

AUGUST 17, 2010

## LAW ALERT

### IS YOUR HOMEOWNERSHIP PROGRAM SAFE?

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If you or your organization operates a homeownership program that markets, offers, or packages loans for homebuyers, you may be subject to SB 36 and SAFE Act requirements. And the California Department of Real Estate (DRE) imposed deadlines for SB 36 and the SAFE Act are fast approaching.

California's SB 36, enacted at the end of 2009, is California's implementation of the federal SAFE Act. The SAFE Act and SB 36 are consumer protection laws that establish minimum standards for licensing and registering mortgage loan originators. A loan originator is a person who is paid for taking loan applications, or offering or negotiating loans secured by residential real property of one to four units. The definition also includes someone who, for compensation on behalf of another: solicits borrowers or lenders for loans, negotiates loans, or collects payments or performs services for borrowers or lenders or note owners in connection with loans secured by real property or business opportunities.

The DRE and the Department of Corporations each regulate mortgage loan originators for the types of loan regulated by each Department.

To comply with the DRE requirements, mortgage loan originators must apply for an endorsement from the Nationwide Mortgage Licensing System (the "Registry") by September 15, 2010. In order to obtain an endorsement, mortgage loan originators must not only apply for an endorsement, but also complete 20 hours of pre-education

requirements, pass the national and state component of the mortgage loan origination examination, provide authorization for a credit check to the Registry, submit finger prints to the Registry and provide criminal and other background information. Mortgage loan originators may be able to obtain credit for classes taken in connection with their DRE licenses; however, to claim these credits, mortgage loan originators will need to apply for an endorsement by August 31, 2010.

In addition to the above, the DRE requires mortgage loan originators to identify themselves as such on solicitation materials, renew their endorsements on an annual basis, comply with continuing education requirements, and provide certain reports regarding their mortgage loan origination activities. In an earlier deadline, the DRE also required that mortgage loan originators register with the State by completing "DRE Form 866".

The Department of Corporations deadline for mortgage loan originators of loans regulated by that Department was July 31, 2010.

If you have questions concerning compliance with SB 36 or the SAFE Act, please contact Dave Kroot, Polly Marshall, Karen Tiedemann, Heather Gould or Xochitl Carrion at 510-836-6336. The California Department of Real Estate and California Department of Corporations websites also provide useful information concerning compliance with SB 36 and the SAFE Act.

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