



REGISTRAR OF MORTGAGE BROKERS

CONDITIONS OF REGISTRATION

Mortgage brokers that handle or receive trust funds when transacting their mortgage activities are subject to the Conditions of Registration under section A. Mortgage brokers that do not handle or receive trust funds when transacting their mortgage activities are subject to the Conditions of Registration under section B.

Section A: Mortgage Brokers That Handle Trust Funds

Mortgage brokers that handle or receive trust funds are subject to the following annual filing requirements:

1.
 - (a) Every registered mortgage broker shall maintain in a financial institution authorized to take deposits in the province, an account designated as a trust account in which shall be deposited:
 - i. all monies received from other persons for investment in mortgages;
 - ii. all monies received from persons buying or proposing to buy mortgages from the mortgage broker on account of the purchase price thereof; and
 - iii. all other monies received on behalf of or in trust for other persons.
 - (b) Subject to Conditions 3 and 4, a mortgage broker shall keep all monies which are required to be deposited in a trust account, separate and apart from monies that belong to the mortgage broker, and shall disburse the trust funds only for the purpose for which the mortgage broker received the trust funds.
 - (c) Where a mortgage broker is entitled to a commission, fee or other remuneration, or to reimbursement of expenses incurred out of monies required to be deposited in the trust account, the mortgage broker may withdraw the amount from the trust account, in the manner set out in Condition 3, when it is properly payable to the mortgage broker, but not before.
 - (d) Money received by a mortgage broker from a person buying or proposing to buy a mortgage from the mortgage broker on account of the purchase price thereof may be withdrawn by the mortgage broker from the trust account when the mortgage concerned has been transferred to that person, or their nominee, but not before.

2. Every registered mortgage broker, with respect to monies paid to the trust account, shall prepare duplicate deposit slips in sufficient detail to permit the identification of the payment into the account of each receipt of trust money recorded in their books.
3. A registered mortgage broker shall not pay any personal or general office expenses from the trust account. Any money in a mortgage broker's trust account which has become payable to the mortgage broker on account of a fee or commission or otherwise, shall be withdrawn by cheque into the general account and any share of a fee or commission payable to any other mortgage broker or sub-mortgage broker shall be paid out of the general account following such withdrawal.
4. Every registered mortgage broker shall, at all times, maintain sufficient monies on deposit in the trust account to meet all obligations with respect to trust monies.
5. No registered mortgage broker shall authorize the financial institution at which the trust account is maintained to deduct any service charge or other charge whatsoever from the monies in the trust account.
6.
 - (a) Every registered mortgage broker shall, annually, not more than 120 days after the end of their financial year, file with the Registrar an audited financial statement for that financial year in such form as the Registrar may require.
 - (b) Every financial statement filed under section 6(a) shall be certified in writing as being correct:
 - i. by the mortgage broker if he or she is an individual;
 - ii. by at least two partners of the mortgage broker if it is a partnership; or
 - iii. by at least two directors of the mortgage broker if it is a corporation.
 - (c) The financial statement filed under section 6(a) shall be accompanied by a signed copy of the auditor's report and the auditor shall report, by appendix to the financial statement, whether the mortgage broker is complying with Conditions 1(a), 1(b), 1(c), 1(d), 2, 3, 4 and 5 of section A of the Conditions of Registration.

The auditor preparing the report shall meet the qualifications as set out in section 205 of the *Business Corporations Act* (formerly the *Company Act*, section 180).
7. Every registered mortgage broker shall have and maintain equity of \$5,001, at least \$5,000 of which will be working capital which is defined as the excess of current assets over current liabilities.

Section B: Mortgage Brokers That Do Not Handle Trust Funds

Mortgage Brokers that do not handle or receive trust funds when transacting their mortgage activities are subject to the following annual filing requirements:

8. Every registered mortgage broker shall, annually, not more than 30 days after the end of their financial year, file with the Registrar, a Statutory Declaration sworn before a lawyer or notary public, confirming that no trust funds were handled or received during the fiscal year and that no funds were received that should have been held in trust.

The required form for the Statutory Declaration is our website at:

http://www.fic.gov.bc.ca/pdf/mortgagebrokers_Registered/statutory-declaration.pdf

Audited financial statements are not required to be filed annually, and minimum working capital and equity levels do not have to be met because the mortgage broker does not handle or receive trust funds. In the event the operations of the mortgage broker are amended and no longer fulfil these criteria, audited financial statements must be filed and minimum working capital equity levels must be maintained.

Section C: Late Filing Fees

Mortgage brokers, whether filing under section A or section B of these Conditions of Registration, who are late in providing their annual financial filing, will be subject to late filing fees of \$50 per diem to a maximum of \$500, commencing on the date following the filing due date. This does not preclude other regulatory action as prescribed by the *Mortgage Brokers Act*.