

MORTGAGE INVESTMENT DISCLOSURE FORM

Required When Investor Initially Invests With Broker

IMPORTANT: Pursuant to NRS 645B.185, the private investor and the mortgage broker or mortgage agent must sign and date a disclosure form before a mortgage broker or mortgage agent accepts money from the private investor for the investment. This form must be executed when a private investor initial invests money with the broker. A shortened version of the disclosure must also be provided for each loan, including the initial investment. A mortgage broker or mortgage agent may not act as the private investor's attorney-in-fact or agent in the signing or dating of this form. A private investor and a mortgage broker or mortgage agent may not agree to alter or waive these disclosure requirements by contract or other agreement.

BEFORE YOU INVEST IN A PROMISSORY NOTE SECURED BY AN INTEREST IN REAL PROPERTY, YOU SHOULD KNOW . . .

The funding of a loan or purchase of a promissory note that is secured by a lien on real property (mortgage loan) is an investment that involves risk. Investments in second mortgage loans have significantly higher risks than investments in first mortgage loans. **The borrower on the loan may default in required payments, and you may lose all or part of the principal amount you invested and/or the interest you expected to earn from the investment.**

An investment in a promissory note secured by a lien on real property, usually through a deed of trust (mortgage loan or mortgage loan investment), like most investments involves the risk that the investment will not perform as expected. The mortgage broker with whom you are dealing is not a depository institution, and a deed of trust investment is not secured by any depository insurance or insured or guaranteed by any agency of the State of Nevada or the Federal Government. Nevada law prohibits the mortgage broker with whom you are dealing from representing or even implying to you that he will ensure or guarantee that the investment will perform as expected.

Some of the most significant factors that affect your risk in a mortgage loan investment include: (1) the knowledge, experience and integrity of the mortgage broker with whom you are dealing; (2) the future market value and equity of the property that will secure the promissory note; (3) the borrower's financial standing and creditworthiness; (4) the escrow process involving the funding of the loan or purchase of the note; (5) the documents and instruments describing, evidencing and securing the loan; (6) the provisions regarding the collection and servicing of the loan; and (7) the provisions for enforcement of the deed of trust.

You are entitled to information about the mortgage broker with whom you are investing.

You are entitled to receive information from the Division of Mortgage Lending ("the Division") regarding the mortgage broker with whom you are dealing. You may contact the Division at either one of the following locations:

Division of Mortgage Lending
7220 Bermuda Road, Suite A
Las Vegas, NV 89119
(702) 486-0780

Division of Mortgage Lending
400 W. King Street, Suite 101
Carson City, Nevada 89703
(775) 684-7060

Before the mortgage broker or mortgage agent with whom you are dealing accepts money from you for the investment, the mortgage broker or mortgage agent must give you a written form by which you may request that the mortgage broker authorize the Commissioner of the Division (“the Commissioner”) to release to you the most recent financial statement of the mortgage broker on file with the Division. Further, the mortgage broker or mortgage agent must disclose to you:

- Whether any disciplinary action has been taken by the Commissioner against the mortgage broker or any general partner, officer or director of the mortgage broker within the preceding 12 months and the nature of any such disciplinary action.
- Whether the mortgage broker or any general partner, officer or director of the mortgage broker has been convicted within the immediately preceding 12 months for violating any law, ordinance or regulation that involves fraud, misrepresentation or a deceitful, fraudulent or dishonest business practice.

You also have the right, pursuant to NRS 645B.090(3), to ascertain from the Division:

- The nature of any disciplinary action taken by the Division against the mortgage broker during the immediately preceding 5 years.
- The findings and results of any investigation completed during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of chapter 645B of NRS and which resulted in a finding by the Commissioner that the mortgage broker committed a violation of a provision of chapter 645B of NRS, a regulation adopted pursuant to chapter 645B of NRS, or an order of the Commissioner.

You are entitled to have a written appraisal or other independent assessment of the value of the property that is to secure your mortgage loan investment as well as other information relating to the property.

Nevada law requires that the mortgage broker with whom you are dealing obtain and provide to you a written appraisal or other independent assessment of the value of the real property which is to secure the mortgage loan unless you specifically waive in writing your right to have the appraisal or other independent assessment of the value of the property performed. A mortgage broker may not act as your attorney-in-fact or agent in waiving your right to have the appraisal or other independent assessment of the value of the property performed. An appraiser who is licensed or certified to perform real estate appraisals in this state must perform the appraisal if the property is located in this state. The mortgage broker with whom you are dealing is prohibited from performing the appraisal or providing any estimate or opinion of the value of the property that is to secure the mortgage loan investment, unless the mortgage broker is certified or licensed to perform the appraisal pursuant to chapter 645C of NRS.

In addition to providing you a written appraisal or other in, the mortgage broker must disclose to you whether the real property that will secure the loan is encumbered by any other liens and, if so, the priority of each such lien, the amount of debt secured by each such lien and the current status of that debt, including, without limitation, whether the debt is being paid or is in default.

You are entitled to review information relating to the financial standing and creditworthiness of the borrower and documentation relating to the mortgage loan. Pursuant to NAC 645B.080, you will be asked to complete a form in which you acknowledge that you had the opportunity to receive and review that information and documentation.

Nevada law requires that before you make a mortgage loan for which a licensed mortgage broker is acting as a broker, the mortgage broker must give you the following writings unless you specifically waive in writing your right to the writings:

- A written application for the loan which is signed by the prospective borrower and which contains the borrower's address, a history of his employment and income, details of monthly payments he is obliged to pay and any other information which you request.
- Evidence of the history of employment of the prospective borrower and income, such as a tax return or an employer's statement of the prospective borrower's past yearly income.
- A report on the history of credit of the prospective borrower issued by a credit reporting agency, including an explanation by the prospective borrower of any material derogatory item in the report and evidence that the report has been compared for accuracy to the borrower's application for the loan.
- An analysis by the mortgage broker of the ability of the prospective borrower to pay his monthly debts.
- A preliminary report on the status of the title to the property which is proposed as security for the loan.

You are entitled to review documentation relating to how the mortgage loan is funded and serviced.

Nevada law requires that the mortgage broker fund the entire amount of the loan either out of his trust account directly to the borrower or through a third-party escrow agent. In many cases, the loan will be funded through a third-party escrow agent. An escrow is opened when money, documents, instruments and written instructions regarding the transaction (escrow instructions) are conditionally delivered by the principals to a third party (escrow agent). The escrow instructions set forth the conditions that must be satisfied or waived before the escrow agent may disburse your money to the borrower or the note holder. You have the right to review the escrow instructions. The escrow instructions should be consistent with your understanding of the loan transaction and should identify a specific promissory note and deed of trust (or interest therein). Escrow "closes" when all the conditions of the escrow instructions have been waived or satisfied, the instruments have been recorded and the money disbursed. You have the right to review a closing statement relating to the escrow describing to whom and how the money was disbursed.

In many cases, including those cases where the investments consist of "fractionalized" interests (i.e., ownership of less than 100% of the mortgage investment), the loan requires servicing by an authorized agent. Loan servicing includes collecting payments from borrowers, disbursing payments to investors or note holders, mailing of appropriate notices, monitoring the status of senior liens and encumbrances, maintaining adequate insurance coverage and coordinating foreclosure proceedings. The mortgage broker with whom you are dealing is authorized by Nevada law to act as the servicing agent for the mortgage loan he originates. It is recommended that all persons investing in a mortgage loan which will be serviced by a servicing agent execute a written servicing agreement that clearly specifies the authority granted to the servicing agent. The servicing agreement should address issues such as: (1) the fees for servicing and how they are to be paid; (2) the person who has the authority to instruct the trustee under the deed of trust to commence foreclosure proceedings in the event of a default; (3) how, in the case of a "fractionalized" note and deed of trust with multiple parties owning beneficial interests, the parties are to determine and direct the actions to be taken in the event of default or with respect to other matters that involve the enforcement of terms of the promissory note and/or deed of trust (Nevada law requires that the documentation pertaining to a note and deed of trust owned initially by more than one natural person include a provision by which record holders of 51% or a greater specified percentage of the beneficial interests in the mortgage loan may direct certain actions that require direction or approval of the holders of beneficial interests); (4) the identity of the person responsible for holding the original promissory note and deed of trust; (5) how the loan servicing agreement may be terminated by the investors in the mortgage loan; (6) the right to obtain the names, addresses and phone numbers of other persons with beneficial interests in the loan; and (7) the monitoring of any senior liens.

A mortgage broker performing loan servicing has an obligation to account to the borrower and every investor for money collected and disbursed in the exercise of that function.

You have the right to receive copies of certain loan documents if a mortgage loan is made.

If a mortgage loan is made, the mortgage broker must provide to you copies of the:

- Promissory note
- Recorded deed of trust securing the loan and
- Policy of Title Insurance on the property securing the loan

You have the right to know whether the mortgage broker with whom you are dealing, or any relative of the mortgage broker, is acting in any capacity, or has any other interest in the mortgage loan, other than as a mortgage broker.

Nevada law requires the mortgage broker with whom you are dealing to disclose to you whether he, or any relative of his, has any direct or indirect interest in the mortgage loan other than as a mortgage broker. For example, if the mortgage broker owns a 50% interest in the builder applying for a construction loan, the mortgage broker is required to disclose that interest to you. In addition, if a mortgage broker or a relative of the mortgage broker is licensed as, conducts business as or holds a controlling interest or position in (1) a construction control company, (2) an escrow agency or escrow agent or (3) a title agent, a title insurer or an escrow officer of a title agent or title insurer, the mortgage broker must fully disclose that relationship to every investor, and may not require, as a condition to an investor acquiring or purchasing an interest in a mortgage loan, that the investor transact business with or use the services of the other business.

Collection of a promissory note and enforcement of a deed of trust involve some risk.

When the borrower on a mortgage loan fails to make required payments, the actions an investor can take, or that a servicing agent can take on behalf of an investor, are determined by provisions of Nevada law and the documents and instruments evidencing the mortgage loan. Frequently, the borrower who is delinquent on your loan is also delinquent on senior liens. Even though your loan may be current, the borrower may fail to maintain payments on senior liens, taxes, insurance premiums or deeds of trust. A breach of or default in connection with a senior lien by the borrower most likely constitutes an event of default under your deed of trust. It is therefore important that the status of all senior liens be monitored. Before investing in a junior deed of trust, you should determine the amount of debt service (payments) required to maintain the senior lien(s). To protect your investment during any senior lien (loan) foreclosure, it may be necessary for you to maintain the payments (with your own money) on all senior liens. You may lose your interest in the property securing the loan if a senior lien forecloses on the property.

There will be other costs associated with enforcing a mortgage loan, such as attorney's fees and processing fees, and there will likely be a delay of some months before the foreclosure process is complete. Issues such as whether to commence a judicial or non-judicial foreclosure, deficiency judgments, rents and profits if the property is income-producing, and bankruptcy may also need to be addressed.

Pursuant to NRS 645B, investors must meet minimum financial requirements in order to invest in a mortgage loan.

Before an investor may invest in any mortgage loan, the investor must verify that he meets one or more of the following financial requirements:

- The investor's household net worth is more than \$250,000.00, excluding any equity in any real property used as the investor's primary residence at the time of the investment; or
- The investor's household net income was more than \$70,000.00 for each of the previous 2 tax years and there is a reasonable expectation of attaining or exceeding the same income for the current year.

The investor must also verify that his total investments in mortgage loans transacted by a mortgage broker or mortgage agent are not valued at more than 50% of the investor's net worth or net annual income.

Questions

If you have any questions regarding any of the issues discussed in this disclosure form, discuss them with your mortgage broker, lawyer or financial advisor or a trusted friend or family member. No one can guarantee that a particular investment will be risk free, but with information about the specific risks involved, you can take steps to minimize your risk.

Name of Mortgage Broker: _____

By: _____
Authorized Signatory (required)

Name of Authorized Signatory (printed): _____

Date: _____

Name of Investor (printed): _____

Investor's Signature (required): _____

Title (if investor is a corporation, partnership or limited liability company): _____

Date: _____