



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 188
[2009 Assembly Bill 471]

Mortgage Brokers

Current law imposes various requirements on mortgage brokers and their principals and agents and specifies numerous acts and prohibited practices.

2009 Wisconsin Act 188 relates to mortgage broker duties and agency relationships.

The Act specifies that a mortgage broker has an agency relationship with the residential mortgage loan applicant or investor on whose behalf the mortgage broker provided, or contracts to provide mortgage brokerage services. The Act enumerates a list of specific duties that the mortgage broker owes to the borrower, including the following:

1. The mortgage broker must act in the borrower's best interest and in the utmost good faith. The mortgage broker may not compromise the borrower's rights or interests in favor of the mortgage broker's or any other person's.
2. The mortgage broker may not accept, give, or charge any undisclosed compensation or realize any undisclosed remuneration that inures to the benefit of the mortgage broker on an expenditure made for the borrower.
3. The mortgage broker must carry out all lawful instructions given by the borrower.
4. The mortgage broker must disclose to the borrower all material facts of which the mortgage broker has knowledge that might reasonably affect the borrower's rights or interests or ability to receive the borrower's intended benefit from the residential mortgage loan. This does not include facts that are reasonably susceptible to the knowledge of the borrower.
5. The mortgage broker must use reasonable care in performing the mortgage broker's duties.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

6. The mortgage broker must account to the borrower for all money and property received by the mortgage broker as the borrower's agent.

The Act expands on the requirement that mortgage brokers must disclose to the borrower all material facts of which the mortgage broker has knowledge by stating that the broker must present loan offers in an objective and unbiased manner and disclose the advantages and disadvantages of each loan option.

Effective date: The Act took effect on March 30, 2010.

Prepared by: Russ Whitesel, Senior Staff Attorney

April 28, 2010

RW:ty