

- makes 10% or more in qualified loans.

Brokers who are required to report to the Department must file the Residential Mortgage Loan Report (RE 857) no later than March 31 of the next calendar year (e.g. 2010 calendar year loan data would be due no later than March 31, 2011). Reports must be filed in duplicate.

The Residential Mortgage Loan Report (RE 857), information, and instructions on the report are available on the Department's Web site www.dre.ca.gov.

Reference: Health and Safety Code Sections 35815, 35816

SECTION 14 – Acting as Lender

Does the broker act in the capacity of a direct lender?

Correct Procedure

1. Any person who makes eight or more loans to the public in a calendar year from the person's own funds when they are held or resold and are secured by one to four unit residential dwelling must be a licensed real estate broker. Transactions negotiated through a real estate broker who qualifies as a "threshold broker" (see Section 8) are not counted. See also "own funds" as in Section 12.
2. Licensees who meet this requirement must comply with all of the lending practices for nontraditional and subprime mortgage products as set out in Regulation 2844 in regards to risk management practices, underwriting standards, control systems, and consumer protection

Reference: Section 10131.1, Regulation 2844

SECTION 15 – Nontraditional Mortgage Loan Products

Does the broker arrange nontraditional loans secured by one- to four-unit residential properties?

A nontraditional loan product is defined as one that allows the borrower to defer repayment of principal or interest. These products include, but are not limited to, interest-only loans where a borrower pays no principal for a period of time and payment-option loans where one or more of the payment options may result in negative amortization. A nontraditional loan is secured by a one- to four-unit residential property whether owner or non-owner occupied. Reverse mortgages and home equity lines of credit - other than simultaneously recorded second liens - are not nontraditional loans. Balloon loans where the monthly payments require full payment of principal and interest until maturity, e.g., 30 due in 15, 30 due in 5, are not nontraditional loans.

Correct Procedure

1. In a transaction where the broker is arranging a nontraditional loan, a fully completed Mortgage Loan Disclosure Statement, Nontraditional Mortgage Loan Product - One to Four Residential Units), RE885, must be provided within three days of receiving a completed, written loan application. A copy of the disclosure statement, signed by the borrowers and the broker or the broker's representative, must be retained by the broker for three years.
2. All of the rules specified in Section 3 – Borrower Disclosures will apply.
3. The broker has adopted all of the policies and procedures of the Interagency Guidance on Nontraditional Mortgage Product Risks and the Statement on Subprime Mortgage Lending.
4. The broker's advertising of nontraditional loans must comply with Section 10235 and Regulation 2848, specifically subsection (a)(17) and (a)(18).

Reference: Sections 10176, 10236.4, 10240, 10240.3, 10241; Regulations 2840, 2840.1, 2842, 2842.5; Health and Safety Code Section 35830; Civil Code Section 1632