

licensing information telephone number. Disclosure of any material changes to the costs, expenses, or terms of the loan must be made to the borrowers in a timely manner.

5. In the alternative, in a federally-related loan transaction where the principal loan amount for a senior lien is \$30,000 or more or for a junior lien is \$20,000 or more, a “loan estimate” that meets the requirements of and is compliant with the TILA-RESPA Integrated Disclosure Rule will fulfill the requirement under B&P section 10240(c) and 10236.4 as long as the borrowers sign the loan estimate and are provided with a separate disclosure – contemporaneously with the loan estimate – that includes a statement that the loan estimate does not constitute a loan commitment and that the borrower may check the license status of the broker and/or loan officer by calling the Department of Real Estate’s license information telephone number at 1-877-373-4542 or by visiting DRE’s Web site at www.dre.ca.gov. If compensation that is paid by a source other than the borrower cannot be disclosed on the loan estimate, that compensation to be received by the real estate broker and/or loan originator may be disclosed on the separate disclosure. The broker must retain a true and correct copy of the disclosures as acknowledged by the borrowers for three years.

6. The broker must advise the borrowers whether or not the loan will be made with broker-controlled funds.

7. At the time of application, the broker must provide a Fair Lending Notice (RE 867A) to the prospective borrowers. The notice must also be posted in a conspicuous place for public inspection. A signed acknowledgement of receipt of the notice (RE 867A) should be retained by the broker for three years.

8. If the broker is making or arranging a “covered loan”, the “Consumer Caution and Home Ownership Counseling Notice” is provided to the prospective borrowers no later than three business days prior to signing the loan documents. (See also Section 10 – Covered Loans.)

9. If the broker negotiates a loan primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, a translated Mortgage Loan Disclosure Statement must be provided to the borrowers in one of the appropriate languages in order to comply with Civil Code Section 1632. Translated forms are available on the Department’s Web site.

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

B. Is the broker representing a buyer or seller in a real estate transaction and also being compensated for obtaining the loan for the buyer?

Correct Procedure:

If a broker or his agent will be arranging financing for a buyer and will also represent the buyer or seller in the real estate transaction, the broker or his agent must make a written disclosure of the broker or agent’s roles pertaining to the transaction within 24 hours to all parties. In addition, the broker must disclose to the parties in the transaction the form, amount, and source of the compensation received or expected for the loan.

The broker may wish to consult with the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Veterans Affairs (VA), U.S. Department of Agriculture (USDA), and California Department of Veterans Affairs (CalVet) to determine their rules regarding real estate sales and the arranging of Federal Housing Administration (FHA) loans, VA, USDA, and CalVet loans, respectively.

Reference: Section 10177.6; Regulation 2904

SECTION 4 – Advertising

Does the broker’s mortgage loan advertising comply with the Department’s advertising criteria?

Correct Procedure:

1. No real estate licensee shall advertise, or cause to be advertised in any manner, any statement, or representation with regard to rates, terms, or conditions for making, purchasing, or negotiating loans secured by real property that are false, misleading, or deceptive. The advertisement cannot contain any claims or representations that are misleading or cannot be supported with satisfactory evidence to the Department.

2. Every advertisement disseminated primarily in California for a loan must include within the printed text or oral text (radio or television) a disclosure of the license under which the loan will be made or arranged with the licensee