

Information Bulletin

Bulletin Number: MB 07-005

Topic: DUE DILIGENCE OF MORTGAGE BROKER WHO ARRANGE STATED INCOME MORTGAGES

Issue Date: JULY 26, 2007

Self-employed borrowers may qualify for a stated income mortgage by relying on the income stated in their mortgage application or in a separate declaration form. These borrowers usually do not have to prove the value of their income with supporting documentation, such as income tax returns or bank statements. However, they may have to document the source of their income by providing a business license to the mortgage broker or lender. Stated income mortgages are intended for self-employed persons, who may write off significant amounts of their gross income with business expenses. The income they are asked to declare is neither their gross income nor their net income, but a “reasonable” estimate of their actual income, which may fall somewhere in between their gross and net income. It is seldom made clear to borrowers how they are to determine what a reasonable estimate of their actual income is. However, with stated income mortgages, lenders agree not to attempt to verify an applicant’s reasonable estimate of actual income stated on his or her application.

This contrasts with full documentation mortgages, which usually require borrowers to provide evidence of their income for each of the prior two years by producing income tax assessments.

The lack of supporting documentation required for stated income mortgages may lead some borrowers to provide misleading information about the source of their income or the amount of their income. Some mortgage brokers have reported encountering evidence that borrowers have obtained municipal business licenses for the sole purpose of qualifying for a stated income mortgage. In addition, some mortgage brokers have enquired about whether it is acceptable for borrowers to simply fill in the number representing their stated income which is sufficient to qualify them for the mortgage they are seeking, as some lenders have indicated that this is acceptable.

Please be aware that mortgage brokers must undertake reasonable due diligence to ensure that the information being passed on to lenders is accurate and not misleading, even if it appears that the lender encourages or tolerates misleading statements from borrowers about the source or amount of income on stated income applications. Exercising due diligence for stated income mortgages would require mortgage brokers to ensure that the borrower knows to state only truthful information in the mortgage application. Remember that if a stated income mortgage results in default or foreclosure, the lender may look for evidence of fraud. If there are any misrepresentations about the amount or source of income, lenders may

place responsibility for the misrepresentations on the mortgage broker who submitted the application, while borrowers may blame the mortgage broker for counseling them to provide false information.

In addition, the Registrar of Mortgage Brokers may seek to impose regulatory penalties against any mortgage broker who does not exercise due diligence in ensuring that information contained in stated income mortgages is accurate and not misleading. For further information about this matter, please contact the staff of the Registrar of Mortgage Brokers at mortgagebrokers@ficombc.ca.

At the office of the Registrar of Mortgage Brokers, we issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Mortgage Brokers Act, Business Practices and Consumer Protection Act* and Regulations. While the comments in a particular part of an information bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, an interpretation or position contained in an information bulletin generally applies as of the date on which it was published, unless otherwise specified.