
Bulletin Number: MB 08-002

Topic: REGISTRATION REQUIREMENTS FOR MORTGAGE DEVELOPMENT BROKERS CONTRACTED BY FINANCIAL INSTITUTION

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Registration Requirements for Mortgage Development Brokers Contracted by Financial Institutions

All persons, unless exempted under section 11 of the Mortgage Brokers Act (the “Act”), who engage in mortgage brokering activity require registration as either a mortgage broker or a submortgage broker. Under section 1 of the Act, the activities which require mortgage broker registration include:

- (a) carrying on a business of lending money secured in whole or in part by mortgages, whether the money is the mortgage broker's own or that of another person;
- (b) holding oneself out as a mortgage broker in an advertisement, notice, or sign;
- (c) carrying on a business of buying and selling mortgages or agreements for sale;
- (d) in any one year, receiving an amount of \$1,000 or more in fees or other consideration, excluding legal fees for arranging mortgages for other persons;
- (e) during any one year, lending money on the security of 10 or more mortgages; and
- (f) carrying on a business of collecting money secured by mortgages.

Under section 11 of the Act, persons who are employed by a financial institution are exempt from the registration requirements. However, individuals, partnerships, or corporations who are contracted by a financial institution to engage in mortgage brokering activity on behalf of the financial institution are considered to be independent contractors and not employees of the financial institution. A person who brokers mortgages between borrowers and third party lenders, lends their own mortgage funds, or operates under a name other than that of the proper name of the financial institution will be considered to be an independent contractor and not an employee.

An independent contractor or a person deemed to be an independent contractor working with a financial institution must obtain mortgage broker registration. It is an offence under section 21(1) of the Act for a person to carry on the business of a mortgage broker or submortgage broker unless he or she is exempted under section 11.

Persons who engage in mortgage brokering activity as an independent contractor on behalf of a financial institution will now be registered as “Mortgage Development Brokers”. For a limited period, they will be permitted to obtain immediate registration as a Mortgage Development Broker upon the condition that they complete the BC Procedures Course within 9 months of obtaining registration.

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.