

From: [Anderson, Suzanne A FIN:EX](#)
To: [Mortgage Brokers Act Review FIN:EX](#)
Cc: [Wong, Gina G FIN:EX](#)
Subject: 395516 FW: BCNA - Mortgage Broker Act Review and Comment
Date: September 30, 2020 2:47:45 PM
Attachments: [image001.png](#)
[BCNA Mortgage Brokers Act_FINAL.pdf](#)

Hi Gina,

Can you CLIFF this as part of the MBA Review

Thanks

From: Chad Rintoul [REDACTED]
Sent: September 30, 2020 2:38 PM
To: Anderson, Suzanne A FIN:EX [REDACTED]; Wanamaker, Lori FIN:EX [REDACTED]
Cc: Daniel Boisvert Notary Public [REDACTED]
Subject: BCNA - Mortgage Broker Act Review and Comment

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Dear Suzanne,

Thank you for providing the British Columbia Notaries Association an opportunity to comment on the Mortgage Broker Act Review.

Please find attached our submission, and I welcome you to contact me in the event any clarification is required.

Kind Regards,
Chad Rintoul

R. Chad Rintoul
Chief Executive Officer
Office Line: [REDACTED]
Office Fax: [REDACTED]

BC Notaries

www.bcnotaryassociation.ca

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Policy and Legislation
Suzanne Anderson
Senior Policy Advisor
Finance, Real Estate and Data Analytics Unit
Ministry of Finance
PO Box 9418 Stn Prov Govt
Victoria, BC, V8W 9W1

VIA EMAIL: [REDACTED]

September 30, 2020

Re: Mortgage Broker Act Review Public Consultation

Please accept this submission on the BC Government's *Mortgage Brokers Act Review Public Consultation Paper* on behalf of the British Columbia Notaries Association (BCNA). We represent notaries from communities throughout the province – for many of whom, real estate transactions are a large part of their business. Our members appreciate the opportunity to provide input on the BC Government's *Mortgage Brokers Act Review Public Consultation Paper*.

Thirty-Five years ago, when the current legislation came into force the marketplace for mortgages was much different and lawyers did the bulk of mortgage work. As times have changed so have the duties and responsibilities of BC NOTARIES. Today BC NOTARIES handle the majority of the residential mortgage work in this province, where legal advice is required.

The mortgage industry in British Columbia continues to undergo a massive transformation. In fact, this transformation began over the last 30 years when the financial services and the mortgage industry started to become significantly more diversified and complex. Starting in the early 1990s, banks, credit unions and other lending institutions started offering a wider variety of mortgage products, and these products came with a greater variety of terms, conditions and penalties so as a result shopping for a mortgage became a lot more complicated and much more confusing for consumers.

For these reasons over the last two decades, BC Notaries have seen more British Columbians who need a professional to help them with their mortgage decisions, and today notaries complete over 60 to 70% of residential real estate conveyances in this province which represents residential transactions worth over \$40 billion annually. BC Notaries are responsible for over 180,000 residential transactions annually and this volume of mortgages comes with its responsibilities.

As you have requested, with this Consultation Paper, our submission is limited to Issue # 3 - question 4 of the Mortgage Broker Act Review Public Consultation Paper:

'are there any other persons that should be exempted from registration under the MBA?'

Under the current Mortgage Brokers Act Section 11 (1) (c) Nonapplication of Act: The registration provisions of this Act do not apply to any of the following while acting as mortgage brokers or sub-mortgage brokers under their proper names:

- (a) insurance companies;
- (b) savings institutions;

(c) a member of the Law Society of British Columbia entitled to practise as a solicitor in British Columbia if the loan transaction is made in the course of and as part of the member's practice;

(d) any person acting for the government or for an agency of the government;

(e) a liquidator, receiver, trustee in bankruptcy or a person acting under the authority of any court or an executor or trustee acting under the terms of a will or marriage settlement.

BC Notaries are requesting the legal right to be exempted from registration under the new MBA as the advice and duties performed by Notaries with regards to advising the public on mortgage transactions are the same as lawyers. Both legal professionals hold the same duty to properly advise and explain mortgage details to their clients. The privilege of being exempted should not be afforded to only one profession and not the other.

The rationale behind this is that the Public is well protected as BC Notaries are comprehensively educated, regulated and insured.

Education

BC Notaries are educated and trained at Simon Fraser University and upon completion are awarded a ***Masters in Applied Legal Studies***. This is the baseline education to become a Notary Public in British Columbia today. Once admitted to the profession a Notary Public is required to complete mandatory education each year of their career to maintain their professional designation. Notaries are constantly updating and enhancing their skills through continuing education programs offered by the BCNA.

Regulation

BC Notaries are regulated by The Society of Notaries Public of British Columbia (“SNPBC”). The SNPBC has an established history of providing protection to the public through well-managed and effective governance of its members by:

- Seeking to ensure that members provide services to a high standard thereby maintaining the integrity of the profession;
- Selecting, educating, and examining the suitable prospective applicants to become notaries;
- Establishing requirements for professional continuing development and identifying emerging trends that may require mandatory education;
- Establishing standards of knowledge, skills, and proficiency in all matters relating to the lawful practice of the profession of Notaries Public;
- Establishing and regulating ethical standards;
- Inquiring into complaints and concerns and when appropriate conducting discipline hearings; and
- Cooperating with other agencies, bodies, and regulators to advance legal services to members of the public.

Professional Indemnity Insurance

Professional Indemnity Insurance (commonly known as Errors and Omissions Insurance) has been provided to Notaries in the Province of British Columbia for the protection of the public since the 1950's. Professional Indemnity Coverage is a mandatory program for all BC Notaries. Members of the Profession cannot practice in BC without being in good standing with their insurance premiums fully paid.

The coverage from the Captive for the protection of the public affords every member of The Society a \$16 million limit for every transaction a BC Notary handles. Currently this Primary coverage is provided through a Captive

Insurance Company— BC Notaries Captive Insurance Company—a fully approved Captive Insurer regulated by BC Financial Services Authority (BCFSA). The SNPBC is the sole shareholder of the Insurance Company.

This coverage is provided by

- a Primary policy issued by the Captive in the amount of \$2 million,
- plus \$9 million excess insurance from Chubb Insurance Company of Canada,
- plus \$5 million excess coverage provided by Travelers Insurance Company of Canada.

The coverage provided by the Captive is supported by a Cash Reserve fund held in the name of the BC Notaries Captive Insurance Company in the amount of \$11 million. Each Member has a \$5000 deductible in the event of a claim. This Primary coverage has been provided for members as a self-insurance fund since 1986.

Management of the fund and the Captive is separate from the Regulator. The Captive is managed by a full-time Insurance Program Manager and oversight is provided by a separate Board of Directors.

ANTI- MONEY LAUNDERING

In the effort to combat money laundering and the use of proceeds of crime it is important to note that BC NOTARIES are required to make reports under the FINTRAC legislation and to follow the legislations guidelines. BC Notaries believe in and support all government initiatives to combat money laundering in British Columbia including the creation of the Land Owner Transparency Act.

Please see the attachment of letters of support for this initiative from the BC Real Estate Association and the Central 1 Credit Union. Both of these organizations, have, like BC Notaries experienced the transformation in mortgage products and competition amongst lending institutions. Since the BC Mortgage Brokers Act was put in place much has changed within the industry, and any new changes should allow BC Notaries to provide broader advice and information to protect consumers.

As the professionals that are the forefront of the mortgage industry, we appreciate the opportunity to share the BCNA's input. We are eager to work with the province of British Columbia and we hope that the Act will soon allow British Columbians an added layer of consumer protection with the ability to seek more advice when they enter into the biggest financial transaction of their lives.

Yours Sincerely,

R. Chad Rintoul

Chad Rintoul
Chief Executive Officer
British Columbia Notaries Association

The BC Notaries Association promotes and supports British Columbia Notaries Public in all communities of the Province and advances the standing of its members and awareness of their services to the public.

For more information, or to find a notary by location, name or language please visit www.bcnotaryassociation.ca



BRITISH COLUMBIA
REAL ESTATE
ASSOCIATION

Wayne Braid
Chief Executive Officer/Secretary
The Society of Notaries Public of BC
700 – 625 Howe Street
Vancouver BC V6C 2T6

Dear Mr. Braid,

The BC Real Estate Association (BCREA) Board of Directors discussed the request from the Society of Notaries Public regarding notaries giving advice to their clients when providing mortgage documents. It was noted that currently Notaries can provide factual statements, but not advice.

BCREA Directors agreed it would be beneficial to their clients to have notaries answer their questions and to obtain mortgage advice. This is within the training and knowledge Notaries have acquired and responds to service expectations.

BCREA supports the broader scope of advice by Notaries.

Sincerely,

A handwritten signature in black ink that reads "Robert Laing".

Robert Laing
Chief Executive Officer

1420 – 701 Georgia Street W, PO Box 10123, Pacific Centre, Vancouver, BC V7Y 1C6

President Scott Russell
Past President Jake Moldowan

President-Elect Deanna Horn
Chief Executive Officer Robert Laing

www.bcrea.bc.ca





Central 1 Credit Union
 1441 Creekside Drive, Vancouver, BC Canada V6J 4S7
 2810 Matheson Blvd. East, Mississauga, ON Canada L4W 4X7
 908 - 120 Adelaide Street West, Toronto, ON Canada M5H 1T1

February 27, 2015

Mr. Wayne Braid
 Chief Executive Officer
 The Society of the Notaries Public of B.C.
 700-Howe Street, Box 44
 Vancouver, B.C. V6C 2T6

Dear Mr. Braid:

We note that the Society of Notaries Public of British Columbia (the "Society") has requested the support of the credit union system of B.C. to an amendment it is proposing to the *Mortgage Brokers Act* ("Act").

Presently the Act, Section 11(1) states:

"Nonapplication of Act

- 11 (1) The registration provisions of this Act do not apply to any of the following while acting as mortgage brokers or submortgage brokers under their proper names:
- (a) insurance companies;
 - (b) savings institutions;
 - (c) a member of the Law Society of British Columbia entitled to practise as a solicitor in British Columbia if the loan transaction is made in the course of and as part of the member's practice;
 - (d) any person acting for the government or for an agency of the government;
 - (e) a liquidator, receiver, trustee in bankruptcy or a person acting under the authority of any court or an executor or trustee acting under the terms of a will or marriage settlement."

After consultation with the provincial credit union system, we are pleased to provide official confirmation that credit unions endorse the position of the Society that a definition of notaries be included in the above section thereby entitling notaries to provide similar service to their clients as members of the Law Society are entitled to do.

We wish you success in your advocacy efforts and thank you for your correspondence.

Yours truly,

Elmer Epp, Chairperson
 Legislative Committee

cc Legislative Committee, Central 1 Credit Union

