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Governor

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To: All Mortgage Brokers

Re: Assembly Bill No. 513
Guidance on Disclosure of Fees Earned By Mortgage Brokers

Assembly Bill 513 was signed by the Governor on May 29, 2009 and became effective on that date. This bill amends NRS 645B.305, in part, to require a disclosure regarding fees earned by licensed mortgage brokers. The new language is set forth in bold type, as follows:

"645B.305. A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker:

1. **Includes a disclosure:**
 - (a) **Describing, in a specific dollar amount, all fees earned by the mortgage broker;**
 - (b) **Explaining which party is responsible for the payment of the fees described in paragraph (a); and**
 - (c) **Explaining the probable impact the fees described in paragraph (a) may have on the terms of the loan, including, without limitation, the interest rates."**

The new legislation does not provide for any particular form of disclosure or wording. The Division has been requested by several licensees to provide guidance in this regard.

Many of the fees that are earned by a mortgage broker are already required to be disclosed on the Good Faith Estimate or final Settlement Statement. However, these forms do not provide for a disclosure of all earned fees, and they do not provide for a description of the probable impact of the fees on the terms of the loan. Consequently, the Division believes that a mortgage broker cannot rely on those forms as a disclosure that is in compliance with the new legislation.

Attached to this guidance is a sample disclosure form that has been prepared by the Division*. This form is being provided as a suggested disclosure for compliance with NRS 645B.305 as amended by AB 513. Mortgage broker licensees who in good faith provide this disclosure form, or a similar form that discloses the required information, for loans in which the applications were taken on or after May 29, 2009 will be deemed for examination purposes to be in compliance with the above disclosure requirements of AB 513.

The sample disclosure also does not include all of the types of fees that may be earned by a mortgage broker. For example, a mortgage broker who arranges private investor loans may charge an 'exit' fee, similar to a prepayment penalty. If contracted for at the time the investor executes the appropriate documents, the Division recommends disclosing it on the earned fees disclosure form, along with its potential impact on the terms of the loan. Additional space has been provided for on the attached form for these types of fees to be disclosed.

AB 513 also does not specify at what stage of the loan process the disclosure must be provided. Since not all fees to be earned will be known until the loan closes, the Division believes that the disclosure may be given at or prior to consummation of the loan. For mortgage brokers arranging private investor loans, the disclosure may be given with the furnishing of the Mortgage Information Disclosure Statement or at any time prior to accepting money from the investor.

A mortgage broker may not obtain a waiver of this disclosure from a borrower or private investor.

*The Division also wishes to thank Robison, Belaustegui, Sharp & Low in Reno, Nevada for its assistance in this matter.