



MORTGAGE LOAN BULLETIN

Arnold Schwarzenegger, Governor
Sunne Wright McPeak, Secretary, Business, Transportation and Housing Agency
Jeff Davi, Real Estate Commissioner

Fall 2006

Compliance manual for mortgage loan brokers published

The Mortgage Loan Activities Unit receives a great majority of its telephone calls from mortgage brokers and salespeople asking compliance questions. Mortgage brokers must comply with many of the same laws as brokers engaged in real estate transactions, as well as laws that are specific to the mortgage industry. For instance, mortgage brokers must comply with the laws governing general business practices such as notifying the Department when hiring a salesperson and obtaining branch office licenses when opening additional offices. In addition, mortgage brokers are required to comply with laws that other real estate practitioners do not, such as the requirement to give a borrower disclosure statement and certain regulations relating to advertising. These statutes and regulations are all contained in the “Real Estate Law and the Regulations of the Real Estate Commissioner” published each year by the Department, but many licensees engaged in the mortgage loan business have asked if there is one place they can go to review the rules affecting them.

In response to that need, the Department is pleased to announce that we have published the “Mortgage Loan Broker Compliance Evaluation

Manual” (RE7). This manual was designed to serve as a convenient one-stop reference for brokers engaging in mortgage loan activities and was based on the “Broker Compliance Evaluation Manual” (RE5) that is a general resource for real estate brokers. The “Mortgage Loan Broker Compliance Evaluation Manual” contains many of the answers to the questions that a mortgage broker would be asked if visited by a DRE representative. It is divided into twelve sections and covers virtually every aspect of mortgage loan brokerage from general business practices to private money transactions and fractionalized notes. As a supplement to the manual, we have also published the “Mortgage Loan Broker Compliance Checklist” (RE7A). This checklist can be used by the broker as an additional guide to help assure compliance.

At the present time, the manual and checklist are available only on the DRE Web site at www.dre.ca.gov under “Publications”. In addition to providing information to mortgage brokers, these resources can be printed and used to help familiarize salespeople with the laws and regulations with which they must also comply. Please note that the manual and checklist are not intended as substitutes for the Real

Estate Law and Commissioner’s Regulations. Therefore, it is important for licensees to read the statutes and regulations referenced in the manual and checklist for a complete understanding of them.

We hope this manual and checklist will be of assistance to this State’s mortgage brokers and salespeople. As always, questions regarding this or any other issues can be directed to the Mortgage Loan Activities Unit staff at (916) 227-0770. 🏠



Legislative Update

AB 790 (Yee) Real Estate Licensees

Existing law allows the Department of Real Estate (DRE) to suspend or revoke a real estate license or deny issuance of a real estate license to a real estate license applicant who

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DRE's Internet address is:
<http://www.dre.ca.gov>



has knowingly authorized, directed, or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his or her business, or concerning any business opportunity or any land or subdivision.

This bill would amend Business and Professions Code Section 10177 to allow the DRE to also suspend or revoke a real estate license or deny issuance of a real estate license to a real estate license applicant who has knowingly authorized, directed, or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his or her designation or certification of special education, credential, or trade organization membership. Effective January 1, 2007.



AB 2429 (Negrete McLeod) Real Estate Salesperson License

Existing law authorizes DRE to issue, under specified conditions, an 18-month conditional real estate salesperson's license to persons who have successfully completed a college level course in real estate principles and passed the real estate salesperson's license examination.

AB 2429 repeals the DRE's authority to issue a conditional license, thus effectively mandating that all real estate salesperson license applicants complete three college level real estate courses, including real estate principles, real estate practice and one elective as specified, prior to sitting for the real estate salesperson's license examination. Effective October 1, 2007.

SB 1609 (Simitian) Reverse Mortgages

SB 1609 requires applicants for reverse mortgages to obtain financial counseling and receive certification of such prior to making application. This bill also prohibits a lender from requiring the purchase of an annuity as a condition of obtaining a reverse mortgage loan. Moreover, SB 1609 prohibits a reverse mortgage lender or a broker arranging a reverse mortgage loan from offering an annuity to the borrower or referring the borrower to anyone for the purchase of an annuity prior to the closing of the loan or before the expiration of the borrower's right to rescind. In addition, the bill requires that a reverse mortgage contract be translated into the appropriate language when negotiations for the reverse mortgage contract were conducted in that language. Effective January 1, 2007. 🇺🇸

REMINDER! New Mandatory Course-Risk Management

Assembly Bill 223 (AB 223), sponsored by the California Association of REALTORS[®], expands the mandatory continuing education requirements by adding a 3-hour course in Risk Management. All licensees renewing on or after July 1, 2007 will be required to complete a DRE-approved 3-hour continuing education course in Risk Management.

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The 6-hour Combined Survey Course has been expanded to 8 hours to incorporate Risk Management into the course materials. Licensees may not satisfy the Risk Management continuing education requirement with an 8-hour Combined Survey Course until it is their second or subsequent renewal after July 1, 2007. In other words, all licensees must complete an individual 3-hour course in Risk Management the first time they renew on or after July 1, 2007. Thereafter, licensees may use the 8-hour Combined Survey Course to satisfy the Risk Management requirement, when they renew.

AB 223 does not increase the overall required 45 hours of continuing education needed for license renewal. Currently, first renewal broker licensees must complete the four individual required courses in Ethics, Agency, Fair Housing, and Trust Fund Handling which are 3 hours each. AB 223 adds the 3-hour Risk Management course as a required course, for a total of 15 hours of mandatory courses. First renewal broker licensees will still need to complete a minimum of 18 hours of courses in the consumer protection category, and the balance of 12 hours can be courses approved in either the consumer protection or consumer service category.

The continuing education requirements for first renewal sales licensees will increase from 12 hours to 15 hours with the addition of Risk Management. These licensees will need to complete 5 courses of 3 hours each in the categories of Ethics, Agency, Fair Housing, Trust Fund Handling, and Risk Management.

For information on schools and vendors approved to offer a course in Risk Management, visit the DRE Web site at secure.dre.ca.gov/publicasp/cecontinue.asp. Again, these changes will be implemented effective July 1, 2007. 🕒

On the Lighter Side

We get calls from consumers who want to know the process of filing a complaint against their mortgage broker or loan officer. The consumer will usually need to tell us their version about what happened and why they wish to complain. This is one we had not heard before and probably will never hear again.

The complainant told us that the loan officer who was handling his refinance loan had intentionally shared the consumer's private personal and financial information with his sister and other relatives who had nothing to do with the transaction. To make matters worse, she bungled the whole loan transaction and it never closed. Thinking it was odd that a complete

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stranger would have knowledge of his family members and would think to do such a thing, we asked him how that happened. He then shared with us that the loan officer was his mother and that they did not get along. When asked if he really wanted to "drop a dime" on his mother and that her license could be disciplined, he said "Doesn't bother me! How do I get the complaint form?". 🕒

