

No. 88

3rd Session, 15th Legislature, Alberta
14 Elizabeth II

BILL 88

A Bill to amend The Mortgage Brokers Regulation Act

HON. MR. MANNING

Explanatory Note

1. This Bill amends chapter 55 of the Statutes of Alberta, 1964.

2. Section 2, clause (c) of the Act defines "mortgage broker" as follows:

- (c) "mortgage broker" means
 - (i) a person who carries on the business of lending money on the security of land or any interest in land, whether the money is his own or that of another person, or who holds himself out as or who by an advertisement, notice or sign indicates that he is a mortgage broker, or
 - (ii) a person who carries on the business of dealing in mortgages, or
 - (iii) the agent of a person referred to in subclause (i) or (ii);

The purpose of the new section is to provide a guide line to the Securities Commission and the public, in determining whether registration under the Act is required. At present the Securities Commission must decide on the facts of any particular case whether or not an individual could be said to be in the mortgage brokerage business.

3. The new clauses (h), (i), (j) are taken from the regulations which now describe certain classes as exempted.

The new clause (k) is added to cover the case of solicitors who are often called upon to negotiate mortgages on behalf of clients.

Clause (l) is self-explanatory. The present clause (m) is a re-enactment of clause (h).

BILL

No. 88 of 1966

An Act to amend The Mortgage Brokers Regulation Act

(Assented to , 1966)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Mortgage Brokers Regulation Act* is hereby amended.

2. The following section is added after section 2:

2a. For the purposes of clause (c) of section 2, any person

- (a) who, in any one calendar year, receives an amount of one thousand dollars or more in fees or other consideration, excluding legal fees, for arranging mortgages for other persons, or
- (b) who, during any one calendar year, lends his own money on the security of ten or more mortgages,

shall be deemed to be carrying on a business as a mortgage broker.

3. Section 3 is amended by striking out clause (h) and by substituting the following:

- (h) a person who does not participate in the negotiations of a mortgage transaction with the mortgagor,
- (i) a corporation registered as a loan corporation or as a loaning land corporation under *The Loan and Trust Corporations Act* (Ontario),
- (j) a loan company to which Part I of the *Loan Companies Act* (Canada) applies or a British loan company to which Part II of the *Loan Companies Act* (Canada) applies,
- (k) a member of The Law Society of Alberta in the course of his practice as a barrister and solicitor,
- (l) any person acting for the Crown or for a Crown corporation, or
- (m) any person or class of persons exempted by the regulations.

4. (a) Section 8 commences with the words "No person shall". The new clause (c) creates a new offence.

(b) Subsection (3) makes it an offence to contravene subsection (1). The amendment will make a contravention of subsection (2) also an offence. Subsection (2) reads:

(2) No mortgage broker shall make or cause to be made any representation in writing that he is registered under this Act.

5. Section 17 deals with investigations by the Securities Commission of the conduct of registered mortgage brokers in the circumstances enumerated in subsection (1). Experience has shown this provision to be too restrictive. By the amendment, the Commission will have the power to examine the activities of persons apparently engaged in the mortgage brokerage business, but who are not so registered. In some instances, the Commission cannot determine whether a person should be registered or not, without the right to make inquiries and conduct an investigation.

6. Commencement of Act.

4. Section 8 is amended

- (a) as to subsection (1) by adding the word “or” at the end of clause (b) and by adding the following clause:
 - (c) unless he is a registered mortgage broker, advertise himself as, or in any manner represent that he is a mortgage broker.
- (b) as to subsection (3) by adding after the words “contravenes subsection (1)” the words “or (2)”.

5. Section 17, subsection (1) is amended by striking out the words “any registered mortgage broker” and by substituting the words “any person”.

6. This Act comes into force on the day upon which it is assented to.

No. 88

THIRD SESSION
FIFTEENTH LEGISLATURE
14 ELIZABETH II
1966

BILL

An Act to amend The Mortgage
Brokers Regulation Act

Received and read the

First time

Second time

Third time

HON. MR. MANNING
