DISCLOSURE UNDER THE BUSINESS PRACTISES AND CONSUMER PROTECTION ACT (THE "ACT") AND THE DISCLOSURE OF THE COST OF CONSUMER CREDIT REGULATION (THE "REGULATION")

The Act requires that disclosure be given by mortgage brokers and lenders to individuals who borrow for primarily personal, family, or household purposes, regardless of whether the broker or lender is charging additional fees or expenses. An initial Disclosure Statement must be given to a borrower two days prior to the borrower incurring an obligation under a credit agreement, unless the two-day period is waived by the borrower in accordance with section 15 of the regulation. The Act does not contain any prescribed forms. However, it does prescribe the content of an initial Disclosure Statement for Fixed Credit under section 84 and an initial Disclosure Statement for Open Credit under section 91.

Fixed Credit Disclosure Statements

Section 84 requires the following information for an Initial Disclosure Statement for Fixed Credit.

Information relating to Time Frames:

- the effective date of the statement - s.84(a)
- the interest accrual date and the details of any grace period – s.84(e)
- the term and amortization period of the mortgage and the timing of all advances and payments – s. 84(q)

Information relating to Payments, Advances and Cost of Credit:

- the initial outstanding balance of the mortgage with an accounting of every payment, advance or charge that makes up that balance – s. 84(c)(d)
- the total of all advances made or to be made – s. 84(i)
- a description of prepayment rights – s. 84(m)
- the total cost of credit to the borrower – s. 84(q)

Information Relating to Interest Rates:

- the annual interest rate and how it is compounded – s.84(f)
- if the annual interest rate may change, the initial annual interest rate, the method of determining the annual interest rate at any time and the lowest annual interest rate at which payments would not cover accruing interest, unless the amount of the scheduled payments is adjusted automatically with interest rate changes – s. 84(g)

- the annual percentage rate (“APR”) – s.84(j)

Information Relating to Non-Interest Finance Charges:

- the nature and amount of any charges other than interest – s.84(h)
- the nature, amount and timing of payments for optional services and the conditions for termination of optional services – s.84(o)(p)

Information Relating to Penalties:

- the nature of any default charges – s.84(k)
- a description of the security interest – s.84(l)

Open Credit Disclosure Statements

Section 91 requires the following information for an Initial Disclosure Statement for Open Credit.

Information relating to Time Frames:

- the effective date of the statement - s.91 (a)
- the interest accrual date or dates and the details of any grace period – s.91(f)
- the frequency of statements of account which will be delivered to the borrower – s.91(l)

Information relating to Payments, Advances and Cost of Credit:

- the credit limit – s. 91(b)
- the minimum periodic payment or the method of determining the minimum period payment – s. 91(c)

Information Relating to Interest Rates:

- the initial annual interest rate and how it is compounded – s.91(d)
- if the annual interest rate will change, the method of determining the annual interest rate at any time – s. 91(e)

Information Relating to Non-Interest Finance Charges:

- the nature and amount of any non-interest finance charges – s.91(g)
- the nature of and charge for optional services and the conditions for termination of optional services – s.91(i)

Information Relating to Penalties and Other Information:

- the nature of any default charges – s.91(k)
- a description of the security interest – s.91(j)
- a telephone number for the lender at which the borrower can obtain account information during normal business hours – 91(m)

Calculating the APR

The annual percentage rate ("APR") is the borrower's contractual interest rate plus any non-interest finance charges. The numeric value for the APR will be the same as the contractual interest rate if the borrower does not incur any additional charges under the mortgage loan. However, the APR will be higher than the contractual interest rate where the borrower must pay non-interest finance charges, such as broker fees and appraisal costs. The APR discloses the actual cost of borrowing, while the contractual interest rate is used to calculate the balance outstanding on the mortgage loan.

The APR is calculated as follows:

$$APR = \frac{(100 \times C)}{(T \times P)}$$

C is the total cost of credit
T is the length of the term expressed in years
P is the average outstanding principal over the term

Costs or Charges to be Included in the Calculating the Cost of Credit

The total cost of credit is the anticipated dollar cost of the mortgage loan over its term. It is the difference between the value to be given by the borrower and the value to be received by the borrower in connection with the mortgage loan, disregarding the possibility of prepayment or default (i.e., total payments made by the borrower minus total advances received by the borrower).

Value received by the borrower includes:

1) money transferred by the lender to the borrower under the mortgage loan;

2) the cash price of any products purchased under the loan agreement;

3) the value of any pre-existing financial obligations paid out or consolidated under the loan agreement;

4) certain expenses incurred or to be incurred by the lender for arranging, documenting, insuring or securing the mortgage, such as:

- fees to a third party to register a document or information at or to obtain document from the Land Title Office;

- fees for professional services to confirm the value, condition, location or conformity to law of a property if the report is given to the borrower and the borrower has the right to give the report to third parties; and

- insurance premiums: more specifically, optional insurance purchased by the borrower, high ratio borrowing insurance (including application fees for high ration borrowing insurance), and casualty insurance if the borrower is the beneficiary and the insured amount is the full insurable value of the property.

5) a reasonable fee to maintain a tax account for a high ratio mortgage.

Note: Items 4) and 5) appear more like payments made by the borrower than advances received by the borrower, but are included in the cost of credit equation as "value received" in order to cancel out the payment when calculating the APR and total dollar cost of credit. Item 4 may not include any costs for things done by the lender to arrange, document, insure or secure the mortgage, nor does it include insurance premiums for insurance provided by or paid for by the lender. See section 57 of the Act for the complete definition of "total cost of credit".

Value given by the borrower includes:

1) money paid or to be paid by the borrower to the lender; and

2) money paid or to be paid by the borrower to a third party for services required by the lender or connected to the mortgage loan, unless the cost is for:

    - legal fees for related legal services if the lawyer is chosen by the borrower;

    - acquiring shares in a credit union; or

    - expenses incurred by the lender and charged directly to the borrower for items listed in Item 4 above.

Who Provides Disclosure to Borrowers

No Mortgage Broker: If there is no mortgage broker involved in arranging a mortgage loan, the lender must provide a Disclosure Statement to the borrower.

Mortgage Broker and Non-Business Lender: If a mortgage broker arranges a mortgage loan and the lender does not carry on the business of lending money, the broker is responsible for providing the Disclosure Statement to the borrower, and other requirements.

Mortgage Broker and Business Lender: If a mortgage broker takes a mortgage application from a borrower and arranges a mortgage with a lender who is in the business of lending money, the broker must provide the Disclosure Statement to the borrower. The lender may adopt the Disclosure Statement provided by the mortgage broker as its own or deliver its own Disclosure Statement to the borrower.

Section 13 of the Regulation is used to determine which broker is responsible for disclosure in the situation where more than one broker is involved in a loan.

Disclosure Statement
Prepared by Mortgage Broker XYZ, June 13, 2006[a]

1) **Lender:** ABC Home Mortgages Ltd.
Subject property[l]**:** 101 King Street, Vancouver, BC
lot 1, District lot 987, plan 1234, PID 000 111 222

2) **Initial balance**: $ 250,000.00

From which lender deducts[d]:

Lenders fee	2,000.00
Broker fee	3,000.00
CMHC fees	4,000.00
Payout of car loan	10,000.00
Appraisal fee	400.00
Total From Lender[(57)(2)(a)]	$230, 600.00

Value Received:

Total From Lender[(57)(2)(a)]	$ 230,600.00
Payout for car loan[(57)(2)(c)]	10,000.00
CMHC fees[(57)(2)(e)(iiii)]	4,000.00
Total Value Received	$ 244,600.00

3) **Term**[q] 3 years, 0 months: **Amortization period** [q]: 25 years
Effective interest accrual date[e]: June 15, 2006
Maturity date: June 15, 2009

4) **Annual Interest Rate**[f]: 9% compounded monthly

Interest for each payment period is calculated against the balance owing. Each payment is then applied first to the interest owing, second to any non-interest finance charges owing, and third to the total advanced. Any interest unpaid [f] becomes part of the balance owing for the purposes of calculating the interest charged in future payment periods.

5) **Payments included in the Cost of Credit**

• 36 monthly payments of $2,097.99 to be paid on the 15th day of every month commencing July 15, 2006[q]	$75,527.64
• Mortgage balance to be paid on maturity date[q]	240,823.32
• Insurance binder to be paid at or prior to completion	40.00
Total Payments[q]:	$316,390.96

Other payments not included in the Cost Credit

• survey (given to borrower for own use)[(q)] to be paid at or prior to completion	$ 400.00
• legal fees (lawyer chosen by borrower)[(q)] to be paid at or prior to completion	$1,000.00

6) **Total cost of credit** [(q)]:

Total Payments less total Value Received	$ 71,790.96
Expressed as an Annual Percentage Rate (APR)[(j)]:	9.95%

7) **Other charges:**

• NSF [(k)]	$ 50.00
• Upon default, borrower is required to pay all reasonable collection costs, including legal fees. [(k)]	
• Discharge fee due upon payout of mortgage balance[(o)]	$ 75.00

Borrower may prepay this mortgage, subject to a penalty of three months interest.[(m)]

NOTE:

This is an illustration only. This illustration assumes that the appraisal is not given to the borrower, the survey is given to the borrower and the borrower selects his or her own lawyer.

Footnotes [(a)] to [(q)] refer to subsections of section 84 of the Act.

At the Financial Institutions Commission, 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.