

Information Bulletin

Bulletin Number: MB 12-002

Topic: PERMITTED FUNCTIONS OF UNREGISTERED ASSISTANTS

Issue Date: June 2012

Mortgage brokers or submortgage brokers may hire assistants, who are not registered under the *Mortgage Brokers Act* (the Act), to perform many of the day to day administrative tasks which may otherwise be undertaken by the broker. However, if assistants do not possess registration under the Act, they may not perform any essential functions of a registrant which are listed under sections 1(a) to (f) of the Act.

Section 1 of the Act provides: "mortgage broker" means a person who does any of the following:

- (a) carries 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) holds himself or herself out as, or by an advertisement, notice or sign indicates that he or she is, a mortgage broker;
- (c) carries on a business of buying and selling mortgages or agreements for sale;
- (d) in any one year, receives 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, lends money on the security of 10 or more mortgages;
- (f) carries on a business of collecting money secured by mortgages.

Registered brokers who employ an assistant will be responsible and liable for the actions of their assistants and must ensure that:

- their assistants are competent to perform all assigned tasks;
- they supervise the activities of their assistants;
- their assistants identify themselves to the public, clients and other industry members as an assistant to their employer; and
- the Designated individual has consented to the hiring of the assistant.

As a general rule, unregistered assistants may not perform any function which is essential to mortgage brokering as defined above in section 1. In particular, unregistered assistants may NOT:

- make telephone calls, do telemarketing, send emails or perform other activities to solicit mortgage business from the public or other related industry members;

- provide mortgage advice or information to clients or potential clients, including advice or information relating to mortgage rates, terms, conditions, fees and qualification;
- accept mortgage applications from borrowers or lenders;
- communicate with lenders about the merits of borrower applications, and vice versa;
- determine what documentation is required from a borrower or a lender in a mortgage transaction;
- review and vet borrower qualification information, including pay stubs, job letters, gift letters, financial statements, bank statements, notices of assessment, income tax returns and credit bureau reports;
- review and vet property related information including appraisals, surveys, MLS print outs, contracts of purchase and sale, title searches and environmental reports;
- review and explain disclosure documents with clients;
- negotiate fees or commissions with borrowers and lenders;
- negotiate mortgage arrangements or discuss mortgage agreements or commitments with clients;
- represent that they are registered under the Act; and
- provide any other service for which registration under the Act is required.

Unregistered assistants while under the supervision of a registered broker may:

- order certain documents upon the instruction of a registered broker, including credit bureau reports and appraisals;
- act as a liaison between the registered broker and the borrower or lender by accepting or sending documentation relating to the mortgage applications provided that the documentation has been reviewed and vetted by the registered broker;
- perform accounting or bookkeeping services for the broker;
- prepare documentation for the broker to execute with clients, such as agreements and disclosure forms, provided that the documentation will be reviewed and vetted by the registered broker; and
- prepare advertising material for the registered broker, provided that the registered broker and his or her Designated Individual reviews the material.

Mortgage brokers should contact the office of the Registrar at mortgagebrokers@ficombc.ca if they have questions about the permitted functions of unregistered assistants.

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.