DEPARTMENT OF
CORPORATIONS
California's Investment and Financing Authority

20 QUESTIONS TO ASK
A LENDER OR MORTGAGE BROKER

The process of obtaining a mortgage loan can be tedious and confusing. By asking the right questions, you can have a better understanding of the process and be certain that you are getting the product that best fits your needs and circumstances. Here are 20 questions that will help you get key answers about your loan, so you can make an informed decision:

1) Do you represent a mortgage broker, mortgage banker or lender, consumer finance company or a financial institution?

It is important to know whom you are working with and their qualifications. A ***loan officer*** for a ***mortgage broker company*** assists you in finding a lender. A ***mortgage banker*** is a lender who directly makes real estate loans to consumers. A ***consumer finance company*** is a non-depository institution that may make high-risk loans with higher rates of interest than a traditional financial institution. A ***financial institution*** is a bank, credit union, savings and loan or savings bank that besides making mortgage loans also provides traditional banking services such as checking and savings accounts.

2) If working with a mortgage broker, ask: Are you licensed by the state?

The California Department of Corporations, Department of Real Estate, Office of Real Estate Appraisers, and Department of Financial Institutions regulate most of the real estate services in California. Mortgage brokers doing business in California generally are required to be licensed by the Department of Corporations or the Department of Real Estate. If you are using the services of a mortgage broker, contact the Department of Corporations (DOC) at www.corp.ca.gov or 1-866-275-2677 and/or the Department of Real Estate (DRE) at www.dre.ca.gov or (916) 227- 0770 to make sure the mortgage broker is properly licensed. Some companies may be licensed by both the DOC and DRE. Ask which license is being used to conduct your loan transaction. Also, California law requires advertising to contain a disclosure of the license under which your loan will be made or arranged. You may also wish to check with the Better Business Bureau at www.bbb.org to see if the company is a member and if any complaints have been filed against the company.

3) What is the interest rate you are offering to me and is it a fixed or variable rate? Is this the best possible rate based on my credit score?

The interest rate determines the amount lenders charge you to use their money and is usually quoted as a percentage. The rate can be a fixed rate meaning that it remains the same throughout the loan. There are also variable or adjustable rate loans where the interest rate can change during the term. The rate can go up or down and your payment will adjust accordingly. A lower interest rate results in lower monthly payments or the ability to buy a higher priced home. Some loans offer an extremely low interest rate or payments. Payments on some of these loans may be too low to pay the monthly interest and will increase your loan balance, known as negative amortization or deferred interest, rather than decrease it. Payments on these loans can also increase substantially after several years. Ask your broker or lender if your loan contains these features, and, if so, ask for all of the details so you can decide if this type of loan is right for you.

Your credit score is your history of repaying debt and is the main source lenders use to determine the interest rates they offer you. To obtain the best possible interest rate, you should shop around. A high credit score should result in your being offered a low interest rate. The Department recommends that you obtain a copy of your credit report before applying for a loan. This will allow you to fix any errors and assist you in making sure you receive the best possible loan based on your credit history. Under federal law, you can obtain one free copy of your credit report from each of the three reporting agencies once in a 12-month period. For more information or to get your report, visit www.annualcreditreport.com or call them at 1-877-322-8228.

4) Are you locking my interest rate and, if so, for how long?

A rate lock is when the lender or broker "locks in" a stated interest rate for a specific period of time, usually 30 days. This means that if interest rates raise you still will receive the quoted or "locked" rate. If interest rates drop, you will likely still receive the locked rate (unless you negotiate different arrangements with your lender or broker). You should ask for written verification of the rate lock. You might be required to pay a fee to lock in the rate. If dealing with a broker licensed by the Department of Real Estate, the broker cannot collect any fees, other than for appraisals and credit reports, in advance without prior approval. You should contact the DRE at (916) 227-0770 to find out if a broker has an approved "advance fee agreement". Mortgage bankers licensed by the DOC may charge you a rate-lock fee prior to loan closing only if there is a written agreement signed by both you and a representative of the lender.

5) What would be my Annual Percentage Rate (APR)?

The APR is the cost of credit and includes the interest rate and all other finance charges. If the APR is .75 to 1 percentage points higher than the interest rate you were quoted, there are significant fees being added to the loan.

6) As a mortgage broker or banker, how much money would you be paid?

A mortgage broker brings borrowers and lenders together and receives compensation for providing this service. The fees can be negotiated. Their fees are disclosed in the various line items on your HUD statement, including broker origination fee, processing fee, and application fee. Lenders also may pay the broker a yield spread premium (YSP), which is a payment to the broker from the lender for selling the borrower a loan at a higher interest rate than the borrower would otherwise be charged. This is generally acceptable if there are no other fees being charged by the broker. A mortgage banker and other lenders also will be paid for the service of providing you the loan. Their fees may include items such as a processing fee, application fee, and document preparation fee. Some of these fees are negotiable. When dealing with a broker licensed by the Department of Real Estate, you are entitled to receive a "Mortgage Loan Disclosure Statement" or other qualifying disclosure, within 3 days of applying for your loan. The disclosure must include how much the broker is being paid for its services, whether directly by you, by the lender, or both. Any changes in the amount of compensation the broker will receive is subject to prior disclosure to you. All lenders are required by federal law to provide a Good Faith Estimate of the costs of your loan and a Truth-In-Lending Disclosure within 3 days of receiving your loan application. If the costs increase significantly subsequent Truth-In-Lending Disclosures are required. You may also request that your closing agent provide an estimated closing statement 24 hours prior to closing your loan.

7) What other costs besides your fees will be associated with this loan?

Other costs may include points, prepaid items and title charges. Points are interest paid upfront and one point is equal to 1% of the loan amount. Generally, if you are paying points you are reducing your interest rate. You also likely will be paying for the appraisal and the credit report. Prepaid items include interest due until your first payment and initial escrow balances for taxes and insurance. Title charges are from the title agency and can include a title search, title insurance, and attorney fees. You can try to negotiate these fees with the title company. When dealing with a broker licensed by the Department of Real Estate, its disclosure to you must include all of the expected costs and expenses of your loan. Any significant changes to those costs must be disclosed to you. Federal law requires that the lender send you the Good Faith Estimate sent to you within 3 days of receiving your loan application.

8) What is the principal balance of my loan?

The principal balance of your loan is the amount of credit and/or money you are borrowing. When purchasing a home, the principal balance typically is the price of the home plus any fees minus your down payment. If you are refinancing, the principal balance would be the payoff of your current mortgage plus any fees. It also may include any other debt rolled into the loan or cash you receive at closing.

9) How much will the monthly payments be? Does this amount include escrow for property taxes and homeowner's insurance or will I be responsible for paying these expenses on my own?

It is important to know exactly what your monthly payment will be to help you determine if you can afford the loan. This includes knowing what it will cost you monthly to pay the principal and interest in addition to homeowner's insurance and property taxes. Beware: Some unscrupulous brokers or lenders try to sell borrowers on a low payment by excluding the additional monthly amounts for property taxes and insurance from the monthly payment quote.

10) When would my payments be due? What is the grace period?

Knowing when your payments are due can help you plan your monthly budget. This is especially important if you are on a fixed income or get paid once a month. Lenders may be willing to work with you during the loan process to set a mutually agreeable due date. It is much harder to get the date changed once you have received the loan.

11) What is the length of the loan? Is there a balloon payment at the end of the loan?

You should know how long you will be paying on the loan. Traditionally, most loans are paid off in 30 years. However, 15- and 20-year loans are available and can drastically reduce the amount of interest you will pay over the life of the loan. In some cases, the loan is a balloon note where the loan is not completely paid off during the term of the loan because the monthly payment only covers the interest due. In these cases, you are obligated to pay off the remaining balance or balloon payment, which can be a considerable amount, at the end of the loan term. If you do not have the funds or the ability to refinance the balloon payment, you could lose your property in a foreclosure.

12) Who would be my lender?

If you are working with a mortgage broker, it is the broker's job to find you a lender. The mortgage broker will not be loaning you the money.

13) What are the chances that my loan would get sold?

Federal law requires that at the closing table you receive and sign a document stating the likelihood that your loan will be sold. Some loans are never sold, some are sold immediately and others are sold many times. It is also possible that only the servicing rights are sold. This means that while you make your payment to a new company, your old company is still the note holder or lender. Federal and state laws require both the old and new servicing company to notify you in writing of the change.

14) If I pay off the loan early, would I be charged a prepayment penalty?

i) If yes, what is the amount of the prepayment penalty? How many years into the loan would the prepayment penalty expire?

A prepayment penalty is a fee you may be required to pay if you pay off your loan early. While California law permits a prepayment penalty under certain circumstances, the terms of the penalty vary depending on a number of factors such as the type of license held by the mortgage broker who negotiated your loan and the type of residential real property. The disclosures you receive from your mortgage broker or lender should state if there may be a prepayment penalty in your loan. If you have questions concerning your prepayment penalty, you should consult your attorney. If your loan has prepayment penalty provisions they will be included in your loan documents. Typically prepayment penalties do not extend beyond 5 years.

15) What is the appraised value of the property?

The appraisal is an impartial opinion of property value, performed by an appraiser who compares like properties within a close distance to the subject property. It is completed for the lender's benefit, even if you pay for it, to ensure that the lender is not lending more than the property is worth. It also does not take the place of a home inspection. An appraiser who signs an appraisal in a federally related transaction (e.g., certain real estate-related financial transactions involving a federal financial institution) must be licensed by the California Office of Real Estate Appraisers. To see if your appraiser is licensed, check with the Office of Real Estate Appraisers at www.orea.ca.gov or contact them at (916) 552-9000. If the real estate transaction does not involve a federally related transaction, the appraiser is not required to be licensed in California and therefore is not licensed and regulated by any California state agency.

16) If I pay for the appraisal, how do I obtain a copy of it?

Sometimes a mortgage broker or lender will require you to pay for the appraisal. If you have paid for it, you are entitled to a copy and your lender or mortgage broker can tell you what you need to do. You may be required to request the copy in writing.

17) If I pay for the credit report, how do I obtain a copy of it?

A lender or mortgage broker may ask you to pay for the credit report upfront. You should consult the federal Fair Credit Reporting Act to determine your right to obtain a copy of the credit report. (See Question 3 above for the information on how to obtain a free copy of your credit report.) You are entitled to a disclosure advising you of your right to receive information about your credit score.

18) Am I required to have Private Mortgage Insurance (PMI)?

i) If so, when will it be removed and what do I need to do to have it removed?

PMI is insurance that protects the lender against a loss if the borrower defaults on the loan. It is usually required for loans where the down payment is less than 20% or when the amount financed is greater than 80% of the appraised value of the home. For current loans other than FHA or VA loans, PMI may be automatically eliminated when equity becomes 22% of your original appraised value. You are also entitled to a disclosure from your broker or lender telling you if you have a right to cancel the PMI and the conditions for cancellation. For more specific information, you should contact your lender.

19) Who are you planning on using as the title agency? Are you or your company affiliated with the title company? Should I purchase owner's title insurance?

Many borrowers will let the lender or mortgage broker choose the title company. You should know, however, that you have the right to use the title company of your choice even if it is a different company than selected by the mortgage broker or lender. In some cases when you are buying a property, the sales contract may stipulate a title company. Also, using the same title company as you have previously used may allow you to save some money. You just need to ask. It is not illegal for a mortgage broker or lender to have a financial interest in a title company. They just need to disclose this to you during the loan process. It is best to ask upfront so you can make an informed decision about which title company to use. The title insurance purchased in a loan transaction is typically for the lender's protection should the title exam miss an outstanding lien. You may want to consider purchasing borrower's title insurance to protect yourself should a lien be discovered after the close of the loan.

20) Who do I contact to obtain the closing documents for the loan 24 hours in advance of the closing?

You are entitled to obtain a copy of the estimated HUD settlement statement 24 hours in advance of the closing as long as you request it in writing before the 24-hour period begins. Your lender or mortgage broker can tell you who you need to contact to make this request. Having the statement ahead of time will give you and your attorney time to thoroughly review the costs of obtaining the loan and make sure that it is paying off all debt you want to be consolidated into the new loan. It also allows time for you to initiate any changes that need to be made prior to the loan closing.

An Overview of the Loan Process:

Selecting a Mortgage Broker or Lender – As stated earlier, brokers usually act as your agent with the lender. You can also deal directly with some lenders, without using a mortgage broker. Whichever you choose, ensure that you have checked out the company. Try to use companies that people you know have used and can tell you the level of service provided. Rates should be competitive with other companies. Remember that if the deal sounds too good to be true, it probably is.

The Loan Application – You will have to provide a completed loan application. Some brokers will come out to your home to take the application, you can fill one out yourself, or some brokers have Web sites that allow you to submit the application on-line. You will probably be asked to pay for a credit report and appraisal fee up front. If a broker tells you the credit report and appraisal costs are not being charged to you, make sure to get it in writing. Also verify that you will not pay for these items at the close of escrow out of your loan proceeds or that the broker will not demand payment for the fees, if you do not close the loan. The broker will also require that you submit the required documentation that the lender requires in relation to the loan program you are trying to obtain. Both the broker and lender will provide you with required disclosures regarding the terms and costs of the loan. It is important that you review these disclosures and ensure that the terms and costs meet with your approval. Ask questions about anything you do not understand.

Processing the Loan – This is the process where the broker obtains the required information and submits it to the lender's underwriter for loan approval. This is a critical stage in obtaining your loan. Ensure that you respond to all requests for information in a timely manner. This will increase your chances of getting the loan or learning why you don't qualify. This is also the time you may want to lock in an interest rate. Remember to keep in contact with the broker and to monitor the loan process, ensuring that the broker is meeting the agreed upon time frames.

Closing the Loan – This is the final stage of the loan process. The closing can take place at a title company, escrow company, or the broker's office. The broker may use a signing service that will bring the documents to you for signing. No matter where the signing takes place, take your time at the closing table and carefully review and understand all the documents you will be signing. If you do not understand something, ask questions before you sign. You may want to consider hiring an attorney to review all the loan documents before they are signed. It is a small price to pay in comparison to the headaches that can follow if you fall victim to an unscrupulous lender.

CALIFORNIA DEPARTMENT OF CORPORATIONS
Toll-Free Consumer Resource Center - 1-866-ASK-CORP (1-866-275-2677)
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