

Mortgage brokers

Information for
borrowers and
investors



Financial Services Commission of Ontario



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Information for borrowers

Mortgages are financial arrangements in which real estate is pledged as security for a loan. They are important commitments, often involving large amounts of money. Mortgage loans used to buy homes are usually the largest debts most people have in their lives.

All decisions about mortgages must be carefully considered. Mistakes can be costly.

Mortgage loans are offered by financial institutions such as banks, trust companies and credit unions. They can also be arranged through a mortgage broker who brings together borrowers and lenders. The sources of money are usually financial institutions, private individuals or the brokers themselves.

Your decision whether or not to take on a mortgage loan should be made after carefully considering your situation and all information about the loan.

Before taking on a new mortgage, can you afford the payments?

If you're unsure of your finances, you may want to wait until you're in a better financial situation before buying real estate.

Consider all your alternatives

Compare the mortgages offered by banks, trust companies or credit unions. Can they provide you with the financing you need?

Each financial institution has its own lending guidelines. If you're turned down by one, you may be approved by another. It pays to shop around.

Obtain independent legal advice

Before agreeing to anything, show all documents concerning the loan to your own lawyer.

Mortgage brokers must give you full information

Don't accept verbal promises. You're entitled to get all information in writing.

Under the *Mortgage Brokers Act*, brokers must give you full information about the prospective loan. This information must be provided on a form called Statement of Mortgage **at least 72 hours**, not including Sundays or holidays, before mortgage documents are signed. If you have obtained independent legal advice, you may request a waiver of this full period and make a commitment after a 24 hour period.

The Statement of Mortgage must include:

- what the mortgage will cost, including all charges and fees by the lender and broker
- the total cost of borrowing, that is, both fees and interest expressed as a percentage of the total amount of the loan
- terms and conditions of the mortgage, including pay-back, prepayment and renewal provisions
- any relationship or connection between the broker and the lender

You are also entitled to receive, at the same time, an amortization schedule, which describes how payments are applied to the principal and interest of the loan.

No deposit or advance fees for mortgages \$200,000 or less

Mortgage brokers are prohibited from demanding any advance fees or deposits for mortgages for \$200,000 or less. You don't have to make a payment until you sign the mortgage documents accepting the loan.

Are the broker's fees reasonable?

For mortgages of more than \$200,000 does the broker demand a fee upfront with the application, or on closing of the deal, or both?

Is a fee charged whether or not the broker is able to arrange a loan? Make sure you understand what fees will be charged and under what circumstances.

Does the deal sound too good to be true?

If it sounds too good to be true, it probably is. Whether you are dealing with a mortgage broker or a financial institution, protect your own interests.

Take time to consider the offer. Compare it with other offers. Get advice. Do not allow yourself to be pressured into a deal you're not comfortable with.

The Mortgage Brokers Act

The activities of mortgage brokers in Ontario are regulated by the Mortgage Brokers Act. Mortgage brokers must be registered with the Financial Services Commission of Ontario and comply with all requirements of the act.

Contact the Commission to confirm the broker you're dealing with is currently registered.

Financial Services Commission of Ontario
Mortgage Brokers
Licensing and Enforcement Division
5160 Yonge Street, 4th Floor
Toronto, Ontario
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Telephone: (416) 226-7776

Information for investors

Consumers want to invest their money wisely to maximize their returns. Many seniors especially look for ways to extend their retirement savings.

One type of investment often considered is a private mortgage in which a person lends money to a borrower who pledges real estate as security for the loan. These types of mortgage investments may be arranged through mortgage brokers.

If you're thinking of investing some of your money in a mortgage, it's wise to carefully review your investments plans.

Approach with caution

- All investments carry a risk. Mortgages can be high-risk investments. Can you afford to lose the money you're investing?
- Inexperienced investors may not be able to fully evaluate the risks involved in private mortgage investments and should avoid them. Seniors who depend on their investment income may also want to avoid mortgage investments.
- Mortgage investments are **not** insured by the Government of Ontario.
- Mortgage investments cannot be guaranteed by the mortgage broker.
- If the borrower stops paying, the mortgage broker cannot continue mortgage payments to you.
- Mortgage investments may be difficult to re-sell quickly if you need the money in a hurry.

Get professional advice

Get independent advice from a lawyer and an accountant about the merits and pitfalls of the investment.

Don't put all your eggs in one basket

Spreading your investments around is an important safety measure. Placing all your money in one type of investment can be very risky. Putting no more than 10 per cent of your savings in any one type of investment is considered a lower risk approach.

Full information must be provided

Under the law, mortgage brokers are required to provide each prospective investor with information about the investment, in the form of an Investor Disclosure Summary and supporting documents such as an appraisal and an agreement of purchase and sale, **at least 48 hours**, not including Sundays or holidays, before any commitment can be made. By law, the broker cannot accept money from you until 48 hours after you have received this information.

The information which the broker provides to you must include:

- a description of the property or project to be mortgaged
- terms and conditions of the mortgage loan
- how the mortgage will be administered
- in case of mortgage syndications, terms of the syndications
- all prior claims on the property, such as other mortgages, liens or taxes owing

- information on the borrower, including ability to repay the loan
- any relationship or connection the broker has with the borrower and the appraiser
- any interest the broker has in the property
- the broker's fees for the transaction

Appraisals

Make sure the value of the real estate is supported by an up-to-date appraisal performed by an independent appraiser. You may want to hire an appraiser to get another opinion of the property's value.

Inspect the property yourself.

The borrower

Satisfy yourself that the borrower is able to pay back the loan. Verify the borrower information on the Investor Disclosure Summary.

Promises of an interest rate higher than that a financial institution would charge may indicate a very high-risk borrower.

What fee is the borrower paying the broker to arrange the mortgage? Fees higher than those charged by banks, trust companies or credit unions may indicate a high-risk borrower.

Is the mortgage in default?

If you are purchasing an existing mortgage, make sure it's not in default (payments are not up-to-date). The mortgage broker is required to disclose to you the status of the mortgage before you make any investment.

Mortgage brokers are prohibited from selling or arranging the sale of mortgages that are or have been in default within the past 12 months. The only exception is if the investor acknowledges in writing that the mortgage is or has been in default.

Does a specific mortgage investment exist?

Mortgage brokers cannot accept funds from you to hold for a future investment. They can only take funds when a specific mortgage investment is available and after providing full information about the investment 48 hours in advance.

Who administers the mortgage?

Will the broker collect payments, handle problems or take care of other administrative duties? If so, the broker is required to provide you with a written agreement describing the arrangement and your rights in the mortgage. You are entitled to receive this at least 48 hours before you can make a commitment.

And when the mortgage is fully or partially paid out, you're entitled to receive your money. The broker administering the mortgage is required to immediately issue a cheque to you for the full amount of the payment. The money cannot be automatically turned over into a new investment.

Some mortgage investments are very high risk

If you're considering investing in a mortgage to fund a development or construction project, the repayment of your investment may depend on the successful completion and leasing or sale of the completed project. These types of mortgages are considered particularly high-risk investments.

If you're one of several investors in a mortgage syndication and the borrower defaults, you may not be able to take action against the borrower without the agreement of the other investors.

Consider investment decisions carefully

Take time to carefully consider the broker's sales pitch. Remember, it took you a long time to save your money. Discuss the information with your lawyer and accountant, as well as your family.

Savings investments guaranteed by deposit insurance are offered by banks, trust companies or credit unions. Compare these with the investment you're considering.

The Mortgage Brokers Act

Mortgages brokers in Ontario are regulated by the Mortgage Brokers Act. Make sure the person you're dealing with is registered with the Financial Services Commission of Ontario, as required by law.

Contact the Commission to see if the registration of any broker you talk with is current.

If you have an inquiry concerning mortgage brokers and mortgage investments, the Financial Services Commission of Ontario may be able to help you.

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Mortgage Brokers
Licensing and Enforcement Division
5160 Yonge Street
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Toronto, Ontario
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Or call the Ministry's multilingual Information Centre toll-free:

All areas: 1-800-263-7965
Telecommunication
Device for the Deaf
(TDD): 1-800-263-7965