

Department of Real Estate SAFE ACT - Frequently Asked Questions

Do the New MLO License Endorsement Requirements Apply to Me?

Q. What is the definition of mortgage loan originator?

A. Mortgage loan originator means an individual who for compensation or gain in expectation of compensation or gain takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan. [Federal Regulations](#) are currently being considered that may refine this definition further. It is anticipated that approval of the final provisions in the Regulations will be made toward the end of 2010.

Q. What is a residential mortgage loan?

A residential mortgage loan is any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in Section 103(v) of the Federal Truth in Lending Act, or residential real estate upon which is constructed or intended to be constructed a dwelling. Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, or trailer, if it is used as a residence.

Q. I originate mortgage loans. Do I need a Mortgage Loan Originator License Endorsement?

A. Yes. Beginning January 1, 2011 a Mortgage Loan Originator License Endorsement must be obtained BEFORE doing any of the following: residential property mortgage loan activities: soliciting, originating a loan application, negotiating, or offering to negotiate, any mortgage loans.

Q. I am licensed as a real estate salesperson and I do not solicit, originate, negotiate or offer to negotiate any mortgage loans. However, when I have buyers approach me about listings, I refer them to a loan officer or a bank. I am not compensated for those referrals. Do I need a Mortgage Loan Originator License Endorsement?

A. No.

Q. I am licensed as a real estate salesperson and I solicit customers for real estate activities. I am compensated to refer them to a loan officer for a residential mortgage loan. Do I need a Mortgage Loan Originator License Endorsement?

A. Yes.

Q. I am licensed as a real estate salesperson, but I have not been doing any activities at all. I pass out my business card because I am still hoping to do activities, including mortgage loans. Do I need to obtain a Mortgage Loan Originator License Endorsement?

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A. Yes.

Q. I arranged mortgage loans in the past but will not do any more mortgage loan activity. Will I have to either file a Mortgage Loan Activity Notification Form RE 866 with DRE or obtain a Mortgage Loan Originator License Endorsement?

A. No.

Q. I am licensed as a broker, but I do not do any mortgage activities using the license. I work as a loan originator for a bank. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. No.

Q. Under those circumstances, do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. No.

Q. Under those circumstances, do I need to register with the NMLS?

A. You may, but not via DRE. Check with your employing bank.

Q. I am doing activities for a CFL lender (California Finance Lenders License) or an RML lender (Residential Mortgage Lender License). I do not use my DRE license. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. No.

Q. Under those circumstances, do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. No.

Q. Under those circumstances, do I need to register with the NMLS?

A. Check with your employing company.

Q. I am an agent or broker servicing mortgage loans. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. No.

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Q. Under those circumstances, do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. I broker only commercial mortgage loans. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. No.

Q. Under those circumstances, do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. No.

Q. I perform loan modifications. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. Yes, if the loan modification activities are for loans secured by residential property of 1-4 units.

Q. Under those circumstances, do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. I perform short sale negotiations as part of my listing agreement with the seller of the property and am not compensated for negotiating with the lender. I am paid for completing the sale per the listing agreement. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. No.

Q. Under those circumstances, do I need to report this as mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. No.

Q. I perform short sale negotiations between a borrower and the lender and I do not have a listing agreement with the seller of the property. In addition, I am compensated for negotiating with the lender. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. Yes.

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Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. If I hold a real estate license and I only originate less than 8 loans for family or friends in a year, am I exempt from the requirement to obtain an MLO License Endorsement?

A. No. An MLO License Endorsement is required before any loan origination activities are performed (beginning January 1, 2011). As stated in Section 10166.01(b)(1) of the Business and Professions Code (B&P), a “mortgage loan originator” means an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain. An individual real estate licensee acting within the meaning of paragraph (d) of Section 10131 B&P is a mortgage loan originator for purposes of this article with respect to activities involving residential mortgage loans.

B & P Section 10131.1 (b) 1 (C) states that a DRE broker license is required when making (funding) eight or more residential property mortgage loans for one to four units from one’s own funds in a year. If this lender also performs Mortgage Loan Origination activities for these transactions and is compensated, then a Mortgage Loan Originator License Endorsement will also be required.

Q. I refer customers to the mortgage loan originators and receive compensation. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. Yes.

Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. I lend out my own money, fund or make loans for residential mortgage loans. I do not charge any fees to the borrower. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. No.

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Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. I lend out my own money, fund, or make loans for residential mortgage loans. I solicit the borrower, help complete the loan application or negotiate the loan terms and I am paid a fee by the borrower. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. Yes.

Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. I am a broker or salesperson arranging only private money loans for residential properties. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. Yes.

Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. I am a broker or salesperson arranging mortgage loans for investors. Do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. Under those circumstances do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. Yes, if the loan is made for personal, family, or household use. Note: A mortgage loan originator who only originates loans for investors who will use the loan to purchase rental properties for income will not need an originator license, but if any of those investors purchase a property for a family member or for other personal use, then he purchased it for personal, family or household use and the loan agent would have to have the MLO License Endorsement on the DRE license BEFORE soliciting the investor/borrower, taking an application or negotiating the loan terms. Disciplinary action and penalties would apply if any of these activities were conducted without the MLO License Endorsement.

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Q. I have a **restricted** license and use it to perform mortgage loan origination activities. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. Yes.

Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. I will only originate loans this year. I will discontinue mortgage loan activity by 2011. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. No.

Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. I broker only seller carry-back notes. Is a Mortgage Loan Originator License Endorsement required?

A. No.

Q. What if I want to do Mortgage Loan Originator activities sometime after January 31, 2010 or after January 1, 2011?

A. You must register with the DRE via a Mortgage Loan Activity Notification form RE 866 within 30 days of beginning the activity. You must obtain a Mortgage Loan Originator License Endorsement before soliciting, negotiating or originating a mortgage loan for a residential property if the activity takes place after January 1, 2011.

Q. I am a real estate broker who has hired brokers and salespersons to do mortgage loan origination for residential properties. Do I need to register?

A. Yes. All licensed salespersons and brokers must file a Mortgage Loan Activity Notification Form RE 866 and obtain and maintain a Mortgage Loan Origination License Endorsement.

Q. I do not do any FHA loans, but do originate residential mortgage loans. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

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A. Yes.

Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. My DBA includes the term, “Loans” but I no longer do loan activity. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. No.

Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. No.

Q. I do not regularly do mortgage loans, but once in a while I take a loan application for one of my real estate customers. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. Yes, if you are compensated for this activity.

Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes, if you are compensated for this activity.

Q. Does the new Mortgage Loan Originator License Endorsement apply only to new licensees?

A. No. It applies to current licensees as well as new licensees.

Q. I am a licensed salesperson working for a broker who arranges loans. Do I need to report these activities to the DRE?

A. Yes, if you also perform mortgage loan activities.

Q. Under those circumstances do I need to obtain a Mortgage Loan Originator License Endorsement?

A. Yes, if you solicit, negotiate, or originate mortgage loans for residences of 1 to 4 units.

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Q. If I obtain the NMLS license identifier (not the California Mortgage Loan Originator License Endorsement), will I be able to do loans in all fifty states?

A. No. You must also obtain the required MLO license for that state's jurisdiction as well as any other state specific requirements.

Q. If I obtain the NMLS license identifier, will I be able to do loans without a DRE license?

A. No. You must also have a current DRE license and obtain a MLO License Endorsement.

Q. I am in California and using my DRE licensee doing mortgage loan originations in other states. Do I need a Mortgage Loan Originator License Endorsement on my DRE license?

A. Yes.

Q. Under those circumstances do I need to report this mortgage loan activity on a Mortgage Loan Activity Notification Form RE 866?

A. Yes.

Q. I am an independent or contract processor or underwriter. Will I need to obtain a Mortgage Loan Originator License Endorsement?

A. Yes.

Q. Under those circumstances do I also need to obtain a real estate license?

A. Yes. Note: If you wish to maintain your independent status as a loan processor or underwriter, then a real estate broker license will be needed if you perform these activities for more than one broker. If you are performing processing or underwriting activities for one broker only, an endorsement is not required as long as your activities are supervised by your employing broker and are not otherwise performing acts that require a real estate license.