



October 2, 2006

Mr. Roger Sobotkiewicz  
Legal Analyst  
Saskatchewan Financial Services Commission  
6<sup>th</sup> Floor, 1919 Saskatchewan Drive  
Regina, Saskatchewan  
S4P 3V7

Dear Mr. Sobotkiewicz:

**Re: Proposed Provisions respecting Mortgage Brokerages, Mortgage Investment Brokerages, Mortgage Administrators, Mortgage Brokers and Agents**

On behalf of the Canadian Institute of Mortgage Brokers and Lenders (CIMBL), we wish to respond to the consultation draft on a new mortgage brokerages act for the province of Saskatchewan. CIMBL is the national voice of the mortgage industry in Canada. We represent all facets of the industry including mortgage lenders, mortgage insurers, mortgage brokers and agents and title insurers. We have 9,400 members nationally, including 160 members in Saskatchewan.

At the outset we wish to thank the Saskatchewan Financial Services Commission (SFSC) for your ongoing availability leading up to the proposals included in a draft Act dealing with mortgage brokerages and brokers in Saskatchewan.

CIMBL provides the following comments on the proposed provisions:

Section 2 – Definitions

In the overview it states that corporations, partnerships and sole proprietorships are required to have a mortgage license, while in the definitions section it states that a person includes a partnership, and that a brokerage is a person that carries on the business of brokerage. CIMBL would suggest there be one set of definitions.

Section 3(1) - Exemptions

The provision dealing with exemptions for lawyers requires clarification. CIMBL does not oppose the proposed exemption as long as lawyers are providing mere legal services. If lawyers check a borrower's credit or provide advice on mortgage options than in our opinion they are undertaking mortgage activity and should be registered under the provisions of the Act. CIMBL's position is that if an individual participates in mortgage activity, including the filling out of a mortgage form, provides mortgage

advice or undertakes credit checks then they should be licensed. This is a common issue in several other provinces.

### Section 5 – Licensing

In most other provinces in Canada, that have legislation governing mortgage activity, there exists a tiered registration system, similar to the one proposed in the draft Act. Most jurisdictions, however, have four or fewer categories. CIMBL would suggest that there be fewer categories including mortgage brokers, mortgage agents and mortgage administrators. More clarity needs to be brought to exactly what qualifications each licensee needs to meet. The concept of a principal mortgage broker in each brokerage is also one that is common in other provinces and one CIMBL supports.

### Education

Related to the licensing issue is that of education requirements for mortgage professionals in Saskatchewan. Under the draft legislation these requirements would be left to regulation. CIMBL believes that some clarity should be provided up front on education standards. CIMBL believes that there must be minimum education requirements for mortgage professionals to obtain a license. Currently there are none in the province. Borrowers need to know that the person they are dealing with on the most important investment decision of their lives, buying a home, have some knowledge of the industry and the ability to represent their best interests.

You will know that two years ago, CIMBL developed the Accredited Mortgage Professional (AMP) designation as part of an ongoing effort to raise the level of professionalism in Canada's mortgage industry through the development of educational and ethical standards. CIMBL would welcome the opportunity to work with SFSC to develop educational standards for mortgage broker and mortgage agent licenses in Saskatchewan. The development of education standards would also assist with the earlier comments related to tiered registration of mortgage professionals.

### Section 25 - Disclosure

CIMBL supports disclosure. Indeed CIMBL supports enhanced disclosure beyond cost of borrowing requirements to include mortgage broker and agent fees, commissions and incentives. We recently produced a form that we forwarded to all regulators across the country including the SFSC. We believe that the way to deal with incentive issues is through disclosure. The draft Act suggests mortgage brokers and agents list each lender. CIMBL believes that this would be difficult as they change on a constant basis. Rather letting consumers/borrowers know the number of lenders that the mortgage broker or agent deals with is we feel a better approach as is the listing of any potential conflict between the mortgage broker/agent and lender.

## Tied Selling – Simple Referral

We believe mortgage brokers and agents should be able to sell other financial products as long as standards are established and upheld. Further, CIMBL has taken the position in other provinces that a “simple referral” should be allowed. Under this provision which is allowed in British Columbia, Alberta and Ontario mortgage brokers or agents can receive leads in the form of addresses or business cards from other professionals who may not be licensed as long as those individuals are not offering mortgage advice such as quoting mortgage options or undertaking credit checks.

## Section 76 - Penalties

CIMBL supports the need for the Superintendent to uphold the integrity of the Act and to ensure professionalism in the mortgage industry. We do find that under section 76 that the proposed penalties of \$500,000 or \$1 million for companies are very high and arbitrary. We believe such penalties should be more reasonable.

Under section 83 on costs it is clear that if a party is found guilty of an offense they pay costs. What is not clear is that if a party to the proceeding is found innocent who pays the costs. CIMBL would recommend that an innocent party not pay any costs.

In section 97 CIMBL would seek clarification on whether records can be stored in electronic format.

In general, CIMBL would suggest that the term “reasonable” be injected when dealing with the Superintendent’s powers. For example, in section 16(2) dealing with audits the concept for a licensee to respond within “a reasonable time period” should be inserted.

These are CIMBL’s initial comments on the draft provisions of the new legislation. We would welcome the opportunity to continue to work with SFSC as it finalizes legislation affecting mortgage brokerages, brokers and lenders in the province of Saskatchewan.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim T. Murphy". The signature is written in a cursive, somewhat stylized font.

Jim Murphy  
Senior Director of Government Relations and Communications