has been provided to Samir. If Samir does not do so, Bob has legal recourse. Although the odds of seeing a Bob and Samir in court contesting the purchase of a cup of coffee are slim, the fact remains that Bob expects to be paid. If Bob did not expect to be paid or if he had a reasonable doubt as to whether he would be paid, he would not be creating a legal relationship between himself and Samir. He would also not likely be in business for much longer.

Typically, the courts have taken the approach that moral or social agreements lack the intention to create a legal relationship. For example, if an individual promises to donate funds to a charity every month but does not, there is no recourse for the charity. The donor may have a moral obligation but does not have a legal obligation, except under limited conditions. Likewise, if a spouse asks his wife to make dinner in return for a promise to wash the dishes and she fulfills her part of the agreement while he does not, they will not end up in court. They may end up in divorce court, but not due to a breach of contract.

In most cases, the typical rule of thumb is that if an agreement is made between family members, it lacks the intent to create a legal relationship unless clearly expressed, while agreements between strangers have that legal intent, except when it is a moral or social agreement.

The Legal Capacity to Enter into a Contract

Parties must be approximately equivalent in bargaining power and must meet minimum standards in regard to maturity and intellect to be deemed to have the legal capacity to enter into a contract. Typically, minors and those with certain types of mental disabilities are deemed to lack the prerequisite capacity to enter into a contract. A minor may enter into a contract, but it can be voided (cancelled and deemed to never have existed) by the minor before he or she reaches the age of majority, unless it is for necessities of life.

In addition, while courts do not get involved in situations where parties have simply failed to make as beneficial a contract as was possible, they will get involved to protect those deemed to be unable to protect themselves. This may occur when one party has expert knowledge that the other simply cannot obtain, and takes advantage of this knowledge, or when one party acts dishonestly.

Legality Requirements

Every contract must meet certain legality requirements. It must have a legal purpose. To be considered legal, this purpose cannot violate any law, statute, or public policy.

Contracts may be deemed unlawful, illegal or both. For example, a contract between an individual who gifts his car to a friend before going bankrupt so that it would not be included in his bankruptcy would be deemed unlawful, but not illegal, and would therefore be rendered void.

Contracts that charge an unconscionably high rate of interest would be an example of one that violates public policy, and if that rate exceeded sixty percent it would also be deemed illegal. A payday loan, for example, might be void if the rate of interest violates public policy and may be illegal if the total interest payable exceeds sixty percent.

The *Statute of Frauds* provides other legality requirements that must be met under certain circumstances. For example, certain contracts are not deemed legal if they are verbal. These types of contracts must be in writing and signed by the parties. Examples of these types of contracts include:

- Guarantor contracts such as in a mortgage transaction
- Certain contracts involving an executor/executrix of an estate
- Contracts for the purchase and sale of land.

Exchange of Consideration

Although there are exceptions, parties to a contract must agree to exchange something of value in return for their promises.

If a promise is considered gratuitous, or a promise made without any benefit to the promisor, consideration is deemed not to exist since value must flow in both directions between the promisor and the promisee.

Consideration need not be money, as long as it is something of value. For example, if one individual wishes to trade his boat for another individual's car, consideration is deemed present because both items have value.

20.3 Contractual Defects

A contractual defect is a significant flaw in a contract that affects the intention to create a legal relationship, causing the contract to be void or voidable. This type of defect can be caused by:

- Misrepresentation
- Duress
- Undue Influence
- Unconscionable Acts
- Mistakes.

Misrepresentation

Misrepresentation is a false statement that causes or helps to cause a party to enter into a contract. The statement must be false, induce the party to enter into the contract and be considered a statement that would cause a reasonable person to enter into the contract.

If misrepresentation exists, the contract may be rescinded, meaning that the contract will be cancelled, and the parties will be returned to their pre-contract states. If monies have been exchanged, they will be returned along with other items of value included in the contract. While there are exceptions to this rule, rescission is a common result of misrepresentation.

Duress

Duress is defined as a threat or act, whether aimed at personal property or a person that induces or causes another person to perform some act against his or her will. This can be actual or perceived physical force directed against the party or a family member and does not have to be performed by a party to the contract as long as the party benefiting knows of the threat. If duress is present, a contract is voidable.

Undue Influence

Undue Influence can be described as any pressure or act of persuasion, short of physical force and therefore not meeting the definition of duress, that overcomes an individual's judgment and free will. Courts have found opportunity for undue influence in confidential relationships between husband and wife, those engaged to be married, parent and child, trustee and beneficiary, and so on. Under these circumstances, the contract would be void.

Unconscionable Acts

An unconscionable contract is one that is deemed so unfair to a party that no reasonable or informed person would agree to it. For example, if an intellectually challenged individual is taken advantage of by one party to a contract, the courts would likely deem this to be an unconscionable act and void the contract.

Mistake

A mistake generally occurs when one or more parties to a contract realize there was a misunderstanding about a fundamental term or condition of the contract. It is important to note that courts do not always provide relief to parties affected by a mistake, as it depends on the scope and breadth of the mistake.

Mistakes are considered mistakes of law, and mistakes of fact.

Mistake of Law

A mistake of law occurs when one or more parties misinterpret the law. For example, two parties create a contract to buy and sell a car. The contract states that the seller will perform certain tasks and provide all of the documentation necessary for the buyer to register the car. However, neither realizes that before ownership can be transferred an emissions test must be performed. The buyer may be able to have the contract rectified or rescinded.

Mistake of Fact

A mistake of fact occurs when one or more parties are mistaken about the subject matter of the contract. The subject matter may include the identity of the goods, land or service involved in the contract, the price, obligations or any other item deemed a fundamental term or condition of the contract. If there is a mistake of fact, the contract may be deemed void.

The Parties to a Mistake

There are several combinations of ways in which parties may be mistaken, which include a unilateral mistake, mutual mistake, and common mistake.

A unilateral mistake occurs where one party makes a mistake and the other party either knows of it or should know of it.

A mutual mistake occurs when both parties make a different mistake about a fundamental term or condition of a contract.

A common mistake occurs when both parties make the same mistake. For example, David wishes to sell the Rolex watch that was given to him as a present several years ago. His friend, Adam wishes to purchase it. Adam pays David two thousand dollars only to learn that it is a fake Rolex. In this case, both parties believed the watch to be a Rolex, so both were mistaken about the same fact.

20.4 Contractual Rights

All contracts have specific rights associated with them that have been developed over time. These rights include privity of contract, vicarious performance and assignment.

Privity of Contract

The doctrine of privity in contract law creates a situation in which only the parties to a contract may enforce it. A contract cannot confer rights or impose obligations on any individual except those parties in the contract.

Example 1
A developer enters into a contract to build a shopping centre. This becomes common knowledge. As a result, property values in the surrounding areas increase. Some owners sell their properties at a higher price than might have otherwise been attainable since the purchasers are also aware of this development. Unfortunately, the developer is unable to complete the shopping centre due to financial problems and the unfinished project results in diminished home values in the surrounding area. The new homeowners cannot sue the developer for breach of contract, even though they are harmed by the developer's breach, since they were never part of the contract with the developer.

Example 2
A father enters a contract with a hockey league that allows his young son to play hockey over a fifty-game season. Unfortunately, the team that the son was placed on does not have enough players and therefore continually forfeits games, causing the son to play only twenty games as opposed to the contracted fifty. Can the son sue the hockey league? The answer is no because the beneficiary of the contract (the receiver of the benefits of a contract), the son, did not enter the contract himself. Only his father, the party to the contract, can enforce it.

Vicarious Performance

Vicarious performance can be defined as the performance of all or part of a contract's obligations by a third party. The original party to the contract remains responsible for the performance.

Example
Malik, a homeowner contracted ABC Painting to paint his fence. Unfortunately, ABC Painting was double booked during the week that the fence was to be painted, so ABC Painting hired another company (also referred to as sub-contracting), DEF Painters to paint the fence. Malik, however, expected ABC Painting to be the one who actually painted the fence. Although DEF painted the fence to Malik's satisfaction, can Malik sue ABC because it did not paint the fence? Under these circumstances the answer is no.

If Malik had entered into a contract where the terms were that ABC Painting's painters were required to paint the fence, Malik may have had a claim. However, in this type of situation, the courts will typically allow vicarious performance unless the contract is for personal performance. An example of personal performance could be a basketball player. If that person signs a contract with a basketball team, he couldn't sub-contract his duties of playing basketball to another person.

Assignment

An assignment is a transfer of rights from one party of a contract to another. The rule of privity of contract does not apply under this scenario. While the rights of a contract may be assigned, the liabilities cannot. A borrower in a mortgage contract, for example, cannot simply inform a lender that he or she has assigned his or her responsibility to repay the lender's loan to another party. In relation to mortgage contracts, a lender can assign its rights to a third party as long as there are no changes to the terms and conditions of the mortgage, the contract is in writing between both lenders and notice of the assignment is provided to the borrower.

The ability of the borrower to assign a mortgage is also based in law on the *Mortgages Act*. This legislation states that, when a borrower is entitled to redeem or pay off the mortgage, he or she may request that the mortgage be assigned to a third party and the lender is bound to do so. This is most commonly referred to as a switch and occurs at the time of renewal of the term of the mortgage.

Example
Elizabeth is a mortgage agent and a private lender who has provided a 2nd mortgage to her client, Michael, for $50,000. Elizabeth typically funds her client's mortgage and then sells it to one of her private lenders. She can do this by assigning the rights of her mortgage to her private lender. The terms and conditions of the mortgage remain the same, but the payments must now be made to the new private lender.

20.5 Discharging a Contract

Discharging a contract has the effect of releasing the parties from the contract. There are several ways that a contract may be discharged, including by performance, agreement, waiver, right, frustration and by operation of law.

Performance

The most common way to discharge a contract is by completing the obligations under it.

Example
A borrower receives a mortgage from a lender for a one-year term with monthly payments. The borrower makes those payments and at the end of the one-year, the lender renews the mortgage under different terms and conditions. The original one-year contract has been performed and has therefore been discharged and replaced with another contract.

Agreement

Agreement occurs when the parties to the contract agree to end the contract. There are two basic ways that this can be achieved.

Waiver

Once the contract is in effect but before the contract has been fully performed, the parties may agree to cancel performance of the terms and conditions of the contract.

Example
David, a potential borrower approaches Alan, a mortgage agent, to obtain a mortgage. Alan informs David that there will be a broker's fee of $750 payable to Alan once the mortgage is funded, to which David agrees. Alan arranges the financing and after the borrower disclosure is signed and the waiting period has elapsed, Alan asks David to sign a contract. This contract states that David agrees to pay Alan the broker's fee even if the mortgage does not fund if the reason for not funding is due to something that David did not or does not do.

One week before closing, David contacts Alan and informs him that he no longer needs the financing and would like to be released from his obligation to pay Alan the broker's fee. Under this scenario, Alan is not obligated to agree, but he does decide to waive the performance of the contract. For a waiver to be valid there must be mutual consideration. In this case, the consideration is the mutual release of their obligations.

Material Alterations

A material alteration is a change in a contract substantial enough to change the legal meaning and interpretation of a contract. This causes the original contract to be discharged while a new contract is created.

Example
Aki, a potential borrower approaches Sherri, a mortgage agent, to obtain a 2nd mortgage for $22,000 to pay off her credit cards and a loan. The loan to value under this scenario is 70%. Sherri informs Aki that the money will be available by the 20th of the month, and that Sherri is charging a $500 broker's fee for arranging the mortgage. After the application but before funding Aki decides that she wishes to borrow $40,000 since she would like to give her son some money to buy a new car.

This increases the LTV and causes Sherri to have to cancel the application with the current lender and take it to another lender willing to lend to the higher LTV. This causes the mortgage to close on a later date. Normally the lawyer closing the transaction would remit the broker's fee directly to Sherri from the proceeds, but in this case, due to an oversight, he did not. Sherri contacts Aki directly and asks her to bring a cheque for the $500 to Sherri's office. Aki refuses to pay Sherri the $500 broker fee, claiming that Sherri did not fulfill her obligations under the contract since the transaction did not close on the date originally agreed.

Sherri counters that since Aki increased the amount of the mortgage that constituted a new contract and since there was no mention of a closing date under this new contract, she did not breach the contract and is therefore entitled to her broker's fee. If Aki and Sherri cannot agree on a solution, they can ask the courts to decide on whose position it deems to be correct.

Right

Discharge by right occurs when there is a clause written into a contract that provides one or both parties with the option to cancel the contract before performance. Such clauses include an option to terminate, a condition precedent and a condition subsequent.

Option to Terminate

This option is a written clause in a contract that allows a party to terminate the contract whenever he or she decides, based on meeting the conditions of the option.

Example
Jennifer's mortgage has a prepayment clause stating that the mortgage may be prepaid by paying the outstanding balance of the mortgage plus an amount equal to the calculated interest differential at any time during the term of the mortgage. Jennifer decides to take advantage of this clause, which is an option to terminate, and in fulfilling the conditions of the clause, the contract is discharged.

Condition Precedent

A condition precedent is a clause in a contract that describes an event that must occur before the contract can be performed.

Example
Cain is purchasing a new home. In the agreement of purchase and sale, a clause states that he has 5 days in which to obtain financing for this purchase. If Cain cannot obtain the financing, he is not obligated to purchase the home.

Condition Subsequent

A condition subsequent is a clause in a contract that describes a future event that must occur for the contract to be cancelled.

Example
A builder includes in the contract of purchase and sale a clause that states if there is a natural disaster or a strike that prevents delivery of the building on the set date, the contract is terminated. In this case, a new date for construction may be agreed upon, but that would for a new contract.

Frustration

Frustration occurs when an event outside of the control of the parties in that contract makes the performance of the contract impossible. There are some exclusions to this rule in which a contract may not necessarily be terminated. These exclusions are contained in the Ontario *Frustrated Contracts Act*.

Example
A buyer and seller enter into a contract of purchase and sale for a cottage. The transaction is set to close on the 20th of the following month. Before the 20th, lightning strikes the cottage and it burns down. The contract has now been effectively frustrated. The purchaser's deposit must be returned, and the contract is terminated.

Operation of Law

The *Bankruptcy and Insolvency Act* states that upon discharge of a bankruptcy, contracts contained within that bankruptcy are discharged.

20.6 Breach of Contract and Contractual Remedies

A breach of contract occurs when one party to the contract fails or refuses to fulfill his or her obligations as contained within the contract. A breach of contract has the effect of discharging a contract and results in the application of certain remedies designed to address the breach.

The remedies include damages, specific performance, substantial performance, quantum meruit, injunction, and rescission.

Damages

Damages are an award of money by the court, designed to put the innocent party in the position he or she would have been had the contract been performed.

Example
Jamar is selling his home and a condition of the purchase and sale agreement states that Jamar will have his fence painted by closing which is taking place on the 15th of the month. Therefore, Jamar contracts ABC Contracting to paint his fence by the 10th of the month. On the 10th the painting has not been completed. Jamar has to hire another contractor to complete the work and it ends up costing Jamar an additional $500. He can sue ABC contracting for the additional $500 since he would not have had to pay this amount if ABC Contracting had not breached the contract.

Specific Performance

Specific performance is an order requiring the defendant to perform a specific task, usually the term of the contract.

Example
Janet has entered into a valid agreement of purchase and sale to purchase a home from David. David decides not to sell Janet the home and instead enters into another agreement of purchase and sale with Jamar. Janet can sue David for specific performance requiring him to complete the sale of the home to Janet.

Substantial Performance

Substantial Performance is used in determining the amount of damages in a contract that has been substantially performed although the performance is not complete under the terms of the contract.

Example
Jeremy hires ABC Contracting to build a cottage on Jeremy's lot for $85,000. ABC Contracting completes the cottage but fails to complete the landscaping that was agreed upon in the contract. Jeremy informs ABC Contracting that he is not going to pay them anything since they did not perform all of the terms of the contract. Under this scenario ABC Contracting can sue Jeremy for substantially performing the contract while Jeremy can sue ABC Contracting for the amount required to complete the landscaping. A court would likely award ABC Contracting an amount equal to the completed performance and Jeremy an amount that would be appropriate to complete the landscaping.

Quantum Meruit

Quantum Meruit is Latin for "as much as is deserved" and is an amount determined by a court, where the contract stipulates that an amount of consideration will be paid but where the amount of that consideration has not been stipulated in the contract.

Example
Pavel knows Jason, the owner of a painting company named ABC Painted, quite well. Pavel requires his fence to be painted and asks Jason if he can complete the task and how much it will cost him. Jason states that he will have the fence painted by the weekend and will get back to him with the cost. Jason completes the painting of the fence and on Monday meets Pavel to collect payment. Jason asks for $1,500 and Pavel tells him he is only willing to pay $1,250. Since it was understood that consideration would be paid to Jason for painting the fence but since that consideration was never agreed upon, Jason can sue Pavel and request that the courts pay him what the service of painting the fence is reasonably worth. Of course, a court may disagree with both Jason and Pavel and award ABC Painted a different amount.

Injunction

An injunction is a court order that prohibits a party from doing something or acting in a certain manner. Courts will typically not order an injunction if the injured party can be adequately compensated by damages and if ordering the injunction is deemed unfair under the circumstances.

Example
Janet has entered into a valid agreement of purchase and sale to purchase a home from David. David decides not to sell Janet the home and instead enters into another agreement of purchase and sale with another buyer named Gordon. Before David can sell the property to Janet, she obtains an injunction with prevents David from completing the sale.

Rescission

In contrast to damages, rescission is an order designed to put the parties to a contract in the position they would have been in had the contract never been made. This is an option in a void or voidable contract.

Example
Dave, a minor, has entered into a contract to purchase a motorcycle from Adam by giving Adam a down payment and providing monthly payments. Unfortunately, Dave cannot afford these monthly payments and defaults on his obligations under the contract. Since he is a minor, he

can void the contract, and have it rescinded. In doing so Dave must return the motorcycle to Adam and Adam must return the payment he has received to Dave. If the motorcycle has been substantially diminished in value due to damage caused by Dave, the contract will not be rescinded. However, damages would be payable to restore the parties to their original positions.

20.7 Key Terms and Definitions

Acceptance
A promise to accept an offer

Assignment
A transfer of rights from one party of a contract to another. The rule of privity of contract does not apply under this scenario.

Breach
A breach of contract occurs when one party to the contract fails or refuses to fulfill his or her obligations as contained within the contract

Condition precedent
A clause in a contract that describes an event that must occur before the contract can be performed

Condition subsequent
A clause in a contract that describes a future event that must occur for the contract to be cancelled

Consideration
Something of value exchanged between parties to a contract

Contract
A legally enforceable agreement made between two or more parties

Damages
Damages are an award of money by the court designed to put the innocent party in the position he or she would have been had the contract been performed

Duress
A threat or act, whether aimed at personal property or a person, that induces or causes another person to perform some act against his or her will

Frustration
Frustration occurs when an event outside of the control of the parties to a contract makes the performance of the contract impossible

Injunction
A court order that prohibits a party from doing something or acting in a certain manner

Legal capacity
Parties must be approximately equivalent in bargaining power and must meet minimum standards in regard to maturity and intellect to be deemed to have the legal capacity to enter into a contract

Legal relationship
The intention of the parties entering into an agreement to form a legally binding agreement

Legality requirements
Every contract must meet certain legality requirements. It must have a legal purpose. To be considered legal this purpose cannot violate any law, statute, or public policy. In addition, there are other legality requirements which may be required to be met under specific circumstances.

Material alterations
A change in a contract substantial enough to change the legal meaning and interpretation of a contract

Misrepresentation
A false statement that causes or helps to cause a party to enter into a contract

Mistake
A misunderstanding about a fundamental term or condition of the contract

Offer
A promise made by one party to another to do something

Operation of law
The *Bankruptcy and Insolvency Act* states that upon discharge of the bankruptcy contracts contained within the bankruptcy are discharged

Option to Terminate
A written clause in a contract that allows a party to terminate the contract whenever he or she decides, based on meeting the conditions of the option

Performance
Completing the obligations under a contract

Privity of contract
The doctrine of privity in contract law creates a situation in which only the parties to a contract may enforce it. A contract cannot confer rights or impose obligations on any individual except those parties in the contract.

Quantum meruit
Latin for "as much as is deserved" and is an amount determined by a court, where the contract stipulates that an amount of consideration will be paid but where the amount of that consideration has not been stipulated in the contract

Rescission
An order designed to put the parties to a contract in the position they would have been in had the contract never been made

Right
Discharge by right occurs when there is a clause written into a contract that provides one or both parties with the option to cancel the contract before performance

Specific performance
An order requiring the defendant to perform a specific task, usually the major condition of the

contract

Substantial performance
Substantial Performance is used in determining the amount of damages in a contract that has been substantially performed although the performance is not complete under the terms of the contract

Unconscionable act
An act or contract deemed so unfair to a party that no reasonable or informed person would agree to it

Undue influence
Any pressure or act of persuasion, short of physical force and therefore not meeting the definition of duress, that overcomes an individual's judgment and free will

Vicarious performance
The performance of all or part of a contract's obligations by a third party

Waiver
The cancellation of performing the terms and conditions of a contract once the contract is in effect but before the contact has been fully performed

20.8 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. What is a contract?

2. Explain the elements of a valid contract.

3. If misrepresentation exists, what option is available?

4. Discuss the differences between duress and undue influence.

5. Under the doctrine of privity of contract, who can enforce the terms and conditions of a contract?

6. What condition precedent is most common in real estate transactions?

7. Larry owns a car that is being stored in a self-storage unit. If Bob and Larry enter into a contract for Bob to purchase Larry's car but before Bob can take possession of the car the self-storage unit is destroyed by a fire, and Larry's car along with it, what will happen to this contract and why?

8. Abena has entered into a valid purchase and sale agreement to purchase a home from David. David decides not to sell Abena the home and instead enters into another agreement of purchase and sale with Bob. What options does Abena have?

9. A contract of employment between a mortgage agent and a mortgage brokerage contains a clause that states, "This contract may be terminated by either party by providing thirty days' notice to the other party." Of what is this an example?

10. Dominic is twelve and in the neighbourhood in which he lives he is known as the grass cutter. He wishes to get Mr. Malikson, another neighbour, as a customer so on Monday cuts his lawn without being asked and leaves a note on Mr. Malikson's front door. Mr. Malikson comes home from work on Monday night, sees the lawn, and is extremely happy with the quality of Dominic's work. He calls Dominic and tells him that on Friday he will give him ten dollars for cutting his lawn. On Friday Dominic arrives at Mr. Malikson's home and asks for the ten dollars, but Mr. Malikson refuses to pay, telling Dominic that when he saw the lawn on Tuesday he realized it was not as good a job as he had thought on Monday so he changed his mind about paying Dominic. In this situation, is there a contract and can Dominic enforce the promise to pay?

Chapter 21: Mortgage Remedies

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- Explain what constitutes a default under a mortgage contract
- Define power of sale
- Explain the power of sale process
- Understand the differences between a power of sale and foreclosure
- Describe other remedies used by lenders upon default

Introduction

The goal of lenders is to advance mortgage financing and have that financing repaid as per the terms and conditions of the mortgage contract. It is not in the lender's best interest to have the borrower default on his or her obligations as this results in time and effort spent by the lender in recovering the mortgage debt.

However, when mortgage default does occur, the lender has options which it may pursue in recovering the mortgage debt. This chapter explores the power of sale, the most common remedy used by lenders in Ontario, and discusses the other options in lieu of power of sale that are available to those lenders.

21.1 Power of Sale

When a borrower defaults on his or her mortgage obligations, including any of the covenants contained in the Standard Charge Terms, the lender can consider the borrower to be in default. When this occurs, the lender may commence certain actions to collect the outstanding balance of the mortgage along with costs associated with the default and collection of that amount.

In Ontario, the most common method used is the power of sale process. This process was developed by Ontario lenders as a faster remedy than the typical remedy of foreclosure. The power of sale allows the lender to commence a proceeding against the borrower without using the courts. Details of this proceeding are normally included in the Standard Charge Terms, but they are also provided through the *Mortgages Act, R.S.O. 1990, c.M.40.*

This remedy allows the lender to take possession of the property and sell it. Any monies obtained through the sale are then used in a prescribed manner to retire the lender's mortgage and associated costs as well as other debts associated with the property. Any monies remaining after this process are payable to the borrower.

If the property cannot be sold the lender can then sue the borrower for the monies owing or sue for foreclosure. The power of sale process, also referred to as a Sale under Power, must follow a process as set out in the *Mortgages Act, R.S.O. 1990, c.M.40*, as described in the following section.

Power of Sale Process

The following is a description of the typical power of sale process.

1. **The borrower defaults**
   Borrower defaults or fails to make a regularly scheduled mortgage payment

2. **The lender serves notice**
   At least fifteen days later the lender delivers a Notice of Sale to all parties involved in the mortgage, all parties registered on title and all parties who may have an interest in the land. In addition, if there are any liens registered against the property in the name of the Crown or any other public authority, notice must be provided to them. If this notice is provided by registered mail it is deemed to have been served on the date the notice was mailed. In the following figure we see the prescribed form to be used when providing notice as set out in the *Mortgages Act, R.S.O. 1990, c.M.40*.

Figure 100[1] – Notice of Sale under Mortgage

(Sections 26 (1) and 31 (1))

Notice of Sale under Mortgage

Take notice that default has been made in payment of the money due under a certain mortgage dated the .... day of .... , 20..... , made between (*here state parties and describe mortgaged property*) which mortgage was registered on the .... day of ...., 20....., in the registry division, etc. (*and, if the mortgage has been assigned, add*: and which mortgage was assigned to the undersigned on the .... day of .... , 20.....).

And I hereby give you notice that the amount now due on the mortgage for principal money, interest *(if so, add*: taxes, insurance premiums, *or other matters*) and costs, respectively, are as follows:

(*Set out items claimed to be due*)

And unless the said sums are paid on or before the .... day of .... , 20..... (*a day not less than forty-five days from the service of the notice where the power of sale is exercised under Part II, or a day not less than thirty-five days from the service of the notice where Part III applies*), I shall sell the property covered by the said mortgage under the provisions contained in it (*or if so*: under Part II of the *Mortgages Act).*

This notice is given to you as you appear to have an interest in the mortgaged property and may be entitled to redeem the same.

Dated the .... day of ...., 20.....

(Signed)..

Mortgagee

3. **The borrower has a redemption period**
   The redemption period is a period of time that the borrower has to either pay the arrears plus costs or pay the entire amount owing, plus costs. The *Mortgages Act, R.S.O. 1990, c.M.40* allows the borrower to bring the mortgage into good standing by paying the arrears and associated costs involved in the power of sale process as long as the mortgage is not under renewal. If the term of the mortgage has expired, the borrower does not have this option and must pay the entire outstanding principal balance of the mortgage plus costs.

   The borrower has thirty-five days after notice is provided, which equates to thirty-seven days since the date of the notice and the final day of the redemption period are not included, in which to exercise these options. If the borrower does not pursue the options available, the lender may file what is called a Statement of Claim for Debt and Possession with the courts for possession.

   In addition, the lender can no longer charge a penalty to the borrower for repaying the mortgage. This has the effect of opening the mortgage for full repayment without penalty, although all associated legal costs involved in the power of sale process are still payable.

4. **Possession of the property by the lender**
   Once the Statement of Claim for Debt and Possession is served to the borrower, he or she has twenty days to file a Statement of Defence. If the borrower fails to file this notice, the lender will obtain a default judgment from the Court and a Writ of Possession. The Writ is then filed with the sheriff in the jurisdiction in which the property is located, and the sheriff arranges for eviction.

   Once eviction occurs the lender is said to be a mortgagee in possession. The following figure is a sample of a Writ of Possession.

5. **Selling the property**
   Once the lender has possession of the property, it will sell the property, normally using a real estate salesperson. When doing so, the lender must provide the real estate salesperson with a Certificate of Power of Sale, proving that the lender has the legal right to sell the property. A schedule must also be attached to the agreement of purchase and sale, entitled Seller Selling Under Power of Sale.

Figure 101*[2] *– Writ of Possession

Form 60C

Courts of Justice Act

WRIT OF POSSESSION

(General heading)

(Court seal)

WRIT OF POSSESSION

TO the Sheriff of the *(name of county or district)*

Under an order of this court made on *(date)* in favour of *(name of party who obtained order)*, YOU ARE DIRECTED to enter and take possession of the following land and premises in your county or district: *(Set out a description of the land and premises.)*

AND YOU ARE DIRECTED to give possession of the above land and premises without delay to *(name of party who obtained order)*.

Date ....

Issued by ....
Local registrar
Address of
court office

Renewed by order made on *(date)*.

....
Local registrar

RCP-E 60C (November 1, 2005)

6. After sale of the property

Once the sale has been completed, the lender must remit monies paid from the sale in the following order, as per section 27 of the *Mortgages Act, R.S.O. 1990, c.M.40* :

1. In payment of all expenses involved in the sale of the property, including the real estate salesperson's fee, legal fees, etc.
2. In payment of all interest and costs associated with the mortgage involved in the power of sale
3. In payment of the principal balance outstanding on the mortgage involved in the power of sale
4. In payment to any additional encumbrancers such as mortgage holders and others who had an interest in the property

5. Payment of rental deposits made by any tenants, if applicable
6. Any monies remaining must be paid to the mortgagor

If, after the sale of the property, the amount received is not enough to satisfy the borrower's debt to the lender, the lender may sue the borrower for the outstanding balance.

Power of Sale with Mortgage Default Insurance
If the mortgage that has been defaulted is insured through a mortgage default insurance policy and there is still a balance outstanding, the lender will make a claim on this policy and not sue the borrower for the outstanding balance. The mortgage default insurer will pay the lender's claim and proceed against the borrower to recover the amounts paid.

21.2 Foreclosure and other Remedies

Foreclosure

Foreclosure is the process of using the courts to take title to the mortgaged property, thereby extinguishing all rights that the borrower or any other party may have in the property. This process can be time consuming, taking upwards of six months and is also considered to be a harsh remedy since the lender ultimately becomes the owner of the property leaving the borrower with no interest in it. In Ontario, foreclosures are rare due to the ability to use the power of sale process, which the courts deem to be a far more equitable approach to recovering the mortgage debt. However, the foreclosure process may be used in Ontario under certain circumstances, typically if the amount recoverable under a power of sale will not be sufficient to recover the mortgage debt. This would allow the lender to take title to the property and, for example, renovate it and sell it at a higher price than might have been possible under a power of sale.

Power of sale is used in Newfoundland and Labrador, New Brunswick, Prince Edward Island and Ontario, while the foreclosure process is typically used in Alberta, British Columbia, Manitoba, Nova Scotia, Quebec, and Saskatchewan. While the specific details of the foreclosure process differ in each province, it is the primary process used in recovering the mortgage debt.

Other Remedies

While a power of sale is the most common remedy in Ontario and can be commenced after 15 days of default, most lenders will not seek this remedy immediately. In most cases the process will begin with a letter sent from the lender's collection department advising the borrower of the default and requesting that the missed payment be sent to the lender immediately. The lender may also require the borrower to pay a non-sufficient funds (NSF) fee and may also require the borrower to pay an administrative fee.

If this letter does not obtain the desired results, the lender may then use a Demand Letter, which is a letter sent from the lender's lawyer demanding the payment of the outstanding amount. If neither of these remedies are successful, the lender will then proceed with the power of sale process.

Working with the Lender

If a borrower has difficulty managing his or her payments, he or she should contact the lender and advise it of this difficulty. In doing so, the borrower gives the lender the opportunity to make alternative arrangements to assist the borrower to successfully repay the mortgage. In most cases the lender is not interested in losing the mortgage since it is an investment.

In cases where the mortgage is default insured, the lender may be willing to exercise its options available to it under the term of the default insurance policy. More information on this topic can be found in the chapter, Insurance in the Mortgage Industry.

Success Tip – If your client is about to miss a payment...

You should advise your client to contact you if he or she has difficulty making his or her payments. You can then advise your client of the options available to him or her. Although you cannot act on your client's behalf when discussing his or her situation with the lender, you can advise your client of his or her options. By offering this type of assistance to your client you will help ensure that he or she remains loyal to you which is necessary in obtaining future business from this client as well as obtaining future referrals.

21.3 Key Terms and Definitions

Demand letter
A letter sent by the lender's lawyer that requires the defaulting borrower to pay the lender the monies owed on the defaulted mortgage

Foreclosure
A lender's remedy that enables the lender to obtain title to the defaulted borrower's property and dispose of it. Any profit or loss will belong to the lender while the borrower is free of the debt.

Notice of sale
A document, prescribed by the *Mortgages Act, R.S.O. 1990, c.M.40,* that is used to inform the borrower of the lender's intent to recover monies owing to it when the borrower has defaulted on his or her obligations under the mortgage contract.

Power of sale
A process that allows the lender to commence a proceeding against the borrower without using the courts and sell the property. This can be a quick and fairly inexpensive remedy available to lenders upon default by the borrower

Redemption period
A period of time during which a defaulting borrower may pay the outstanding balance of a mortgage before the lender can sell the borrower's property, as prescribed by the *Mortgages Act, R.S.O. 1990, c.M.40*

Sheriff
An officer of the Enforcement Office who handles, among other things, evicting a defaulted borrower once the proper order has been made by the Courts

Statement of claim for debt and possession (commonly referred to as a Statement of claim)
A document filed with the Courts outlining a lender's claim against the borrower

Writ of possession
A document provided by the Courts that allows the lender to take possession of the borrower's property. This is enforced by the local sheriff

21.4 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. What constitutes default by the borrower?

2. What process is the most common remedy used by lenders in Ontario when a borrower defaults on his or her mortgage obligations?

3. What Act outlines the process that must be followed under a power of sale?

4. How long after a borrower defaults on his or her mortgage payment can a lender begin the power of sale process?

5. Describe, in your own words, the power of sale process.

6. How does a foreclosure differ from a power of sale?

7. What provinces currently use a power of sale process?

8. What documents must a lender provide a real estate salesperson when selling a property under power of sale?

9. List the order in which proceeds of a sale under a power of sale are distributed.

10. Other than a power of sale or foreclosure, what other steps might a lender first use to recover monies owing by a defaulting borrower?

Chapter 22: Mortgage Fraud

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- Define mortgage fraud
- Explain the different types of mortgage fraud
- Discuss the impacts of mortgage fraud
- Discuss methods of preventing mortgage fraud
- Explain the role of the Land Titles Assurance Fund
- Discuss the methods that consumers can use to protect against fraud

22.1 What is Mortgage Fraud?

Mortgage fraud is the deliberate omission of information, use of misstatements or misrepresentations to obtain, purchase, or fund a mortgage loan.

Mortgage fraud can be committed by a borrower, criminal organization, or industry participant to obtain mortgage funding, or by a lender's representative to fund a mortgage loan. The increased usage of technology in the mortgage industry has allowed those committing mortgage frauds to take advantage of legitimate initiatives such as AVMs, risk assessment tools, electronic registration of land titles documents and the ability to communicate without face-to-face meetings.

The mortgage market's competitiveness is also a factor. There are more lenders in today's mortgage market than at any other time in Ontario's history and those lenders are competing for borrowers. Due diligence is often sacrificed for faster approvals as lenders cope with the potential of losing customers to other lenders who provide faster service.

Certain products also contribute to the ability to commit mortgage fraud. The stated income program is often misused by consumers and other industry participants. Designed to allow self-employed borrowers to state their legitimate income, this type of program has been used by many to artificially inflate the amount of income earned to obtain an approval. This type of fraud has the effect of allowing a borrower to obtain a loan that he or she cannot legitimately afford. Although the borrower may be able to make his or her mortgage payments for several months the long-term effect is often default, causing harm to the lender, the industry, and the borrower.

Before a borrower defaults he or she will typically struggle financially, placing a burden on the family unit. The social effects of this type of fraud are virtually impossible to measure, but anecdotally this results in marital stress, including divorce, as many divorces are due to financial issues.

Although statistics on Canadian mortgage fraud are normally not published it is estimated that fraud accounts for several hundred million dollars of losses annually. It is reported by the

Federal Bureau of Investigation (FBI) that upwards of 80% of American mortgage fraud is committed by or involves industry participants.[1]

While fraud is harming the reputation of the mortgage industry, it is important to stay focused on the fact that the vast majority of mortgage industry participants are honest, ethical individuals providing the best products and services for their clients. It is important for these honest practitioners to take a strong stand against mortgage fraud and thereby help increase consumer confidence in the industry and protect the interests of all honest industry participants.

22.2 Types of Mortgage Fraud

Mortgage fraud can be subdivided into three major categories according to the purpose of the fraud: fraud for criminal activities, fraud for profit and fraud for shelter.

Fraud for Criminal Activities

According to the Criminal Intelligence Service Canada (CISC), mortgage fraud may be committed to further other criminal activities such as the financing of marijuana grow operations, drug labs, and money laundering.[2]

Marijuana Grow Operations (also referred to as Marijuana Grow Ops) and Drug Labs
Criminal organizations will often use “straw borrowers” to obtain mortgage financing. A straw borrower is typically an individual who is paid to use his or her identity to obtain mortgage financing, or who is a victim of identity theft. In either case this borrower is not the individual using the mortgage proceeds. The criminal organization may use a straw borrower to purchase a property where a marijuana grow operation or other type of drug lab such as a methamphetamine lab will be housed. Once the criminal organization has completed its operation in this location it will often perform cosmetic repairs to the property and sell it to an unsuspecting purchaser.

A 2007 case in Ontario saw an individual convicted of operating a grow op purchase a home that had been seized by police for being used as a grow op. The criminal was intent on restarting his practice. It is examples like this that exemplify the brazen attitude of many criminal organizations.

Money Laundering
Money laundering is the practice of performing a financial transaction with the intent to conceal the source of money, typically obtained through a criminal activity. The result is that the money appears to have been legitimately obtained.

If a criminal organization wishes to launder money obtained through criminal activities it will often appear to purchase a home for less than market value but provide the vendor the difference in cash. For example, a house worth $400,000 is purchased by a criminal organization for $300,000 using a 95% LTV mortgage obtained by a straw borrower. $100,000 is provided to

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[1] Mortgage Fraud Report 2006, FBI, May, 2007
[2] Mortgage Fraud and Organized Crime in Canada, CISC, November, 2007

the vendor in cash, resulting in a total amount paid for the property of $400,000. The purchaser then sells the property for $400,000 and has successfully laundered $100,000.

Fraud for Profit

Many crime organizations and individuals will commit mortgage fraud to obtain the proceeds of the mortgage without the intent to repay the loan. There are four basic types of fraud used for this purpose.

Air Loans
An air loan is a mortgage provided on a property that does not exist. This type of fraud typically requires the involvement of a lawyer, real estate salesperson, vendor, and purchaser. In this complicated scheme the real estate salesperson creates a fake MLS listing and the purchaser applies to a financial institution for mortgage financing. The property is valued using a risk assessment tool, as the mortgage is default-insured. The participants in this fraud receive the mortgage funds and abscond with the money.

Value Fraud
Criminals, in association with a dishonest appraiser, may have a property appraised at a higher value than it is worth. The criminal will then obtain a mortgage based on the inflated value and abscond with the money. This results in the lender taking possession of a property that must be sold at a significantly lower amount. In Atlanta, Georgia an entire neighbourhood was compromised. Fifty-six properties were purchased using straw borrowers and fraudulent appraisals within roughly the same period. None of the mortgage payments were made. This type of criminal activity can have a devastating effect on a market.

Figure 102 – Mortgage Fraud and its Effects on a Neighbourhood

Dark balloons indicate mortgages at least 90 days in arrears, while the lighter balloons are 60 days in arrears and the lightest balloons are 30 days in arrears. White balloons are currently up to date.

Value fraud is also perpetrated by fraudsters who know the circumstances in which lenders will only rely on automated valuation models (AVMs) to determine the market value of a property and will not physically verify the condition of the property. These situations can arise when the fraudster impersonates an individual with good credit, knowing that the lender will use an AVM since the covenant is considered low risk.

The fraudster provides details on the property that are consistent with other homes in the neighbourhood and the AVM provides a value based on that information. After the transaction closes the fraudster makes several payments and then stops. The lender then begins the power of sale process and has a full appraisal completed. Unfortunately for the lender the full appraisal paints a very different picture of the property. The following figure, a frontal view of this property is very different from the rear view, as illustrated in the second figure. In this example the property was sold for a significant loss to the lender.

Figure 103 – AVM Fraud: Frontal view of a property appraised by an AVM[3]

Another form of value fraud involves collusion between the purchaser and the vendor where the sale price is inflated. For example, a purchaser applies for a 95% LTV mortgage to purchase a house selling for $400,000. In reality the house is being sold to the purchaser for $300,000. The result is that the vendor receives $300,000 and the purchaser gets a mortgage for $380,000, making an $80,000 profit off the purchase. The purchaser does not make any mortgage payments, or defaults after making a few payments and absconds with the proceeds.

[3] Mortgage Fraud Update, Fannie Mae, 2007

Figure 104 – AVM Fraud: Rear view of a property appraised by an AVM[4]

Yet another type of value fraud centres on appraisals. As previously discussed, the market value approach of appraising a property uses comparable properties that have recently sold and that are similar to the subject property, among other factors. When determining similarity one of the criteria is the neighbourhood. In some areas property values can be significantly different from one neighbourhood to another. If an appraiser uses a comparable that is similar in every respect but is from a neighbourhood where values are higher, the value of the subject property can be fraudulently increased.

Title Fraud

Title fraud involves the fraudulent transfer of title of a property. The most vulnerable homeowners are those owning rental properties or who have high value properties with no existing mortgage. Since approximately fifty percent of Canadians who own property are mortgage free, the potential losses are significant.

The most common form of title fraud involves identity theft and impersonation. The criminal will create false identity documents and present him or herself as the legitimate owner of the property. He or she will use this process either to transfer the property to him or her and then resell it to a third party, who is often unaware, or use the real homeowner's identity to obtain mortgage financing and abscond with the funds.

[4] Mortgage Fraud Update, Fannie Mae, 2007

Example
An Ontario case that was decided upon by a court in December 2007 saw a ninety-year-old homeowner defrauded of his rental property. He leased this property to a couple who then fraudulently created a Power of Attorney. They told the owner that they were moving but wanted to honour the lease by sub-leasing the property to another couple. They then used this Power of Attorney to sell the property to another couple who were not involved in the fraud. A lender provided the purchasing couple with a mortgage.

Once the fraud was uncovered, the property was eventually transferred back to the original homeowner's name, but the lender refused to discharge the mortgage, stating that its mortgage was valid since, although the sale was fraudulent, the mortgage transaction was not. Luckily for the homeowner, the courts ruled that the mortgage transaction and the purchase were part of the same transaction and therefore part of the same fraud. The Court indicated that the lender should have done more due diligence in the transaction.

It is of interest to note that a title insurance policy would have greatly aided the homeowner in this case by defending his position in court and paying the related costs of rectifying the title, or by potentially compensating the homeowner for the loss.

Foreclosure Fraud
Although not as common in Canada as it is in the United States, foreclosure fraud is becoming more prevalent. The scheme involves an individual whose house is being foreclosed upon or who is under a power of sale. The criminal approaches the homeowner and offers to consolidate the homeowner's debt and pay off the mortgage arrears. In many cases the criminal will take title to the home and allow the debtor to live in the property while making debt payments. While this is a legitimate solution to a foreclosure or power of sale, the difference is that a criminal scheme will see the homeowner sign over title of the property without even realizing it. In certain cases, the criminal will then sell the property without the homeowner's knowledge or keep the debt payments without forwarding them to the appropriate creditors.

Identity Theft
Identity theft takes place when personal information has been stolen or is being used to commit fraud or theft. In 2006 there were 7,778 reported cases of identity theft in Canada, representing over sixteen million dollars in claims with Ontario having 3353 of the claimants valued at over seven million dollars.[5] That number increased to more than 20,000 reported cases of identity fraud in Canada in 2014[6], which reportedly only represents about 5% of the total number of cases in the country. Identity theft appears to be vastly under reported by victims.

Impersonation
While impersonation and identity theft are often interchangeable, it is of interest to note that not only can a homeowner, borrower, vendor, or purchaser be impersonated, but a lawyer may as well. The Law Society of Upper Canada (LSUC) reports that lawyers in good standing with the Society may be impersonated to obtain mortgage financing for fictitious purchasers in a real

[5] Identity Theft Complaints, Phonebusters
[6] Canadian Anti-Fraud Centre, http://www.antifraudcentre-centreantifraude.ca/reports-rapports/2014/ann-ann-eng.htm#a28

estate transaction. In 2004, LSUC documented one case in which an entire law firm was fictitiously created, along with contact information.[7]

Elder Financial Fraud
This type of fraud is considered to be on the rise as our population ages. The North American Securities Administrators Association estimates that 23% of elder financial fraud cases consist of a family member, trustee or Power of Attorney taking advantage of the senior.[8]

For example, a son applies for a mortgage on behalf of his elderly mother. He presents a valid Power of Attorney. While a Power of Attorney is often used by family members to legitimately act on their parents' behalf, it is also used as a tool to commit elder financial fraud. It is vital to fully investigate the transaction to ensure that it is not designed to take advantage of the senior. In this instance it is important to rely on your brokerage's policies and procedures for the detection and prevention of elder financial fraud.

One possible solution is to require independent legal advice for any transaction where elder financial fraud is suspected, as well as contacting the lawyer who did the original Power of Attorney. If there is any doubt as to the legitimacy of the document or the legality of the transaction it cannot be completed. To do so would be to put the senior in harm's way and violate the *MBLAA*.

Power of Attorney (POA) Fraud
A Power of Attorney or POA is a written document in which a person (referred to as the grantor) gives someone else (referred to as the Attorney) the power to make certain decisions on their behalf, if they become unable to make those decisions themselves. Although the person given this power is called an Attorney, it does not mean that this person is a lawyer. Most often, the Attorney is a spouse, relative, or a close friend. Whoever the Attorney is, that person must make decisions that are in the grantor's best interests. This is called a fiduciary duty.

There are two main types of POAs: Power of Attorney for Property and Power of Attorney for Personal Care. Typically POA fraud refers to a Power of Attorney for Property. Unfortunately, Power of Attorney fraud, often called financial abuse, is one of the most common forms of elder abuse in Canada.

The common types of Power of Attorney fraud consist of committing a fraud to obtain a POA and committing fraud using a POA.

Obtaining a POA fraudulently is often the result of exerting undue influence over the grantor. It could also be fraudulently obtained by the fraudster posing as a financial advisor or other trusted financial services professional, or by forging the documents.

The most common ways in which fraud is committed using a POA include:

- emptying the grantor's bank account and using the money for the Attorney's personal use, not for the grantor's use

[7] Law Society of Upper Canada, Note to the Profession – July 23, 2004
[8] http://nasaa.cdn.s3.amazonaws.com/wp-content/uploads/2017/06/BD-Study-of-Senior-Practices-and-Procedures_06152017.pdf

- theft of the grantor's pension cheques or possessions
- making unauthorized, questionable or even speculative investment decisions on behalf of the grantor
- acting in a manner when handling financial matters on behalf of the grantor, which may contribute to unnecessary expenses, or damages from inaction
- misappropriation of the grantor's assets
- mortgaging or selling a grantor's home, or other asset without the grantor's knowledge or consent, or
- other violations of fiduciary duty.

Power of Attorney fraud is criminal. Because of the nature of the crimes, Power of Attorney fraud can often result in theft, forgery, and fraud charges under the Criminal Code.

Section 331 of the Criminal Code deals with Theft by Persons Holding Power of Attorney:

"Every one commits theft who, being entrusted, whether solely or jointly with another person, with a power of Attorney for the sale, mortgage, pledge or other disposition of real or personal property, fraudulently sells, mortgages, pledges or otherwise disposes of the property or any part of it, or fraudulently converts the proceeds of a sale, mortgage, pledge or other disposition of the property, or any part of the proceeds, to a purpose other than that for which he was entrusted by the power of Attorney."

Fraud for Shelter

Fraud for shelter is one of the most common forms of fraud in the mortgage industry. This type of fraud occurs when an individual wishes to purchase a home in which to reside with no intent to abscond with mortgage funds or fraudulently sell the property by misstating or misrepresenting his or her status. In most cases this type of fraud involves inflation of the purchaser's income to obtain mortgage financing.

Since the borrower cannot qualify for the mortgage based on his or her true current income, he or she will most likely be unable to afford the mortgage. The result is that a purchaser who is already financially incapable of legitimately qualifying for a mortgage obtains the financing and either defaults on the mortgage payments or endures undue financial hardship. This can have significant negative effects on the individual's standard of living as well as resulting in losses to the lender.

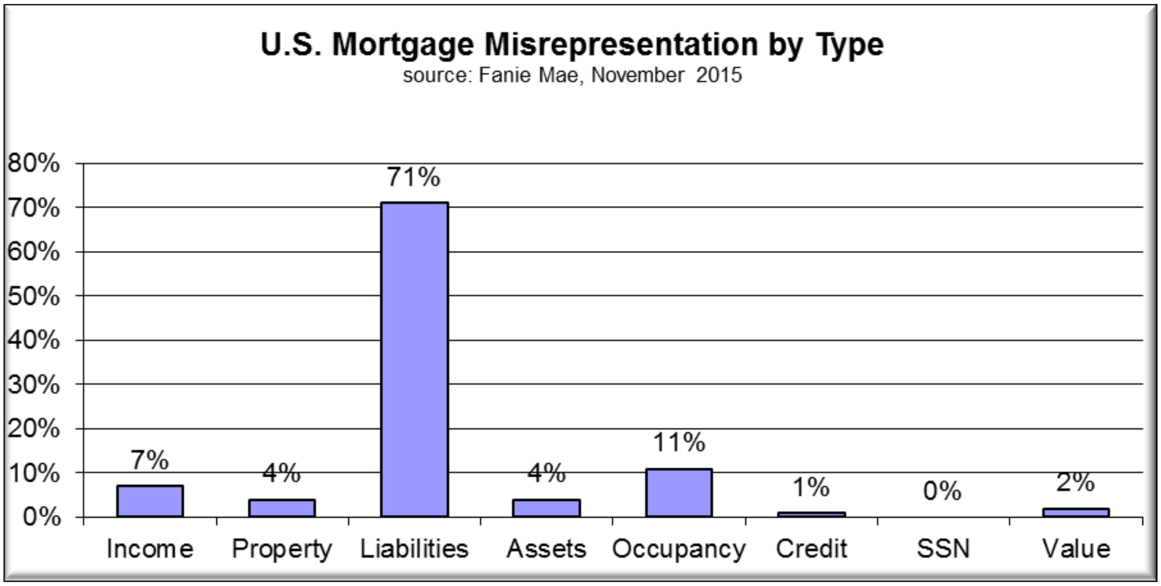
The following figure illustrates a statistical breakdown of the types of mortgage misrepresentation found in loans originated between 2014 and 2015 in the United States, presented by Fannie Mae, who is the United States' equivalent of CMHC.

Legend: Types of Misrepresentation

Income: Employment/income inflated or fabricated
Property: A material fact related to the property and/or comparable sale was misstated
Liabilities: A misstatement of borrower liabilities, typically understated
Assets: A misstatement related to the amount of assets, typically inflated
Occupancy: Stated as owner-occupied when the intent was to rent the property
Credit: Identity misrepresentation resulting in an incorrect credit history

SSN: The social security number that the borrower used was incorrect
Value: Property value was inflated or misstated

Figure 105[9] – U.S. Mortgage Misrepresentation by Type



22.3 Direct Consequences of Mortgage Fraud

As FSRA states in its November 4, 2016 Bulletin, M-01/16[10], "Failure to comply with the *MBLAA's* fraud prevention requirements may expose you to enforcement action, including licence suspension or revocation and administrative monetary penalties. If you are unsure of your responsibilities or have any questions, please contact FSRA."

As CMHC states in their Mortgage Fraud discussion[11], "Borrowers who misrepresent information and straw buyers who allow a property to be purchased in their name are committing mortgage fraud and will be liable for any financial shortfall in the event of default. They may also be held criminally responsible for their misrepresentation."

The *MBLAA* (sections 43 – 50) gives FSRA two types of enforcement tools: administrative penalties and charges under the legislation.

Pause for clarification – Administrative penalties
This is a penalty assessed by the FSRA for less serious contraventions of or failures to comply with the *MBLAA.*

[9] Fannie Mae, https://www.fanniemae.com/content/fact_sheet/misrepresentation-data-1215.pdf
[10] FSCO, http://fsco.gov.on.ca/en/mortgage/bulletins/Pages/m-01-16.aspx
[11] CMHC, https://www.cmhc-schl.gc.ca/en/co/buho/plmayomo/plmayomo_004.cfm

Regulation 192/08 spells out rules and procedures related to administrative penalties. This *Regulation* (sections 1 – 4) prohibits the FSRA from imposing penalties on those covered in section 46 of the *MBLAA* (which prohibits reprisals against those who provide information to the FSRA).

Administrative penalties are either "general" or "summary" and are covered in detail in *Regulation 192/08* sections 1 – 6. The same timeframes apply to both. The FSRA may impose administrative penalties for contraventions of or failures to comply with the *MBLAA* in amounts determined in accordance with the *Regulations*. If the FSRA proposes to impose an administrative penalty, the affected party may request a hearing before the Financial Services Tribunal.

A summary process is provided for administrative penalties imposed on licensees who fail to provide information to the FSRA in accordance with the *Regulations*. An administrative penalty may not exceed $10,000 in the case of a contravention or failure to comply by a mortgage broker or agent or $25,000 in the case of a contravention or failure to comply by a brokerage, Mortgage Administrator or any other person or entity, or such lower amounts as may be prescribed.

In section 41 of the *MBLAA,* it empowers the FSRA to impose administrative penalties to promote compliance with the *MBLAA* up to a maximum of $25,000 for a brokerage or Administrator, up to $10,000 for a broker or agent and up to $25,000 for anyone else. If the FSRA proposes to impose an administrative penalty the licensee has the right to appeal this proposal to the Tribunal within 15 days of receiving it. If the penalty is not paid, it is considered a debt to the Crown and can be enforced as such.

Those assessed a penalty must pay the penalty within thirty days of being assessed the penalty or once a hearing has been conducted, or longer if provided for in the penalty or order made from the hearing.

Example
The following fictitious example is loosely based on enforcement activity found on FSRA's online "Enforcement Activities – Mortgage Agents."[12]

Mr. Glock, a licensed mortgage agent, arranged a mortgage for a client using fraudulent income statements. Once this was discovered by the lender a complaint was filed with FSRA. After investigating FSRA determined that Mr. Glock charged the borrower $5,000 to create the false statements. FSRA determined that Mr. Glock contravened subsection 43(2) of the *Act* by giving false or deceptive information or documents when dealing in mortgages in Ontario and subsection 4(1) of the *Ontario Regulation 187/08* by receiving fees from a person or entity other than the brokerage on whose behalf he was authorized to deal or trade mortgages.

The FSRA issued a Notice of Proposal to Impose an Administrative Penalty of $10,000 on Mr. Glock. In addition the FSRA revoked the agent's license. Beyond administrative penalties, the MBLAA allows the FSRA to charge individuals or businesses with an offence under the legislation. Anyone who contravenes any of the sections as listed in section 48 of the MBLAA is

[12] http://fsco.gov.on.ca/en/mortgage/enforcement/Pages/agents.aspx

considered to be guilty of an offence and may be subject, in addition to administrative penalties, of fines and imprisonment, as detailed below. Section 48 (1) of the *MBLAA* states that "Every person who contravenes or fails to comply with any of the following provisions of this Act is guilty of an offence:"

1. subsection 2.2 or 2.3, Dealing in Mortgages
2. subsection 3.2 or 3.3, Trading in Mortgages
3. subsection 4.2, Mortgage Lending
4. subsection 5.2, Administering Mortgages
5. section 27, Prohibition re Disclosure in Advertising
6. section 30.6, Inquiries and Examinations
7. subsection 43.1 or 43.2, Prohibition re False or Deceptive Information
8. subsection 44.1 or 44.2, Prohibition re Obstruction
9. subsection 45.1 or 45.2, Prohibition re False or Misleading Information, and
10. section 46, Prohibition re Reprisals

Section 43 (1) is directly related to mortgage fraud.
"Prohibition re false or deceptive information
43 (1) No mortgage brokerage or mortgage administrator shall give, assist in giving or induce or counsel another person or entity to give or assist in giving any false or deceptive information or document when carrying on the business of dealing in mortgages in Ontario or the business of trading in mortgages in Ontario, when carrying on business as a mortgage lender in Ontario or when carrying on the business of administering mortgages in Ontario. 2006, c. 29, s. 43 (1)."

Individuals charged with an offence are liable to a fine up to $100,000, imprisonment for up to one year, or both while corporations are liable to a fine of up to $200,000. It is important to note that directors and officers of a corporation that has committed an offence are also liable. Section 48.2 of the *MBLAA* also dictates that any contraventions of applicable Standards of Practice are an offence under the *MBLAA* and liable to the fines as previously discussed.

22.4 Indirect Consequences of Mortgage Fraud

Along with the consequences listed previously, as well as significant losses to lenders and claims payable by title insurers and mortgage default insurers, mortgage fraud can have other harmful effects.

Psychological
Individuals who are victims of identity theft can suffer significant emotional harm, including stress, depression, guilt, and so on. They may suffer financial losses due to the fraudulent transaction as well as having to spend a significant amount of time recovering their compromised identification and attempting to rectify false information on their credit reports.

Reputational
Mortgage fraud can damage the integrity of the entire industry. As more fraud is uncovered, those industry participants involved in the fraud will see public confidence in their profession erode.

In addition, mortgage agents who have originated fraudulent loans can have their reputations tarnished, whether they were involved in the fraud or not.

Economic
Significant fraud in a single neighbourhood, as seen in Atlanta, can result in higher property taxes due to inflated values as well as having the opposite effect when the properties must be sold by lenders. This can cause a flood of properties for sale in the neighbourhood and diminish the values of surrounding properties. Properties that were used by criminal organizations for the purposes of marijuana grow ops or drug labs can cause the unknowing purchaser health hazards and significant costs to repair the property.

22.5 Fraud Prevention

It is of vital interest to both the integrity of the mortgage brokerage industry and the mortgage industry as a whole that mortgage fraud be prevented whenever possible. As criminals use more sophisticated methods of committing fraud it is becoming much more difficult for mortgage agents to identify fraud. It is, however, incumbent upon mortgage agents to do everything in their power to prevent a mortgage fraud from occurring.

Steps in Fraud Prevention

To protect against fraud the mortgage agent should take the following steps:

Identity Verification
Ensure that the borrower's identity is verified by viewing a piece of photo identification, preferably a driver's license. Ensure that a photocopy of the document is made and kept on file for future reference.

Employment and Income Verification
The mortgage agent should verify the borrower's employment and income by contacting the employer by phone and noting this information in the file. The mortgage agent should verify the validity of the contact information of the employer by conducting a business phone number search or reverse directory lookup using www.canada411.com or other internet services. Although this task is often completed by the lender, the mortgage agent can prevent the submission of fraudulent files by discovering this information before the file is submitted.

Occupancy
If the mortgage agent is aware of the applicant's intent to rent a property that he or she is listing as owner occupied, the mortgage agent must advise the applicant that this is in fact fraudulent and that he or she will not be a party to this transaction. A mortgage may still be obtained legitimately by using a product that allows the property to be used as a rental. If the application has been submitted as an owner-occupied property and the mortgage agent subsequently learns of the applicant's intent to rent the property, he or she must advise the borrower that the application will be cancelled with the current lender and inform the lender of the misstatement.

Credit
The mortgage agent must verify the information found on the credit report with the applicant for consistency. If there are any discrepancies such as a different social insurance number, the mortgage agent should obtain documentary evidence that supports the applicant's claim.

Property
In the case of the property to be mortgaged being valued by a risk assessment tool or an AVM, and since mortgage fraud based on the property is becoming much more frequent, the mortgage agent should verify that the property does indeed exist and that it conforms to the neighbourhood by viewing the property, when possible. If this is not possible the mortgage agent should use a technology like Google Earth that provides satellite imagery of properties to verify that the property exists.

If not meeting at the applicant's property, the mortgage agent should also ask for a copy of a recent utility bill that has the correct address of the property to be mortgaged and is in the applicant's name. Although the risk of property fraud is borne by the lender, it is necessary for a prudent mortgage agent to protect the lender's interests whenever possible.

Fraud Warning Signs

While there are many potential warning signs for mortgage fraud, some are more obvious than others. It is necessary for the mortgage agent to watch for these warning signs and complete proper due diligence if any of these warning signs are present. Of course, warning signs are not necessarily an indicator of mortgage fraud, but may be, and therefore should always be investigated.

Identity
- The applicant cannot provide any photo identification or says that he or she will provide photo identification but consistently does not. The quality of the identification must also be considered, especially if it does not appear to be genuine.
- If the applicants are not available to meet or if one applicant is never present.
- If a Power of Attorney is being used, especially on behalf of a senior

Employment and Income
- The applicant's job letter contains inconsistencies or errors. (e.g., if it does not match pay stubs or what the applicant has disclosed about the amount of income, the time employed or his or her job title or has spelling or grammatical errors).
- If, when verifying the applicant's employment, the broker/agent cannot find a directory listing for the business, or the business contact number (as provided or as stated on the job letter) is a residential number or cellular number. This information can be obtained by conducting a business phone number search or reverse directory lookup using www.canada411.com or other Internet services.
- The position and/or income are inconsistent with the applicant's age.
- Employment verifications addressed to a specific party's attention
- Employment verifications completed on the same day they were ordered
- Employment verifications on a weekend or holiday
- Documentation which includes deletions, correction fluid, or other alterations
- Numbers on the documentation appear to be "squeezed" due to alteration
- Different handwriting or type styles within a document
- Applicant's job title is generic, e.g., "manager," "Vice President"
- Employer's address is a post office box, the property address, or applicant's current residence
- Applicant's residence is (will be) in a location remote from employer
- Employer's name is similar to a party to the transaction, (e.g., utilizes applicant's initials)

- Employer is unable to be contacted
- Year-to-date or past-year earnings are even dollar amounts
- Withholding is not calculated correctly
- Withholding totals don't increase from pay stub to pay stub
- Pay period dates overlap and/or don't correspond with other documentation
- Abnormalities in paycheque numbering
- Handwritten paystubs
- Income appears to be out of line with type of employment
- Self-employed applicant does not make estimated tax payments
- Real estate taxes or mortgage interest claimed, but no ownership of real property disclosed
- Tax returns not signed or dated
- High income applicant without tax return preparer
- Paid preparer signs taxpayer's copy of tax returns
- Interest and dividend income don't substantiate assets
- Applicant reports substantial income but has no cash in bank
- Reasonableness test: income appears to be out of line with type of employment, applicant age, education and/or lifestyle

Assets

- The applicant states that he or she has significant income but little or no assets.
- Down payment source is other than deposits (gift, sale of personal property)
- Applicant's salary doesn't support savings on deposit
- Applicant doesn't utilize traditional banking institutions
- Pattern of loyalty to financial institutions other than the subject lender
- Balances are greater than the Canadian Deposit Insurance Corporation (CDIC) insured limits
- High asset applicant's investments are not diversified
- Excessive balance maintained in checking account
- Dates of bank statements are unusual or out of sequence
- Recently deposited funds without a plausible paper-trail or explanation
- Bank account ownership includes unknown parties
- Balances verified as even dollar amounts
- Two-month average balance is equal to present balance
- Source of earnest/deposit money is not apparent
- Earnest/deposit money isn't reflected in account withdrawals
- Earnest/deposit money is from a bank or account with no relationship to the applicant
- Bank statements do not reflect deposits consistent with income
- Reasonableness Test: Assets appear to be out of line with type of employment, applicant age, education and/or lifestyle

Pause for clarification – Earnest Money

Down payment or a small part of the purchase price made by a purchaser as evidence of good faith.

Meeting Location

- If the client insists on meeting at a location other than the location of the property to be mortgaged. This may simply be based on convenience, and if the broker/agent's process includes meeting in his or her office this may not be considered a warning sign. The broker/agent should request a copy of a recent utility bill with the applicant's address and name.

Contact Information
- If the applicant only has a cellular phone for contact purposes (although more consumers are using cellular phones as their homes phone).
- Same telephone number for applicant and employer

Purchase and Sale Agreement
- Non arms-length transaction: seller is a real estate broker, relative, employer, etc.
- Seller is not currently reflected on title
- Purchaser is not the applicant
- Purchaser(s) deleted from/added to sales contract
- No real estate agent is involved
- Power of Attorney is used
- Second mortgage is indicated, but not disclosed on the application
- Earnest/deposit money equals the entire down payment, or is an odd amount
- Multiple deposit cheques have inconsistent dates, i.e., #303 dated 10/1, #299 dated 11/1
- Name and/or address on earnest/deposit money cheque differ from buyer
- Real estate commission is excessive
- Contract dated after credit documents
- Contract is "boiler plate" with limited fill-in-the-blank terms, not reflective of a true negotiation

Credit Report
- No credit history or "thin" credit files
- Invalid Social Insurance number or variance from that on other documents
- Liabilities shown on credit report that are not on mortgage application
- Length of established credit is not consistent with applicant's age
- Credit patterns are inconsistent with income and lifestyle
- All tradelines opened at the same time
- Significant differences between original and new or supplemental credit reports
- Also Known As (AKA) or Doing Business As (DBA) indicated
- Numerous recent inquiries
- Employment discrepancies

Appraisal
- Appraisal ordered by a party to the transaction
- Occupant shown to be tenant or unknown
- Owner is someone other than seller shown on sales contract
- Appraisal indicates transaction is a refinance, but other documentation reflects a purchase
- Purchase price is substantially higher than predominant market value
- Purchase price is substantially lower than predominant market value
- Large positive adjustments made to comparable properties
- Comparable sales are not similar in style, size and amenity
- Dated sales used as comparable sales
- New construction / Condo conversion: all comparable sales located in subject development

- Comparable properties are a significant distance from the subject, or located across neighbourhood boundaries (main arteries, waterways, etc.)
- Map scale distorts distance of comparable properties
- “For Rent” sign appears in photographs
- Photos appear to be taken from an awkward or unusual standpoint
- Address reflected in photos does not match property address
- Weather conditions in photos inconsistent with average marketing time, date of appraisal
- Appraisal dated before sales contract
- Significant appreciation in short period of time
- Prior sales are listed for subject and/or comparables without adequate explanation

Title
- Seller not on title
- Seller owned property for short time
- Buyer has pre-existing financial interest in the property
- Date and number of existing encumbrances don’t make sense
- Chain of title includes an interested party such as realtor or appraiser
- Buyer and seller have similar names (property flips often use family members as straw buyers)

Owner Occupancy
Purchase Transactions**:**
- Real estate listed on application, yet applicant is a renter
- Applicant intends to lease current residence
- Significant or unrealistic commute distance
- Applicant is downgrading from a larger or more expensive house
- Sales contract is subject to an existing lease
- Occupancy affidavits reflect applicant does *not* intend to occupy
- New homeowner’s insurance is a rental policy (declarations page)

Refinance Transactions**:**
- Rental property listed on application is more expensive than subject property
- Different mailing address on applicant’s bank statements, pay stubs, etc.
- Different address reported on credit report
- Significant or unrealistic commute distance
- Appraisal reflects vacant or tenant occupancy
- Occupancy affidavits reflect applicant does *not* intend to occupy
- Homeowner’s insurance is a rental policy (declarations page)
- Reverse directory does not disclose subject property address

22.6 The Land Titles Assurance Fund

The Ontario Land Titles Assurance Fund (LTAF) is a fund that was created under the *Land Titles Act* and is designed to compensate individuals who have suffered financial losses due to errors or omissions in the land registration system and who have suffered losses due to real estate fraud.

According to the LTAF, it will immediately respond to claims covered and in cases where fraud or an error or omission is clear, can rectify the situation within three months, including returning title where applicable and providing compensation.

Those suffering a loss should contact a lawyer before contacting the LTAF.

22.7 Advice for Clients

While there are several methods available to industry participants to assist in preventing fraud, there are also several approaches available to consumers. The following advice should be given to a mortgage agent's client.

Title Insurance
Consumers should obtain title insurance on every property that they buy and get title insurance for any property that they currently own. This can protect against future acts of title or mortgage fraud.

Document Destruction
Consumers should destroy all bills and other personally identifiable documents by using a paper shredder instead of simply throwing them in the garbage. This can prevent criminals from obtaining this information by going through a consumer's garbage. It is now common for criminals to take several containers of garbage from consumers' homes to a different location to search for documents containing personal identity information which can then be used to impersonate the consumer.

Home Inspection
A homebuyer purchasing a resale home should have it inspected. This can prevent the buyer from purchasing a house that was used as a grow op or a drug lab.

ATMs
Consumers should strive to withdraw cash only from their bank's ATMs. There have been several circumstances where ATMs in small gas stations or other stores have been compromised, allowing the criminal to record debit card and PIN information.

PIN Numbers
Consumers should always protect their PIN numbers, including debit card and credit card numbers to prevent unauthorized use of these cards.

Credit Reports
Consumers should pull their own credit report every three to six months to ensure that there are no inquiries or debts that the consumer has not authorized. This can be done online through Equifax and Transunion.

Online Shopping
Consumers should only use online retailers that they have knowledge of and/or use secure, encrypted processing of payment information. This can be confirmed in many instances through the web browser by way of a lock icon.

Phone Solicitations

Consumers should never give their credit card information to unsolicited callers. If it is for a charity the consumer should obtain a number that he or she can verify and call the charity back, or have the charity send a payment request by mail. Many criminals will impersonate charities or other groups to obtain personal information by phone.

Internet Phishing

Phishing is an Internet scam whereby the criminal sends an email to the consumer requesting personal information. The email may appear to be from the consumer's bank or other company such as Amazon or eBay. The technology can produce emails and websites that look identical to the actual company's. However, respectable companies will not request this information by email.

SIN Card

Consumers should not carry their social insurance number card with them as this can be stolen and used for identity theft. There are only limited situations where a SIN card is required, and it is typically not required on a daily basis.

Passwords

Consumers should use passwords that are unique, excluding birth dates and other common forms of passwords. Consumers should keep this information, if written, locked in a secure place.

22.8 Key Terms and Definitions

Air Loan
A mortgage provided on a property that does not exist

Foreclosure fraud
The defrauding of a homeowner using the pretense of assisting to stop a foreclosure or power of sale

Fraud for criminal activities
Mortgage fraud may be committed to further other criminal activities such as the financing of marijuana grow operations, drug labs and money laundering

Fraud for profit
Fraud committed to obtain the proceeds of the mortgage without the intent to repay the loan

Fraud for shelter
When an individual wishes to purchase a home in which to reside with no intent to abscond with mortgage funds or fraudulently sell the property, by misstating or misrepresenting his or her status

Identity theft
The use of personal information that has been stolen or is being used to commit fraud or theft

Impersonation
Similar to identity theft, when the criminal poses as another individual

Land Titles Assurance Fund
A provincial fund that was created under the *Land Titles Act* which is designed to compensate individuals who have suffered financial losses due to errors or omissions in the land registration system and real estate fraud

Money laundering
The practice of performing a financial transaction with the intent to conceal the source of money, typically obtained through a criminal activity. The result is that the money appears to have been legitimately obtained.

Mortgage fraud
The deliberate omission of information, use of misstatements or misrepresentations to obtain, purchase or fund a mortgage loan

Straw borrower
A straw borrower is typically an individual who is paid to use his or her identity to obtain mortgage financing, or who is a victim of identity theft.

Title fraud
The fraudulent transfer of title of a property

Value fraud
A misstatement of the value of a property

22.9 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Define mortgage fraud.

2. What factors contribute to mortgage fraud?

3. Explain the difference between fraud for criminal activities and fraud for profit.

4. In your opinion, is fraud for shelter harmful? If so, to whom and why?

5. What is the most common factual misstatement made under fraud for shelter, according to Fannie Mae?

6. What are the impacts of mortgage fraud on industry participants?

7. What steps can a mortgage agent take to assist in mortgage fraud prevention?

8. List and describe the typical fraud warning signs.

9. How does the Land Titles Assurance Fund assist homeowners who are victims of fraud?

10. What ways can consumers protect themselves from fraud?

Chapter 23: Ethics and Mortgage Brokering

Learning Outcomes

Successful understanding of the concepts presented in this chapter will enable the learner to:

- ❑ Define “ethics”
- ❑ Understand the core values of the mortgage industry and how they affect decisions
- ❑ Understand how the decision-making model is used to determine a course of action
- ❑ Apply the decision-making model to case studies to determine a course of action

Introduction

The idea of ethics in the mortgage brokerage industry is a timely one. The sub-prime mortgage meltdown in the United States in 2007 precipitated substantial discussion on this topic within both the U.S. and Canadian industries and has resulted in a more concentrated effort being placed on practicing ethical behaviour in the mortgage industry. To understand the increasing role of ethical behaviour in the mortgage industry requires one to be able to answer the most basic question: what is *ethics*?

23.1 What is Ethics?

While there are many definitions of the word ethics, it is important for us to discuss the definition of this concept in relation to the mortgage industry. Ethics do not exist in a vacuum. One can’t be deemed to be ethical unless the environment that he or she is in deems that behaviour to be ethical. Otherwise the behaviour would be deemed unethical by the community.

Therefore, ethics can be defined, for our purposes, as *“the process of applying the core values of the mortgage industry to a practitioner’s daily conduct.”*

To be able to adequately apply this definition it is of vital importance that we understand the core values of the industry and that we practice them. Only in this fashion can one be said to be ethical in relation to the mortgage industry.

23.2 The Core Values and Beliefs of the Mortgage Industry

The mortgage industry, as discussed earlier, consists of many participants. For the mortgage agent, his or her main clients are the borrower and the lender. As was also previously discussed, both of these clients have basic expectations that they make when conducting business with a mortgage agent. It is useful to revisit these expectations before continuing the discussion of ethical behaviour. A detailed explanation of these expectations can be found in the chapter, Transaction Overview.

Borrower Expectations

These expectations can be summarized as:
1. Act in the borrower's best interests
2. Completely analyze the borrower's needs
3. Make appropriate recommendations based on the borrower's needs
4. Facilitate the transaction to its successful completion (funding).

Lender Expectations

These expectations can be summarized as:
1. Provide borrowers who are suitable for the lender
2. Provide appropriate protection against fraud
3. Facilitate the transaction to its successful completion (funding).

If a mortgage agent believes that he or she must fulfill these expectations, the next question is straight forward. How?

The process of acting ethically in this industry can only truly be achieved by having core beliefs or values that provide the foundation for our decisions. If a person has these core beliefs, then all decisions must be based on them. Without these core beliefs the decision-making process becomes situational; in other words, each situation may have a different outcome based on its circumstances. What an individual may decide to do in one instance, for example being honest, may not be what he or she decides to do in another instance. This may seem inconsistent, but if a person is making decisions on what is best for him or her in any given scenario, the results may be honesty in one situation and dishonesty in another.

Situational ethics have no place in the mortgage industry. Rather it is necessary to outline the core beliefs of the industry and apply them to every situation.

Core Values

By viewing the expectations that are made by clients in a mortgage transaction, we can extrapolate the core values necessary to meet those expectations. A core value can be defined as a belief which one cannot contravene. In other words, if it is truly a core value you cannot go against it, nor do anything that contravenes that belief. We will begin exploring the core beliefs of the mortgage industry, starting with honesty.

1. **Honesty**
   Merriam-Webster's dictionary defines honesty as: "fairness and straightforwardness of conduct; adherence to the facts"
   By having a core value of honesty, it becomes impossible for an individual to do something that would be deemed to be unfair, dishonest or that does not adhere to the facts. This would result in behaviour which prevents lying, cheating or stealing, to name a few.

2. **Integrity**
   Integrity can be defined as the adherence to a core set of values, from which all decisions are based. If one has integrity, he or she adheres to their core values. It is therefore necessary to have integrity to be considered ethical, since ethics is, at its base, a core set of beliefs.

3. **Act in the best interests of the client**
   This core belief speaks to the fact that we are in the mortgage industry to serve. We serve our clients, being the borrower and lender. In all cases we must do that which is in their best interests, since they are the ones putting their trust and faith in us, as long as doing so does not contravene the values of honesty and integrity. This will also include ensuring that you are adequately trained and knowledgeable. Failure of either will prevent you from being able to adequately advise your client of his or her options, and therefore render you unable to act in his or her best interests!

4. **Act in the best interests of the industry**
   This core belief speaks to the fact that we are members of a community. As such, it is our duty to act in the best interests of this community, adhering to its core values, as long as they do not contradict the previous core values. This will also include ensuring that you are adequately trained and knowledgeable. Failure of either always has a negative impact on the industry as a whole.

5. **Comply with law and codes of conduct**
   It should be noted that a core value of every industry is that the law of the land be adhered to, regardless of our personal core beliefs and ethics. In most cases acting ethically in adherence to the above core values will result in not only acting lawfully but exceeding the legal requirements. However, in certain circumstances the law or your firm's code of conduct or the trade association to which you belong may require additional behaviours not covered by ethical behaviour. For example, some trade associations require its members to report unethical behaviour to it, or follow other procedures as outlined in a set of codes of conduct. While acting in the best interests of the industry requires an individual to act lawfully and to comply with his or her firm's or association's codes of conduct, it is worthwhile to stress this as a separate core value.

By taking these five basic core beliefs it is possible to combine them into a statement by which a mortgage professional should adhere.

"I will conduct myself with honesty and integrity, acting in the best interests of my clients and the industry to which I belong."

A simple, yet powerful statement. Once an individual prescribes to these five core beliefs, the decision-making process in any given scenario becomes much clearer. The next section examines scenarios and the process by which a decision can be arrived at, based on these five core beliefs.

23.3 The Decision-Making Model

While discussing ethics and learning the core values of the industry is vitally important, practicing ethical behaviour is the end result to which we must aspire. To that end it is necessary to examine several case studies and apply the five core values to each to arrive at a truly ethical decision. The following decision-making model is a simple, nine step process:

1. What are the facts?

Before one can come to a decision whether an action is ethical, he or she must be relatively certain that all of the facts have been obtained. Failure to do so can result in a faulty decision.

2. Identify the potential solutions
Next, it is necessary to list the possible solutions to the problem. Once all of the possible solutions are listed, one can apply the next step in the process. It's important to note that if you are too involved in a situation you may not be able to clearly see all of the potential solutions. In this instance it may be necessary to obtain the input of others, such as a co-worker or family member, to add some clarity and objectivity to the discussion.

3. Apply the core value: Honesty
Which potential solutions support this core value? To answer this question, apply this core value to each of the solutions from step 2. Do any of the solutions contravene this value? If so, it is not necessary to proceed further; that solution is clearly unethical. Move to the test for integrity with the remaining solutions.

4. Apply the core value: Integrity
Does the potential solution compromise your integrity? In other words, would this solution be inconsistent with how you live and what you believe in? If the answer is yes you must deem this solution unethical. Move to the test of acting in the best interests of your client with the remaining solutions.

5. Apply the core value: Act in the best interests of your client
To be able to apply this core value it is necessary to have performed a detailed needs assessment to determine exactly what his or her needs are. Does the potential solution result in an action that is in the best interests of your client? If it does not, you must discard that solution. The remaining solutions can be taken to the next test.

6. Apply the core value: Act in the best interests of the industry
Does the potential solution reflect well on the industry? Acting in the best interests of the industry does not necessarily mean that the solution must have a positive impact on the industry, such as raising public awareness of the benefits of using a broker, but that it must not act against the best interests of the industry. Even if a potential solution has made it this far, the question would then be: is this solution detrimental to the industry? If the answer is yes, the solution must be discarded. If not, move on to the final core value test.

7. Apply the core value: Comply with law and codes of conduct
Finally, this core value is applied to the remaining solutions. If any contravene this core value, they must be discarded.

8. Choose the best solution
Any solutions now available to you can be reasonably assumed to be ethical. If you have more than one solution still available, the test of which provides the greatest good can be applied. In most cases, however, only one solution will remain.

9. Review the process
Once you've reached a decision it is important to review the process step by step to ensure that your tests were applied objectively and without bias. It may also be helpful to discuss the process with someone you trust, as long as the discussion does not disclose confidential information, or information that might damage another's reputation.

Now that we've discussed the process it's time to practice applying it.

23.4 Case Study 1

Inflated income supplied by a client
James has been referred to Peter, a mortgage agent, by his real estate salesperson. James has found a house he wishes to purchase and now needs assistance in obtaining financing. Upon meeting with James, Peter finds him to be a likeable individual with only one problem: he doesn't make enough money to afford to purchase the house that he wants to buy. Being an experienced and well-trained mortgage agent Peter discusses with James all of the ways that he can potentially borrow the required amount.

He discusses extending the amortization to 30 years; however, this still leaves James slightly over the TDS limit. He discusses obtaining a co-borrower; however, his only potential co-borrower has terrible credit and would actually weaken his application. Peter discusses taking an interest only mortgage to decrease the payments and increase the amount available to borrow, but this still leaves James slightly over the TDS limit.

They discuss a combination of these solutions with more money as a down payment, but James has absolutely no funds left and cannot borrow any. Finally, Peter suggests that James buy a less expensive home, but James has his mind made up: this is the house for him. After spending considerable time with him Peter comes to the conclusion that based on his insistence to buy this particular house, and based on his income, James does not qualify.

Peter lets him know that he must reconsider his insistence on buying this home, find a better co-borrower or more money for a down payment. Peter thanks him for his time and tells him that he looks forward to hearing from him.

Two days go by until James contacts Peter again. James tells him that he has found a solution to his problem and wishes to meet him immediately. Before he tells Peter what the solution is, he hangs up and makes his way to Peter's office.

Upon arrival James tells Peter that he has found a solution to all of his problems: he now earns more money! After asking him if he got a raise, Peter discovers that instead of giving him a raise, his employer has given him a new job letter with just the right amount of income showing for him to qualify for the mortgage.

This is a hypothetical situation, but one that happens often in this industry. Assume now that Peter can freeze time and use the decision-making model to assess this situation before he has to make another comment. The question is: what should Peter tell James?

Step 1: What are the facts?
We can summarize them as follows:
1. James does not earn enough to qualify for the mortgage
2. the options Peter gave him were unable to be met
3. the option of buying a less expensive home is a decision James does not wish to entertain
4. James is providing Peter with a job letter that states that he earns more than he actually does
5. his employer provided this letter and will confirm its contents if contacted
6. Peter has not created false income documentation; the client did
7. the client has informed Peter that this documentation is in fact false

Step 2: Identify the potential solutions
At this stage Peter can list all solutions since he is not yet determining whether they are ethical or not, simply whether they exist.

a) accept the letter from James
b) tell James that he cannot accept the letter and the reasons why
c) tell James that he cannot accept the letter, the reasons why and that he can no longer do business with him
d) refer him to another mortgage agent to close the deal if he doesn't feel comfortable with it
e) pretend that he didn't hear him say that his boss increased his income on paper only, and ask him again if he got a raise (while giving him a knowing wink)

Step 3: Apply the core value: Honesty
We begin by applying this test to the potential solutions.

a) Accept the letter from James
While an argument can be made that Peter was not dishonest since he didn't create the letter, he would be dishonest in submitting it to a lender as he knows it to be, in fact, a lie.

b) Tell James that he cannot accept the letter and the reasons why
This solution would not contravene the core value of honesty and is therefore still an option.

c) Tell James that he cannot accept the letter, the reasons why and that he can no longer do business with him.
This solution would not contravene the core value of honesty and is therefore still an option.

d) Refer him to another mortgage agent to close the deal if Peter doesn't feel comfortable with it.
While this route may seem honest, especially if Peter tells the other agent why he is giving him or her this client, it is not. Consider that Peter knows what will happen with this transaction and therefore is a party to it. He has basically told someone else to do something dishonest. This contravenes this test and is not an option.

e) Advise him that he didn't hear him say that his boss increased his income on paper only and ask him again if he got a raise (while giving him a knowing wink).
Simply put, Peter can't un-hear what he's already heard. He could pretend not to have heard, but he did. This contravenes the honesty test and is therefore not an option.

Peter has therefore removed options a), d) and e) from his list of possible solutions.

Step 4: Apply the core value: Integrity
Peter now only has two options left: b) and c). Which option should he choose? Would he like to continue to do business with James or not? The question here is about consistency. Does Peter wish to live his life and/or conduct business with people who are willing to lie to achieve their goals? This is a personal question as some individuals could argue that James is desperate and may not usually lie and may not lie in the future.

However, in this case Peter must use the facts as he knows them, as opposed to what he hopes James will do in the future. He therefore decides that he does not want clients who are willing to lie to him or to his other clients, his lenders. Therefore, Peter has ruled out option b).

Step 5: Apply the core value: Act in the best interests of your client.
Is option c) in James' best interests? Yes, because he has prevented James from obtaining a mortgage that, based on the current information, he can't afford. In essence Peter has prevented James from possibly harming himself financially.

Step 6: Apply the core value: Act in the best interests of the industry
In this case the question could be asked: is it better for the industry to be known to turn this type of client away or assist them in getting a mortgage? If the industry wants honest consumers as clients, it could be argued that the first option would be true. In fact, many consumers believe that only clients who are desperate use mortgage agents. This is a fallacy that the industry has long been trying to correct.

Step 7: Apply the core value: Comply with law and codes of conduct
If Peter was to supply an employment letter that he knew to have inflated income he would be involved in perpetrating a fraud on his other client, the lender. Clearly this contravenes the law and will contravene any association's codes of conduct, making the solution invalid. The only options that do not contravene the law and codes of conduct are b) and c) and we've already ruled out b).

Step 8: Choose the best solution
Based on this analysis it is clear that c) would be the best option out of all of the potential solutions discussed.

Step 9: Review the process
Once complete, Peter should review the process, beginning with Step 1 to ensure that he hasn't left out any facts or neglected any options. Once satisfied he should act on his choice.

Questions
1. Do you agree with this solution? Why or why not?
2. Are there any other solutions you can think of that were not included in Step 2? If so, list them below.

23.5 Case Study 2

Obtaining a higher commission for an increased rate

Susan has found the following ad in a newspaper. She is looking for a mortgage and knows that her credit score is 615, making it difficult for her to be approved by a traditional lender, so she has decided to give this mortgage brokerage a try. She has met with the brokerage's agent, Arlene, and gone through the application process. Arlene has submitted the application to a lender that provides mortgages to clients in her situation, but that also offers the agent the choice of charging a higher interest rate for an increase in her commission.

> *A-1 Mortgages*
>
> *We work for you!*
>
> *Good credit, bad credit or no credit, we get you approved!* Call ABC Mortgages Inc.** now 416-555-1212*
>
> **certain conditions apply*
>
> ***(license #12345)*

The lender has told Arlene that Susan is approved for a rate of 5.5% for a 5-year term, which will pay Arlene 85 bps as a commission, but if Arlene would like she can offer Susan a rate of 5.9% for a 5 year term and earn 100 bps. Arlene is a new agent, recently licensed and was unaware of this program until her broker told her about it. She has called you, a more experienced broker and has asked you for your advice on this type of program.

Question: Would you advise Arlene to charge the higher rate and earn more commission or choose the lower rate and earn less?

To answer this question, you will need to apply the decision-making process, starting with gathering the facts.

Step 1: What are the facts?

- After speaking with Arlene further, you have been able to determine that Susan has several late payments on both her Visa and MasterCard, which has lowered her credit score significantly.
- It is apparent that if Arlene does not use this particular lender, Susan most likely will not qualify elsewhere for the financing she needs.
- Susan has told Arlene that she is happy to pay between 5.5% and 6% to obtain this mortgage, so both rates fall in line with what she expected to pay.
- Arlene has told you that she had to spend some extra time working on this file, finally seeking the advice of her broker, because she didn't know where to send a client like Susan.
- In further discussions with Arlene, you have discovered that she made no promises to Susan about the rate.
- Finally, Arlene has told you that her broker has informed her that increasing the borrower's rate to obtain a higher commission or other benefit is a fairly common occurrence in the mortgage industry, something Arlene was unaware of.

Step 2: Identify the potential solutions

Arlene's solutions are fairly clear:

a) Offer Susan the lower rate and obtain a lower commission, or

b) Offer Susan the higher rate and obtain a higher commission

Step 3: Apply the core value: Honesty
In analyzing this scenario, you have asked Arlene whether she told Susan that she would get her the lowest possible rate. Arlene has told you that she did not. She told the client, "I will get you approved and hopefully at a good rate, but your situation means that you may get a higher rate than usual if I can get you approved at all." It seems that Arlene would not be lying to Susan by giving her the slightly higher rate, and therefore you have determined that honesty is not an issue with either option a) or b).

Step 4: Apply the core value: Integrity
To apply this step, you ask Arlene if she is willing to do business like this in the future. She responds that her broker has told her this is allowed in the industry; therefore, she has no problems using a program that is readily available from a lender going forward. It seems that Arlene feels that using this program would not contravene her integrity, so you decide to move to the next step.

Step 5: Apply the core value: Act in the best interests of your client
In applying this step, you ask Arlene if this mortgage is in the client's best interests. Arlene tells you that she feels either rate is good for the client, since she won't qualify elsewhere. The question then becomes is the higher rate in the *best* interests of the client? In comparison to the lower rate, it can be argued that the higher rate is *not* the best option out of the two.

Arlene's broker, however, has told her that because of Susan's poor credit, she doesn't really deserve the best rate. However, after applying this test it becomes more obvious that since she has been approved for the lower rate, she does in fact deserve it. If she didn't deserve the lower rate the lender would not have approved her for it. The result of this step is that Arlene has determined, with your help, that option a) would be best for the client.

Step 6: Apply the core value: Act in the best interests of the industry
Since option b) has been ruled out, does option a) act in the best interests of the industry? The answer is yes, since this does no harm to the industry. Rather, because it has passed the previous tests it reflects well on the industry.

Step 7: Apply the core value: Comply with law and codes of conduct
This remaining option does comply with the law and codes of conduct in the industry.

Step 8: Choose the best solution
Based on this analysis it is obvious that this is the correct choice.

Step 9: Review the process
An issue that may cloud Arlene's judgment now surfaces. She feels that she has had to do more work for this client than the three previous clients that she's obtained, and she can really use the extra money to help with her advertising needs.

Questions
a) In your opinion does this new information change the outcome of the decision making process? Discuss this with your peers and see what they think. Keep in mind that Arlene is a

new agent with little experience, and the fact that she can use the extra money has nothing to do with Susan.

b) Do you agree with this solution? Why or why not?
c) Are there any other solutions you can think of that were not included in Step 2? If so, list them.

23.6 Conclusion

Ethics, *"the process of applying the core values of the mortgage industry to a practitioner's daily conduct,"* requires that the practitioner first identify what those core values are. In the mortgage industry they consist of honesty, integrity, acting in the best interests of both the borrower and lender, and always complying with the laws of the land and the codes of conduct acceptable in the industry. The test of honesty and integrity will solve virtually every situation.

In an individual's personal life, however, the core values may be different. For example, a core value of protecting one's family may be classed higher than honesty, and it may be more difficult to arrive at a clear decision. The process of understanding what is truly important to an individual regarding his or her core values can take considerable introspection, but by doing so he or she can use the decision-making model to assist in coming to a decision that can truly be deemed to be ethical.

23.7 Key Terms and Definitions

Core value or belief
A belief which one cannot contravene. In other words, if it is truly a core value you cannot go against it, or do anything that contravenes that belief

Decision making model
The model used to determine whether potential solutions to a problem pass the test of the individual's core values

Ethics (in relation to the mortgage industry)
The process of applying the core values of the mortgage industry to a practitioner's daily conduct

Honesty
Merriam-Webster's dictionary defines honesty as: "fairness and straightforwardness of conduct; adherence to the facts"

Integrity
The adherence to a core set of values, from which all decisions are based. If one has integrity, he or she adheres to their core values

23.8 Review Questions

Answers to the Review Questions are found at www.REMIC.ca

Short Answer Questions

1. Define the term "ethics"

2. What are the core values of the mortgage industry?

3. What are the steps in the Decision-Making Model?

4. Why should an individual review the Decision-Making Model process before making his or her final decision?

5. What are some options for an individual to ensure that he or she has obtained all of the facts?

6. What should an individual do if he or she can't obtain all of the facts?

7. If two or more possible solutions make it to the final step, how would you choose the best option?

8. List your core values and compare them to the industry's core values. How does the Decision Making Model that you would use for your personal decisions differ from those of your business decisions, if at all?

9. Is it possible for an individual to determine all of the potential solutions to a scenario? If not, how else might he or she develop additional solutions?

10. Ask your friends or family members not in the mortgage industry what they believe the core values of the industry are. Write them down and compare them to those listed in this chapter. What did you find? Is the perception of the mortgage industry similar to this chapter's core values or different? If different, how might the industry change this perception?

Case Study

Scenario and Supporting Documents

Today is January 20th, 2012.

You are a mortgage agent at Sample Mortgages Inc., registration number 12345, located at 2175 Sheppard Avenue East, Suite 213, North York Ontario, M2J 1W8. Your clients, a married couple named Jack and Susan Adams have responded to an ad that you had placed in the Toronto Star. They've told you that they would like to refinance their existing mortgage for $400,000 on their owner-occupied house, which is coming up for renewal shortly.

In speaking with them, you have learned that they purchased this home on February 1st, 2009, after living at their previous address for two years. They wish to pay off their credit cards and their loan. The purchase price was $450,000, and they obtained a $400,000 1st mortgage from REMIC's Savings and Loan. Approximately one year after buying the home, Jack and Susan remodeled their kitchen and finished the basement.

The property taxes have not changed since they purchased the home. You have determined the best course of action is to refinance their mortgage with SuperBank because it is offering better rates and pre-payment privileges. Included in the next several pages are the appropriate supporting documents that you've gathered from the clients.

His social insurance number is 450-120-843 while hers is 499-921-012. They have provided their contact information, which is as follows:
Home Telephone Number: (416) 555-1492; Jack: c: (647) 555-1822; e: jadams@hotmail.com;
Susan: c: (647) 555-1492; e: sus.adams@gmail.com

You have learned that they have a 2010 Ford Focus, which they value at $13,000; an RRSP with a value of $26,000; $11,500 cash in the bank and household goods valued at $21,000. They have informed you that their first mortgage is currently up to date and they have never missed a mortgage payment.

The lender required an appraisal by Wonderful Appraisals Inc. On January 19th, 2012 that appraisal was completed, valuing the Adams' house at $506,000. The cost of this appraisal, which the clients paid, was $435 including tax. If required, the title insurance policy will cost $450. On January 17th, 2012, SuperBank provided you with an approval. Please refer to the approval in the following pages for its terms and conditions before completing your calculations.

You have decided that you will not charge a brokerage fee because SuperBank pays a finder's fee of 85 bps. You completed filling out the borrower disclosure today, January 20th, 2012 and are meeting with the clients tomorrow, January 21st, 2012, at which time they will sign the borrower disclosure.

Please complete the following tasks using all information in this Case Study.

1. Section 1: Fill in the Mortgage Application
2. Section 2: Answer the Short Answer Questions
3. Section 3: Answer questions on the Borrower Disclosure
4. Section 4: Compute Financial Calculations

REMIC's Savings and Loan

December 30, 2011

Mr. and Mrs. Adams
123 Secord Street,
Toronto, ON, M1S 1M1

Mortgage Number: 1155667898

Mortgage Statement

Statement Period: February 1, 2011 to February 1, 2012
Property Address: 123 Secord Street, Toronto, ON, M1S 1M1

Mortgage Details

Maturity Date	February 1, 2012
Interest Rate (as at statement date)	6.89%
Payment Frequency	Monthly
Principal and interest payment	$2,774.55
Principal, interest and tax payment	$2,966.81

Transaction Summary

Opening Principal Balance	$386,924.66
Advances During Statement Period	$0.00
Principal Paid (including any privilege payments)	$7,232.73
Closing Principal Balance	$379,691.92
Interest Paid (during statement period)	$26,061.87

Tax Account Summary

Opening Tax Balance	$0.00 CR
Tax Payments Received	$2,307.12
Taxes Paid to Authority	$2,307.12
Closing Tax Balance	$0.00 CR

Please Note: DR is a Debit = Minus to your account. CR is a Credit = Plus to your account

If you have any questions, please feel free to contact our Customer Service Toll-Free Number at 1-866-555-9900

If any of the balances, interest rates or other financial data appear incorrect, please contact our auditors detailing any discrepancies:
Pricewatershed
Suite 1000, 123-53rd Ave
Toronto, ON
Attention: Joseph Blank
Tel: (416) 555-9900
Fax: (416) 555-9911

T & J Manufacturing Inc

1234 John Street,
Toronto, ON
M4M 4M4
Tel: (416) 555-1212
Fax: (416) 555-2121

January 10, 2012

Re: Employment Verification of Mr. Jack Adams

To Whom It May Concern,

As requested by Mr. Jack Adams this letter is to verify that Mr. Jack Adams is employed at T & J Manufacturing Inc. as a salaried Assembly Line Operator. He has been employed in this position since January 17th, 2005 and earns a salary of $75,500 per year.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

Sarah Clifford

Sarah Clifford
HR Assistant
T & J Manufacturing INC.

Uptown Accounting LLP

1105A King Street,
Toronto, ON
M4M 1B1
Tel: (416) 555-9998
Fax: (416) 555-9997

January 12, 2012

Re: Employment Verification of Susan Adams

To Whom It May Concern,

As requested by Susan Adams this letter is to verify that she is employed at Uptown Accounting LLP. as a salaried Accountant. She has been employed in this position since March 20th, 2004 and earns $82,000 per year in salary.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

P.J. Persaud

P.J. Persaud
HR Manager
Uptown Accounting LLP

NM – ADAMS, JACK
CA - 123 Secord Street, Toronto, ON, M1S 1M1
FA - 5678 Oakwoods Boulevard, Toronto, ON, M1S 1N1
ID - BDS-05-22-1970, SSS-450-120-843, SSC-499-921-012
ES – T & J Manufacturing Inc., Assembly Line Operator

Equifax and Affiliate Bureaus - Refer Consumer inquiries to 1-800-465-7166

FN 00-0008095-07-265 UN 2060576929 01/16/2012

RISK SCORE: 745

ADAMS, JACK, SUSAN SINCE 01/05/1997 FAD 01/16/2012
123 Secord Street, Toronto, ON, M1S 1M1 ,RPTD 02/2009
5678 Oakwoods Boulevard, Toronto, ON, M1S 1N1, RPTD 09/2007
933, Mountainview RD, KELOWNA, BC C1C 1C1
BDS-05/22/1970, SSS-450-120-843

INQS-SUBJECT SHOWS 1 INQUIRY SINCE 01/2011

01/11/2011	ROGERS VIDEO	(555) 111-1111
09/16/2010	TD CANADA TRUST	(555) 222-2222
09/10/2010	ROYAL BANK	(555) 333-3333
01/22/2009	FORD CREDIT	(555) 444-4444
01/12/2009	MBNA	(555) 555-5555

INQS – 36

ES – Assembly Line Operator, T & J Manufacturing Inc., TORONTO, ON, EMP 01/2005
EF – Assembly Line Operator, Western Automotive, KELOWNA, BC, EMP 12/02,VR 02/03, LEFT 01/2004
EC - Accountant, Uptown Accounting LLP, TORONTO, ON, EMP 03/2004, VER 10/2005

SUMMARY 05/1997 - 12/2011, 1-PR/OI, FB-NO, TOTAL-3, HC$5K-10K, 3-ONE
04/2005 SECLN CENT REG TOR, FP CASE NO-HONDA CREDIT, TOR, MATURE 04/2010

TRADE INFORMATION SECTION

BUS/ID CODE	RPTD	OPND	H/C	TRMS	BAL	P/D	RT	30/60/90	MR	DLA
TD VISA (555)555-1212 J650DC16	12/2011	12/1997	8000	186	6200	0	R1	00/00/00	168	12/2011
BMO MASTERCARD (888)555-1212 J6500N28 PREV HI RATES: R2 06/2011, R2 08/2011	12/2011	12/2003	10000	255	8500	0	R1	02/00/00	96	12/2011
CIBC (555)555-2981 J650AT12	12/2011	12/2007	5000	420	1260	0	I1	00/00/00	48	12/2011

NM – ADAMS, SUSAN
CA - 123 Secord Street, Toronto, ON, M1S 1M1
FA - 5678 Oakwoods Boulevard, Toronto, ON, M1S 1N1
ID - BDS-04-08-1972, SSS-499-921-012, SSC-450-120-843
ES – UPTOWN ACCOUNTING LLP., Accountant

Equifax and Affiliate Bureaus - Refer Consumer inquiries to 1-800-465-7166

FN 00-0008095-07-265 UN 2060576929 01/16/2012

RISK SCORE: 791

ADAMS, SUSAN, JACK SINCE 01/05/1997 FAD 01/16/2012
123 Secord Street, Toronto, ON, M1S 1M1 ,RPTD 01/2009
5678 Oakwoods Boulevard, Toronto, ON, M1S 1N1, RPTD 09/2007
933, Mountainview RD, KELOWNA, BC C1C 1C1
BDS-04/08/1972, SSS-499-921-012

INQS-SUBJECT SHOWS 1 INQUIRY SINCE 01/2009

01/11/2011	ROGERS VIDEO	(555) 111-1111
15/12/2010	BNS VISA	(555) 111-1222
09/16/2010	TD CANADA TRUST	(555) 222-2222
09/10/2010	ROYAL BANK	(555) 333-3333
01/22/2009	FORD CREDIT	(555) 444-4444
01/12/2009	MBNA	(555) 555-5555

INQS – 37

ES – Accountant, Uptown Accounting LLP, TORONTO, ON, EMP 03/2004, VER 10/2005
EF – Accountant, Mountain Financial, KELOWNA, BC, EMP 12/02, VR 02/03, LEFT 02/2004
EC - Assembly Line Operator, T & J Manufacturing Inc., TORONTO, ON, EMP 01/2005

SUMMARY 05/1997 - 12/2011, 1-PR/OI, FB-NO, TOTAL-4, HC$5K-12K, 4-ONE
04/2005 SECLN CENT REG TOR, FP CASE NO-HONDA CREDIT, TOR, MATURE 04/2010

TRADE INFORMATION SECTION

BUS/ID CODE	RPTD	OPND	H/C	TRMS	BAL	P/D	RT	30/60/90	MR	DLA
TD VISA (555)555-1212 J650DC16	12/2011	12/1997	8000	186	6200	0	R1	00/00/00	168	12/2011
BMO MASTERCARD (888)555-1212 J6500N28	12/2011	12/2003	10000	255	8500	0	R1	02/00/00	96	12/2011
PREV HI RATES: R2 06/2011, R2 08/2011										
CIBC (555)555-2981 J650AT12	12/2011	12/2007	5000	420	1260	0	I1	00/00/00	48	12/2011
BNS VISA (555)555-3000 650AT20	12/2011	12/2010	12000	0	0	0	R1	00/00/00	12	12/2011

123 Secord Street					**$450,000 For Sale**	
Toronto, Ontario M1S1M1						
Pt Lt 10R Plan M1234 City of Toronto					**Taxes: $2,307.12/2008**	
SPIS: N					**Last Status: New**	
Semi-Detached		**Fronting On:**	E		**Rooms:**	6+2
2-Storey		**Acreage:**	< .49		**Bedrooms:**	3
Dir/Cross St:	Jane/King				**Washrooms:**	3
Lot:	6.85X34 Meters				2x4, 1x2	
Lot Irreg:	Backs Westerly Sun					

MLS#:	W12345										**Occup:**	Owner
Open House:	Oct 1	**From:**	9 am	**To:**	5 pm	**DOM:**	10	**Holdover:**	90		**Possession:**	February 01/Tba/Flx
Open House Notes:	Please leave shoes on porch										**PIN#:**	

Kitchens:	1	**Exterior:**	Brick	**Zoning:**	Residential
			Other	**Cable TV:**	**Hydro:**
Fam Rm:	N	**Drive:**	Mutual	**Gas:**	**Phone:**
Basement:	Finished	**GarType/Spaces:**	Attached/1	**Water:**	Municipal
	Full	**Parking Spaces:**	2	**Water Supply:**	
Fireplace/Stv:	N	**UFFI:**	No	**Sewers:**	Sewers
Heat:	Gas	**Pool:**	None	**Spec Desig:**	Unknown
	Forced Air		Sloping	**Farm/Agr:**	
CAC:	Y				
Apx Age:	6-15				
Apx Sqft:	1100-1500		Public Transit		
Assessment:			Rec Centre		

#	Room	Level	Dimensions (ft)				
1	Living	Ground	10.99 x 14.8	Hardwood Floor	Open Concept	Overlook Patio
2	Dining	Ground	9.91 x 11.38	Hardwood Floor	Combined W/Living	Open Concept
3	Kitchen	Ground	9.88 x 10.01	Ceramic Floor	B/I Dishwasher	Ceramic Back Splash
4	Breakfast	Ground	10.5 x 10.1	Ceramic Floor	Family Size Kitchen	W/O To Deck
5	Master	2Nd	18.01 x 10.1	Semi Ensuite	His/Hers Closets	Broadloom
6	2nd Br	2Nd	10.99 x 10.01	Wainscotting	Broadloom	Large Closet

7 3rd Br	2Nd	10.01	x	9.55	Closet Organizers	Window	Broadloom
8 Rec	Bsmt	15.49	x	10.2	Finished	Stucco Ceiling	Broadloom
9 Laundry	Bsmt	9.42	x	6.33	Partly Finished	Fluorescent	4 Pc Bath

Immaculate&Clean Thru-Out Home&Area,Bright Home,Upgrades Galore, Beautiful Strip Hdwd Flrs&Ceramics,Outstanding Finished Bsmt With Rec Romm&4 Piece Bath&Lndry Area&Cantina,Interlocking Stone Front Walkway&Front&Rear Gardens*Front Porch,Huge Private Rear Deck*Wroght-Iron Gate

Fridge,Stove,Bi Dw,Bi Microwave,Cac,El.Grg.Opener&2 Remotes,All Shutters&Blinds&Window Coverings,Elfs,High Eff Furn&Hwt,Surrond-Sound Spkrs,Mirr.Clst.Drs,Bi Shelves,Hot&Cold H2O Outside Frnt&Back,Brss&Glss Door Insrt,Shower&Closet Valences

Excellent Layout,Completely Finished Top2Bottom With Quality Extras&Upgrades Thru-Out,Quiet Street,Walk To Pub/Sep School,Excellent Home&Neighbourhood,Great Family Home,Easy To Show&Sell*Lockbox*

Contract Date:	**5/10/2008** Sunil Lister 416-555-1212	REMIC REAL ESTATE Brokerage
Expiry Date:	9/30/2009	**Tel:** 416-555-1212 **Fax:** 416-555-2121

Ontario

Driver's License
Permis de conduire

CLASS / CATEGORIE

G

COND. / REST.

X

END. AUT.

NUMBER / NUMERO

A1234-41087-00522

ADAMS,
JACK
123 SECORD STREET,
TORONTO, ON
M1S 1M1

DAT OF BIRTH / DATE DE NAIS	SEX SEXE	HT./ TAILLE
1970 • 05 • 22	**M**	**180**
	124567	CANADA

Ontario

Driver's License
Permis de conduire

CLASS / CATEGORIE

G

COND. / REST.

END. AUT.

NUMBER / NUMERO

A1234-41087-20408

ADAMS,
SUSAN
123 SECORD STREET,
TORONTO, ON
M1S 1M1

DAT OF BIRTH / DATE DE NAIS	SEX SEXE	HT./ TAILLE
1972 • 04 • 08	**F**	**168**
	124567	CANADA

Mortgage Commitment

Response: January 17, 2012 Page 1 of 3

Broker Information

Name: Sample Mortgages Inc.
Address: 2175 Sheppard Avenue East, Suite 213, North York, ON, M2J1W8
Attention: Your Name Application Reference Number: 1213456-789

Lender Information

Name: SuperBank
Address: 2750 Yonge Street, Suite 6500, Toronto, ON, M1M 1M1
Lender Reference #: 1213456-789 Mortgage Insurance Reference #: N/A

Applicant Information

Applicant(s): Jack Adams, Susan Adams
PROPERTY INFORMATION
Address: 123 Secord Street, Toronto, ON, M1S 1M1

With reference to the above noted property SuperBank is pleased to provide the following mortgage loan offer, subject to the following terms and conditions:

Loan		**Terms**		**Payment**	
Value:	$506,000.00	Mortgage Type:	First	Principal and Interest:	$2,134.77
Down payment/Equity: $106,000.00		Term Type:	Fixed Rate Open	Taxes (Estimated)	$192.26
Amount:	$400,000.00	Interest Rate:	5%	Taxes Paid By:	Lender
Insurance Premium:	N/A	Term (months):	60	Total Installment:	$2,327.03
Total Loan:	$400,000.00	Compound Frequency:	Semi-Annually		
		Amortization (months):	360		
Other Mortgages:	N/A	Frequency:	Monthly	Commitment Expires	4/01/12
Product:	Supersizer				
Cashback:	N/A				
Closing Date:	02/01/12				

LENDER AUTHORIZATION

All of our normal requirements and, if applicable, those of the mortgage insurer must be met. All costs including legal, survey, mortgage insurance, etc. are for the account of the applicant(s). The mortgage insurance premium (if applicable) will be added to the mortgage. This mortgage is subject to the details and terms outlined as well as the conditions described in the attached Schedule A.

Approved by: John Underwriter, SuperBank Signature: _________________ Date: ________________

CLIENT ACCEPTANCE

I/We the undersigned applicant(s) accept the terms of this mortgage as stated above and agree to fulfill the conditions of approval as outlined in the attached Schedule A to the lender's satisfaction. I/We further certify that the information given on the mortgage application is true and correct.

Applicant: Jack Adams Signature: _________________ Date: _________________

Applicant: Susan Adams Signature: _________________ Date: _________________

Mortgage Commitment – SCHEDULE A
ASSUMPTION POLICIES Page 2 of 3
☒ Assumption Option: The transferee or purchaser may, upon completion of a mortgage application which meets our mortgage approval criteria then in effect, personally assume (with the consent of his or her spouse where required by law) all of your obligations under your mortgage by executing an assumption agreement in the form required by us.
CONDITIONS
☒ Mortgage: The mortgage loan to be made to you shall be subject to all extended terms set forth in SuperBank's standard form of mortgage contract, and loans insured by a mortgage insurer will be subject to the requirements of the Certificate of Insurance issued by the mortgage insurer.
☒ Property Taxes: If stipulated by us, you will pay us monthly, an amount which in our opinion is sufficient to enable us to pay the annual property taxes on your behalf by the due date for the first installment of the tax bill in each year, based on the estimated annual taxes. We shall withhold a tax holdback from our mortgage advance sufficient to accumulate the required credit in your tax account. Any tax bills issued and unpaid at the interest adjustment date shall be paid from the proceeds of the mortgage loan.
☒ Fire Insurance: We shall require evidence of replacement cost all-risk insurance coverage acceptable to us, taken with an insurer not disapproved by us. Such policy must contain the standard Insurance Bureau of Canada mortgage clause and must indicate our interest as mortgagee.
☒ Title Insurance: A title insurance policy acceptable to us and obtained by our solicitor at your cost.
☒ Processing Fee and Costs: Whether or not this loan is funded, you agree to pay the processing fee specified herein, if any, and all legal, appraisal and survey costs incurred by you or us in this transaction.
☐ CMHC/GEMICO/AIG Insurance Fee: Insurance Fee: You agree to pay any mortgage insurance fee, as indicated, and all applicable federal or provincial taxes thereon.
☒ Interest Adjustment: Interest shall accrue from the date the first advance is made. Interest due to the interest adjustment date will be simple interest calculated daily and will be deducted from the first advance
☒ Pre-authorized Cheque Plan: You agree to make repayment under the mortgage by a 'pre-authorized cheque plan' or by such other means as may be requested by us.
☒ Commitment: This commitment is not transferable by you and the benefit may not be assigned by you. It may be assigned by us.
☒ Representation and Warranty: You warrant to us, and it is a condition of this loan, that all information submitted by you or your broker to us in connection with your loan application is true and accurate, and you agree to supply promptly, on request, any further information concerning yourself, your financial standing or the property to be mortgaged, which may be required by us.
☒ Title: You represent and warrant to us, and it is a condition of this loan, that you have a good and marketable title to the property to be mortgaged, satisfactory in all aspects.
☒ Zoning and Work orders: It is a condition of this loan that the mortgaged property and the use thereof comply with all applicable government laws and regulations and that there are no outstanding work orders, notices or directives against the property.
☐ Construction Loan: In the case of a construction loan, advances will be made at our discretion and we will always retain sufficient funds to complete construction.
☐ New Homes: If this mortgage loan is for the purchase of a newly constructed home, our solicitor will be required to obtain a certified copy of the New Home Enrolment endorsed by HUDAC (or the equivalent enrolment in any governmental new home warranty programme in provinces other than Ontario) before making any mortgage advances.
☒ No agency: You acknowledge that we may assign this commitment or the mortgage to a third party and may receive a fee in connection with such assignment. We may also receive a fee in connection with the servicing of this loan. We are not acting as your agent or otherwise in any fiduciary capacity in relation to you in connection with the loan described herein.

☒ Solicitor and Documentation: The solicitor specified by us will act on our behalf in this transaction. You agree to deliver to our solicitor your title documents, insurance policy and survey as soon as possible.
☒ Entire Agreement: This commitment, when accepted by you, will constitute the entire agreement and understanding between you and us with respect to this loan and will supercede all other agreements or understandings, whether oral or written.
☒ Survival: You agree that the terms, conditions & covenants contained in this commitment shall survive and will not merge upon registration of the mortgage and the advance of funds thereunder but will remain valid and subsisting obligations.
Date:________________________________ Initials:__________ Initials: __________

Mortgage Commitment – SCHEDULE A
CONDITIONS continued Page 3 of 3
☒ Information: You agree that we may conduct credit checks with consumer reporting agencies and make such other investigations and collect such other information concerning you as we may deem advisable, all such information to be used for the purpose of underwriting, assessing the risk associated with, and administering this mortgage loan.
☒ Privacy: You agree that we may share information concerning you with (a) any proposed assignee of this commitment or the mortgage loan, (b) our duly authorized agents and representatives who are engaged in the processing or servicing of your mortgage, (c) any parties necessary or desirable in connection with any sale or securitization of this mortgage loan and (d) organizations with which the lender has strategic alliances who may use such information to provide you from time to time with information on financial products which may be of interest to you. If you prefer that your personal information not be shared with any party referred to in this document or future documents, you may so advise us in writing at any time and we will not share the information with them.
PAYMENT FLEXIBILITY OPTIONS
☒ Circle Payment Option: Weekly Bi-weekly Semi-monthly **Monthly**
INSTRUCTIONS
☒ The terms and conditions of this mortgage commitment will form part of the solicitor's instructions.
OTHER
☒ Borrower Disclosure required prior to funding
☒ Title to be taken in the name of Jack Adams and Susan Adams
☐ Subject to satisfactory confirmation of down payment.
☒ Subject to satisfactory confirmation of income.
☐ Subject to CMHC approval
☒ Subject to signed and dated mortgage application
☐ Receipt of satisfactory purchase agreement including all addendums and MLS listing.
☒ Subject to no secondary financing.
PORTABILITY OPTIONS
☒ If the mortgagor is not in default and has entered into an agreement to sell or transfer title to the mortgaged property, the mortgagor may exercise the Portability Option.
PREPAYMENT POLICIES
☒ Privileges: 20% Per Year ☒ The Mortgagor, when not in default of any terms or conditions contained in the Mortgage, may prepay the whole of the principal sum then outstanding without notice upon payment to the Mortgagee of the greater of i) three months' interest at the interest rate on the principal sum outstanding; or

ii) the amount, if any by which interest at the Interest rate exceeds interest at the Mortgagee's current interest rate for reinvestment calculated on the principal sum outstanding. Such amount to be calculated from the date of prepayment to the maturity date of the mortgage.
RATE ADJUSTMENT POLICIES
☒ If five days prior to closing our interest rate is lower than the guaranteed interest rate, upon request, the lower rate will prevail.
ADMINISTRATION AND SERVICE FEES
☒ NSFs, Stopped Payment, Returned Items: $150.00 ☒ Lender's Fee: $550 ☒ Lender's Legal Fees: $1,250.00
Date:________________________________ Initials:__________ Initials: __________

Case Study 1 Questions

Section One: Complete the Mortgage Application Form

Sample Mortgages Inc.

Source:

2175 Sheppard Avenue East, Suite 213,
North York, ON, M2J 1W8
Tel: (416) 555-1212

Mortgage Application Form

APPLICANT(S)		
Name of Applicant in Full	DOB (MM/DD/YYYY)	SIN
Contact Information Tel:	Cel:	Email:
Name of Co-Applicant in Full	DOB (MM/DD/YYYY)	SIN
Contact Information Tel:	Cel:	Email:
Present Address	No. of Years	
Previous Address	No. of Years	

DETAILS OF MORTGAGE REQUEST						
Purpose of Mortgage						
Amount	Rate	Term	Frequency	Amortization	Date Required	Rank (1^{st}, 2^{nd} 3^{rd})

PARTICULARS OF SECURITY				
Lot #	Plan #	Municipality	Occupancy	Rental Income
Civic Address (if different from Present Address)				Lot size

PROPERTY TYPE AND CONSTRUCTION				
Date Acquired (MM/DD/YYYY)	Purchase Price	Down Payment	Present Value	Annual Taxes

☐ Detached ☐ Duplex ☐ Triplex ☐ Semi ☐ Condo (Mtc Fee: $__________) ☐ Townhouse ☐ Other

Age of Bldg:	Construction:	Storeys:	# of Bedrooms:
Zoning:	Garage:	Heating:	
Property Extras (Describe)			

DETAILS OF EXISTING FINANCING

Rank	Current Balance	Rate (%)	Payment (P & I)	Lender	Renewal Date	To Remain?
1^{st} Mtg						
2^{nd} Mtg						

EMPLOYMENT INFORMATION		
APPLICANT'S EMPLOYER'S NAME: ☐ SELF-EMPLOYED?		TEL:
POSITION:	No. of Years:	FAX:
ADDRESS:		
INCOME:		
APPLICANT'S EMPLOYER'S NAME: ☐ SELF-EMPLOYED?		TEL:
POSITION:	No. of Years:	FAX:
ADDRESS:		
INCOME:		
OTHER INCOME (SPECIFIY SOURCE AND AMOUNT)		

ASSETS AND LIABILITIES

ASSET TYPE	AMOUNT	LIABILITY TYPE	AMOUNT	PAYMENT	TO REMAIN?
					Y / N
					Y / N
					Y / N
					Y / N
					Y / N
					Y / N
					Y / N
					Y / N
					Y / N
TOTALS	(A)		(B)	NET WORTH (A-B)=$	

NOTES

CONSENT

IN CONNECTION WITH MY APPLICATION FOR CREDIT, I/WE HEREBY AGREE TO YOU PROCURING ANY CREDIT OR OTHER REPORTS TO DETERMINE MY/OUR ABILITY TO OBTAIN MORTGAGE FINANCING AND SHARE THIS INFORMATION WITH OTHER CREDIT GRANTORS OR CONSUMER REPORTING AGENCIES. I/WE FURTHER AGREE THAT YOU MAY ASSIGN THIS APPLICATION TO THE LENDER OF YOUR CHOICE AND MAY DESIGNATE THE CLOSING LAWYER. I/WE ACKNOWLEDGE THAT YOU MAY RECEIVE A FINDER'S FEE FROM THE LENDER. I/WE FURTHER STATE THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. I/WE AUTHORIZE YOU TO USE THE INFORMATION CONTAINED WITHIN THIS APPLICATION AND AS OBTAINED THROUGH THIS TRANSACTION TO PROVIDE ME/US WITH INFORMATION THAT YOU BELIEVE MAY BE OF INTEREST TO ME/US IN THE FUTURE.

DATE: ________________________ APPLICANT'S SIGNATURE: ____________________________

DATE: ________________________ C0-APPLICANT'S SIGNATURE: _________________________

Section Two: Short Answer Questions

1. What question(s) should you ask this couple regarding their previous credit?

2. When was their credit report first opened?

3. Who has a higher credit score?

4. When did they first get their TD Visa Card?

5. Who has more credit?

6. What do the following mean?
   a) MR

   b) DLA

   c) RPTD

7. What two documents are required by the *MBLAA* to be left with your clients once they sign the Borrower Disclosure?

8. You have just learned that this couple has two children, one a 6 year-old-daughter and the other a three-year-old son. Will this have any impact or effect on this application being approved by the Lender? Why or why not?

9. What is the amount of the finder's fee, in dollars, that SuperBank will pay?

10. In whose name does the Lender make the finder's fee cheque payable?

11. Were the property taxes included in the REMIC's Savings and Loan mortgage payment or did the borrowers pay it themselves?

12. Does SuperBank require the borrowers to pay their own property taxes or will they be included in their mortgage payment?

13. Does SuperBank require Title Insurance on this mortgage?

14. Is SuperBank's mortgage fully open, partially open or closed?

15. What are the prepayment privileges of SuperBank's mortgage?

Section Three: Borrower Disclosure

1. The Borrower Disclosure requires that all costs associated with the mortgage be disclosed.
   a) What are the exact costs that must be disclosed in this particular transaction?
   b) How does the cost of borrowing have to be disclosed (i.e. dollars and cents, a percentage, etc.)?

2. Describe the specific risks that must be disclosed to the borrower with regards to ***this*** mortgage.

3. How long before this mortgage transaction closes must the Borrower Disclosure document be provided to the borrower?

4. If the borrower decides to cancel the application after signing the Borrower Disclosure document, how much will the borrower owe you?

5. You are at the point in the borrower disclosure where you are explaining the cost of borrowing. How would you explain it?

6. Is the NSF included in the cost of borrowing? Explain your answer.

7. Must the prepayment privileges be disclosed in the Borrower Disclosure document? Explain your answer.

8. Does the number of lenders that your brokerage represented last year have to be disclosed? Explain your answer.

9. Does the Investor/Lender disclosure have to be completed in this transaction? Explain your answer.

10. Do the conditions as listed in the commitment letter have to be included in the Borrower Disclosure document? Explain your answer.

Section Four: Financial Calculations

1. LTV. Based on SuperBank's approval, what is the total LTV of this proposed mortgage? **Show all of your work.**

2. GDS Calculation. Based on SuperBank's approval and the clients' income, what is their GDS? **Show all of your work.**

3. TDS Calculation. Based on SuperBank's approval and the clients' income, what is their TDS? **Show all of your work.**

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Case Study 1 Answer Guide

Section One: Complete the Mortgage Application Form

Sample Mortgages Inc.

Source: TORONTO STAR AD

2175 Sheppard Avenue East, Suite 213,
North York, ON, M2J 1W8
Tel: (416) 555-1212

Mortgage Application Form

APPLICANT(S)

Name of Applicant in Full	DOB (MM/DD/YYYY)	SIN
JACK ADAMS	05/22/1970	450-120-843

Contact Information		
Tel: 416-555-1492	Cel: 647-555-1822	Email:JADAMS@HOTMAIL.COM

Name of Co-Applicant in Full	DOB (MM/DD/YYYY)	SIN
SUSAN ADAMS	04/08/1972	499-921-012

Contact Information		
Tel:416-555-1492	Cel: 647-555-1492	Email:SUS.ADAMS@GMAIL.COM

Present Address	No. of Years
123 SECORD STREET, TORONTO, ON, M1S 1M1	3 YEARS

Previous Address	No. of Years
5678 OAKWOODS BLVD, TORONTO, ON, M1S 1N1	2

DETAILS OF MORTGAGE REQUEST

Purpose of Mortgage
REFINANCE AND CONSOLIDATE CREDIT CARDS AND LOAN

Amount	Rate	Term	Frequency	Amortization	Date Required	Rank (1st, 2nd 3rd)
$400,000	5%	5 YEARS	Monthly	30 YEARS	February 1, 2012	1ST

PARTICULARS OF SECURITY

Lot #	Plan #	Municipality	Occupancy	Rental Income
10R	M1234	TORONTO	OWNER OCCUPIED	N/A

Civic Address (if different from Present Address)	Lot size
SAME AS ABOVE	6.85 M X 34 M

PROPERTY TYPE AND CONSTRUCTION

Date Acquired (MM/DD/YYYY)	Purchase Price	Down Payment	Present Value	Annual Taxes
02/01/2009	450,000	50,000	506,000	2,307.12

☐ Detached ☐ Duplex ☐ Triplex ■ Semi ☐ Condo (Mtc Fee: $_________) ☐ Townhouse ☐ Other

Age of Bldg:	Construction:	Storeys:	# of Bedrooms:
10-19 YEARS	BRICK	2	3
Zoning: RESIDENTIAL	ATTACHED	Heating: FORCED AIR GAS	

Property Extras (Describe)
Remodelled kitchen and finished basement

In the MLS the age was 6-15 years, but that was 4 years ago (as of the MLS contract date). Now it would be 10-19.

Rank	Current Balance	Rate (%)	Payment (P & I)	Lender	Renewal Date	To Remain?
1st Mtg	379,691.92 (as of Feb 1, 2012)	6.89	$2,774.55	REMIC's Savings and Loan	February 1, 2012	NO
2nd Mtg						

EMPLOYMENT INFORMATION		
APPLICANT'S EMPLOYER'S NAME: ☐ SELF-EMPLOYED? NO T & J MANUFACTURING		TEL: 416-555-1212 FAX: 416-555-2121
POSITION: ASSEMBLY LINE OPERATOR	No. of Years: 7 years	
ADDRESS: 1234 JOHN STREET, TORONTO, ON, M4M 4M4		
INCOME: 75,500 / YEAR		
APPLICANT'S EMPLOYER'S NAME: ☐ SELF-EMPLOYED? NO UPTOWN ACCOUNTING LLP		TEL:416-555-9998 FAX:416-555-9997
POSITION: ACCOUNTANT	No. of Years: 7 years, 10 mos	
ADDRESS: 1105A KING STREET, TORONTO, ON, M4M 1B1		
INCOME: 82,000 / YEAR		
OTHER INCOME (SPECIFIY SOURCE AND AMOUNT) No		

This means is the debt staying after we get them their new mortgage?

ASSETS AND LIABILITIES					
ASSET TYPE	AMOUNT	LIABILITY TYPE	AMOUNT	PAYMENT	TO REMAIN?
2010 Ford Focus	13,000.00	TD VISA	6,200.00	186.00	NO
RRSP	26,000.00	BMO M/C	8,500.00	255.00	NO
HOUSEHOLD GOODS	21,000.00	CIBC LOAN	1,260.00	420.00	NO
HOUSE	506,000.00	MORTGAGE	379,691.92	2,774.55	NO
BANK ACCOUNT	11,500.00	BNS VISA	0.00	0.00	Y / N
					Y / N
					Y / N
					Y / N
					Y / N
TOTALS	(A)577,500.00		(B) $395,651.92	NET WORTH (A-B)=$181,848.08	

The house is an asset

The mortgage is a liability

NOTES

Clients have remodelled their kitchen and finished their basement. Also include the explanation on the late payment here.

CONSENT

IN CONNECTION WITH MY APPLICATION FOR CREDIT, I/WE HEREBY AGREE TO YOU PROCURING ANY CREDIT OR OTHER REPORTS TO DETERMINE MY ABILITY TO OBTAIN MORTGAGE FINANCING AND SHARE THIS INFORMATION WITH OTHER CREDIT GRANTORS OR CONSUMER REPORTING AGENCIES. I/WE FURTHER AGREE THAT YOU MAY ASSIGN THIS APPLICATION TO THE LENDER OF YOUR CHOICE AND MAY DESIGNATE THE CLOSING LAWYER. I/WE ACKNOWLEDGE THAT YOU MAY RECEIVE A FINDERS FEE FROM THE LENDER. I/WE FURTHER STATE THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. I/WE AUTHORIZE YOU TO USE THE INFORMATION CONTAINED WITHIN THIS APPLICATION AND AS OBTAINED THROUGH THIS TRANSACTION TO PROVIDE ME/US WITH INFORMATION THAT YOU BELIEVE MAY BE OF INTEREST TO US IN THE FUTURE.

DATE: ________________________ APPLICANT'S SIGNATURE: ____________________________

DATE: ________________________ C0-APPLICANT'S SIGNATURE: __________________________

Section Two: Short Answer Questions

1. What question(s) should you ask this couple regarding their previous credit?
   Why do they have late payments on the BMO MC? (found in the credit report, Trade Information Section

2. When was their credit report first opened?
   01/05/97 (found in the credit report, SINCE)

3. Who has a higher credit score?
   Susan Adams does at 791 (found in the credit report, RISK SCORE)

4. When did they first get their TD Visa Card?
   12/1997 (found in the credit report, TRADE INFORMATION SECTION, TD Visa, OPND)

5. Who has more credit?
   Susan Adams. All other accounts are joint while Susan also has a BNS Visa. (found in the credit report, TRADE INFORMATION SECTION)

6. What do the following mean? (found in Chapter 14: Application Analysis – Borrower Credit, Equifax Credit Report Legend)
   a) **MR** Months Reviewed – the number of months that the creditor has reviewed the account
   b) **DLA** Date of Last Activity
   c) **RPTD** Reported

7. What two documents are required by the *MBLAA* to be left with your clients once they sign the Borrower Disclosure? (found in Chapter 18: Borrower Disclosure, section 18.5 Borrower Disclosure – How disclosure must be made)
   1. Borrower Disclosure
   2. Amortization Schedule

8. You have just learned that this couple has two children, one a 6-year-old daughter and the other a three-year-old son. Will this have any impact or effect on this application being approved by the Lender? Why or why not?
   No. Expenses associated with children are not included in the GDS or TDS. (found in Chapter 13: Application Analysis – Application Ratios, section 13.2 Gross Debt Service (GDS) and Total Debt Service (TDS), TDS: Included and excluded items)

9. What is the amount of the finder's fee, in dollars, that SuperBank will pay? (found in Chapter 1: Market Overview, section 1.2 A Career as a Mortgage Agent)
   Convert .85% to its decimal equivalent: 85 / 100 = .0085
   .0085 X 400,000 = $3,400.00

10. In whose name does the Lender make the finder's fee cheque payable? (found in Chapter 6: Transaction Overview, section 6.3 The Steps in a Brokered Transaction, 18. Receiving Commissions)
    Sample Mortgages Inc.

11. Were the property taxes included in the REMIC's Savings and Loan mortgage payment or did the borrowers pay it themselves?
    It was included in the mortgage payment (found in the Mortgage Statement, Tax Account Summary)

12. Does SuperBank require the borrowers to pay their own property taxes or will they be included in their mortgage payment?
    Included in the mortgage payment (found in the commitment letter, Payment section)

13. Does SuperBank require Title Insurance on this mortgage?
    Yes (found in the commitment letter, Schedule A, Conditions)

14. Is SuperBank's mortgage fully open, partially open or closed?
    Partially open (found in the commitment letter, Schedule A, Prepayment Policies)

15. What are the prepayment privileges of SuperBank's mortgage?
    20% per year (found in the commitment letter, Schedule A, Prepayment Policies)

Section Three: Borrower Disclosure

1. The Borrower Disclosure requires that all costs associated with the mortgage be disclosed.
   a) What are the exact costs that must be disclosed in this particular transaction?
    1. Lender's Legal Fees: $1,250.00 (found in the lender's commitment, Administration and Service Fees)
    2. Lender's Fee: $550 (found in the lender's commitment, Administration and Service Fees)
    3. Appraisal fee: $435 (found in the Case Study, Scenario and Supporting Documents)
    4. Title insurance fee: $450 (required as per lender's commitment, Schedule A, Conditions. The amount is found in the Case Study, Scenario and Supporting Documents)

   b) How does the cost of borrowing have to be disclosed (i.e. dollars and cents, a percentage, etc.)? The cost of borrowing must be disclosed in both dollars and cents and as a percentage. Refer to Chapter 18: Borrower Disclosure, Pause for clarification – The cost of borrowing: dollars and cents.

2. Describe the specific risks that must be disclosed to the borrower with regards to ***this*** mortgage. (found in Chapter 18: Borrower Disclosure, section 18.2 Borrower Disclosure – What must be disclosed, 6. Risks associated with the proposed mortgage)

   a) **This is a partially open mortgage**.
      The commitment calls this an "open" mortgage but when looking at the prepayment policies you can see that it is partially open. Therefore, the risk is that upon early prepayment there will be a penalty. The IRD may be so large that it may not be financially worthwhile to refinance the mortgage during the term, or pay it off completely, even if possible.

b) **This is an extended amortization of 30 years**
By having an extended amortization, the borrower will pay more in interest during the term of this mortgage and may pay substantially more in interest if the borrower does not lower the amortization upon renewal.

c) NSF Fee
If the borrower fails to have funds to make a payment and the payment is returned NSF, the fee is $150

d) Standard Charge Terms
The borrower must abide by the Standard Charge Terms. Failure to meet the requirements of this document may result in penalties imposed by the lender. The borrower should ask their lawyer at closing to explain in detail the responsibilities contained in this document.

e) All mortgages carry risk
Because this is a debt secured by your property, any failure to meet the obligations of this debt, including making payments and abiding by the standard charge terms may result in significant financial loss as well as the loss of your property.

3. How long before this mortgage transaction closes must the Borrower Disclosure document be provided to the borrower?
At least 2 business days before closing unless waived by the borrower in writing (found in Chapter 18: Borrower Disclosure, section 18.6 Borrower Disclosure – When disclosure must be made)

4. If the borrower decides to cancel the application after signing the Borrower Disclosure document, how much will the borrower owe you?
Nothing because the Borrower Disclosure is not a contract, only disclosure. The borrower is not legally bound by anything in this document. (found in Chapter 18: Borrower Disclosure, section 18.2 Borrower Disclosure – What must be disclosed, Pause for clarification – Borrower disclosure is NOT a contract)

5. You are at the point in the borrower disclosure where you are explaining the cost of borrowing. How would you explain it? (found in Chapter 18: Borrower Disclosure, section 18.3 Cost of Borrowing – Expanded explanation)
Anything similar to, "When the total cost of borrowing is expressed as a percentage this means the total of all costs, payable up front or over the term of the mortgage, combined with the rate of interest being charged during the term, expressed as a percentage. When the total cost of borrowing is expressed in dollars and cents this means the total of all costs, payable over the term of the mortgage, expressed in dollars and cents. "

6. Is the NSF included in the cost of borrowing? Explain your answer.
No, the NSF (non-sufficient funds) is a fee that would be charged if the borrower's mortgage payment is returned as NSF. Therefore, this is not a payment that is made to obtain the mortgage. (found in Chapter 18: Borrower Disclosure, section 18.3 Cost of Borrowing – Expanded Explanation, Cost of Borrowing – Included and excluded costs)

7. Must the prepayment privileges be disclosed in the Borrower Disclosure document? Explain your answer.
   Yes (found in Chapter 18: Borrower Disclosure, section 18.2 Borrower Disclosure – What must be disclosed, 7. Terms and conditions of the proposed mortgage)

8. Does the number of lenders that your brokerage represented last year have to be disclosed? Explain your answer.
   Yes (found in Chapter 18: Borrower Disclosure, section 18.2 Borrower Disclosure – What must be disclosed, 4. The number of lenders the brokerage represented during the previous year)

9. Does the Investor/Lender disclosure have to be completed in this transaction? Explain your answer.
   No, because the lender is an institution (found in Chapter 17: Submitting the Application and Obtaining a Commitment, section 17.2 Investor/Lender Disclosure)

10. Do the conditions as listed in the commitment letter have to be included in the Borrower Disclosure document? Explain your answer.
    Yes (found in Chapter 18: Borrower Disclosure, section 18.2 Borrower Disclosure – What must be disclosed, 7. Terms and conditions of the proposed mortgage)

Section Four: Financial Calculations

PLEASE NOTE: ALL CALCULATIONS MUST BE BASED ON THE MORTGAGE APPROVAL

1. LTV. Based on SuperBank's approval, what is the total LTV of this proposed mortgage? (found in Chapter 13: Application Analysis – Application Ratios, Calculating the LTV of a 1st Mortgage)

   LTV = (Mortgage amount / Property value) x 100
   LTV = (400,000 / 506,000) x 100 = .790513834
   LTV = 79.0513834%

2. GDS Calculation. Based on SuperBank's approval and the clients' income, what is their GDS? (found in Chapter 13: Application Analysis – Application Ratios, section 13.2 Gross Debt Service (GDS) and Total Debt Service (TDS) Ratios, Calculating the Gross Debt Service Ratio (GDS))

   GDS = [(PITH + ½ Condo Maintenance fee) / Gross Income] x 100
   GDS = [((2,134.77 X 12 MTG PAYMENT) + (100 X 12 HEAT) + 2,307.12 TAXES) / 157,500] x 100
   GDS = [(25,617.24 + 1,200 + 2,307.12) / 157,500] x 100
   GDS = [29,124.36 / 157,500] x 100
   GDS = 0.18491657142857 x 100

   Now we multiply the answer by 100 to convert the decimal to a percentage.

   0.18491657142857 x 100 = 18.491657142857

Now we round the number ***off*** to 18.49

3. TDS Calculation. Based on SuperBank's approval and the clients' income, what is their TDS? (found in Chapter 13: Application Analysis – Application Ratios, section 13.2 Gross Debt Service (GDS) and Total Debt Service (TDS) Ratios, Calculating the Total Debt Service Ratio (TDS): Verifying)

   TDS = [(PITH + ½ Condo Maintenance fee + Other Debts) / Income] x 100
   GDS = [((2,134.77 X 12 MTG PAYMENT) + (100 X 12 HEAT) + 2,307.12 TAXES) / 157,500] x 100
   TDS = [(25,617.24 + 1,200 + 2,307.12) / 157,500] x 100
   TDS = [29,124.36 / 157,500] x 100
   TDS = 0.18491657142857 x 100

   The debts are NOT included in the TDS because they are being paid off. This is a debt consolidation mortgage.

   Now we multiply the answer by 100 to convert the decimal to a percentage.

   0.18491657142857 x 100 = 18.491657142857

   Now we round the number ***off*** to 18.49

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