

**California Mortgage Loan Brokerage:  
A Practical Guide to Residential Loan Brokering and Lending**

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**Chapter 1    What Is a Mortgage Broker?**

Introduction

- Mortgage brokers assist consumers with home purchase financing
- Mortgage brokers in California must be licensed

The Role of the Mortgage Broker

- Mortgage broker brings together or provides services to the borrower and lender in a real estate transaction in exchange for compensation
- Loan agent works for the mortgage broker to perform brokerage activities

Licensing Requirements—Same as those for a real estate broker or a real estate salesperson employed by a real estate broker, good for four-year term

California Department of Real Estate—Offices in Sacramento, Fresno, Los Angeles, Oakland, and San Diego

Mortgage broker

- must be at least 18,
- legal resident of U.S.,
- pass qualifying examination,
- have been active as real estate salesperson for at least two of the five years preceding the application or have other relevant experience, or one year of experience if applicant has a two-year AA degree, or no experience if applicant has a four-year degree from an accredited college
- eight three-semester-unit college level courses
- three additional courses
- renewal requires 45 course hours of continuing education

Loan agent

- must be at least 18,
- legal resident of U.S.,
- pass qualifying examination,
- three college-level courses
- first renewal requires 15 course hours of continuing education, with 45 hours for subsequent renewals

**Exercise 1.1**

Education recommended includes Mortgage Brokering and Lending course and continuing education in mortgage brokering and lending

Employment

Employment agreement between mortgage broker and loan agent must be in writing

Policy manual details office hours, office procedures, and staff duties and stresses compliance with fair housing laws

Supervision of loan agent's work by mortgage broker required by Regulation 2725 of Real Estate Commissioner

Unlicensed employees can perform any act that does not require a real estate license, which typically includes office administration, accounting, and secretarial services, under broker's supervision; unlicensed employee can never participate in negotiations between borrower and lender

Licensed Mortgage Brokerage Activities—specified by California Real Estate Law, found in Business and Professions Code, which permits real estate broker to

- solicit borrowers or lenders
- engage as a principal with the public in buying, selling, or exchanging real property sales contracts or real property-secured promissory notes
- perform services for the public in connection with real property sales contracts or real property-secured promissory notes

Lender notification—if acting as a lender of his or her own funds, mortgage broker must notify Department of Real Estate annually in writing

Exemptions from licensing apply for a person who deals only with his or her own property and other persons identified by Real Estate Law

Trust fund accounts—required for broker to hold funds belonging to others in connection with transaction and must be in a neutral escrow depository

Document retention required for three years starting on the date a transaction closes of the date of loan application if transaction is not completed; broker pays for any required audit of accounts

- Failure to disburse funds makes broker liable for license suspension or revocation
- Delay to increase charges to borrower is prohibited and violation can include suspension or revocation of broker's license

Real Property Loan Law is Article 7 of the California Real Estate Law

- provides limits on loan amount and commission on specified loans of broker's own funds or funds of third party
- requires mortgage loan disclosure statement when loan is made or negotiated by a broker, with three business days after receipt of a completed written loan application or before borrower becomes obligated on note, whichever is earlier

### **Exercise 1.2**

California Residential Mortgage Lending Act, found in California Financial Code, covers licensing of mortgage bankers by California Department of Corporations

California Finance Lenders Law covers loan brokerage activities that do not involve real estate

### **Exercise 1.3**

#### **Summary**

#### **Open for Discussion**

#### **Review Questions**