

MORTGAGE LOAN ADVERTISING SUBMITTAL

RE 884 (Rev. 1/08)

PART A — TO BE COMPLETED BY THE REAL ESTATE BROKER

1. ENTER RETURN ADDRESS (for use after DRE review)

Please read information on pages 2-4 before completing this form.

RECEIVED DATE

2. NAME OF REAL ESTATE BROKER/CORPORATION (Print as shown on license certificate.)

BROKER/CORP. LICENSE NUMBER

3. ADDRESS OF REAL ESTATE BROKER (Street Address, City, State and Zip Code)

4. NUMBER OF PAGES

5. TYPE OF MEDIA (TV, radio, flyer, brochure, newspaper classified, etc.)

6. ADVERTISING IS ORIENTED TO PROSPECTIVE:

- BORROWER LENDER/INVESTOR PURCHASER (resales of existing trust deeds/notes)

7. TYPE OF SUBMISSION:

- INITIAL SUBMISSION RESUBMISSION (previous advertising disapproved)
 RESUBMISSION (change of previously approved advertising)

PREVIOUS MLB ADV #
(for re-submissions only)

8. COMMENTS:

10. SIGNATURE OF REAL ESTATE BROKER/DESIGNATED BROKER-OFFICER

11. DATE

12. BUSINESS PHONE NO. W/AREA CODE

PART B — DRE REVIEW

The proposed advertising, a copy of which is attached, has been reviewed and:

- APPROVED** — Please read Special Notes.
 APPROVED — Subject to making changes shown on advertising. Please read Special Notes.
 DISAPPROVED — See attachment(s) for reason(s). Please read Special Notes.
 DISAPPROVED — Submission was made without the \$40 fee. See Regulation 2847.

Special Notes

Resubmittal — The attached advertising material must be resubmitted for approval prior to use if it has been *disapproved* for use, or if any *changes* are made to *approved advertising*, with the exception that interest rate(s) can be moved up or down by no more than 3% without resubmission of an advertisement.

File number — When resubmitting or when contacting this office relative to the attached advertising, refer to the MLB ADV File Number.

Federal compliance — The Department does not review advertisements for compliance with federal law, therefore, advertisements that are approved should not be construed as being in compliance with the Federal Truth-in-Lending Act (Regulation Z), the Real Estate Settlement Procedures Act (RESPA) or other federal statutes or regulations.

MLB ADVERTISING REVIEW DESK — REVIEWED BY

MLB ADV FILE NUMBER

REVIEWER'S SIGNATURE

DATE OF REVIEW

General Information

- Before submitting the proposed advertising, carefully study the laws and regulations relating to mortgage loan advertising with special attention given to Regulation 2848, Title 10, Code of Regulations [*These laws and regulations are included in this form for your reference.*]
- A declaration under penalty of perjury, by the responsible real estate broker may be required to substantiate information that otherwise may be considered false, misleading and deceptive in accordance with Regulation 2848. If you believe a previously submitted declaration will cover the issue, please refer to the prior MLB ADV File Number, and/or attach a photocopy of the previously submitted declaration. If the prior declaration is more than one year old, a new one must be submitted.
- It is the practice of DRE to send a response indicating either approval or disapproval of advertising in every instance. If you have not received a response within 24 calendar days after actual delivery — you should contact the MLB Advertising Desk to determine the status of your submittal. Approval of proposed advertising will not be given by telephone unless written approval of the same advertisement has been mailed, but not received. Advertising will be processed in order of receipt.
- Proposed advertising copy should be submitted to the Sacramento office of the Department in triplicate with an original and a copy of the of the transmittal form (RE 884). Insofar as practicable written advertising shall be submitted in the context and format in which it is proposed to be displayed to prospective customers. The script for a proposed radio or television advertisement shall be submitted.
- Advertisements submitted to the Department are reviewed for compliance with the provisions of the Business and Professions Code and the Regulations of the Real Estate Commissioner, as well as other pertinent state codes as they may apply to the submitted advertisement. The Department does not review advertisements for compliance with federal law, therefore, advertisements that are approved by the department should not be construed as being in compliance with the Federal Truth-in-Lending Act (Regulation Z), the Real Estate Settlement Procedures Act (RESPA) or other federal statutes or regulations. It is suggested that the broker consult with the appropriate federal agency for compliance before submitting the advertisement to the Department of Real Estate.

Special Instructions

Item #1 — Enter the name and address to whom this form will be returned after Department of Real Estate (DRE) review.

Item #4 — Enter the number of pages in the proposed advertising. If the advertising is folded, like a brochure, count the number of pages, not the sheets of paper used to make the brochure.

Item #8 — Use this space to list the file number of similar or related advertising previously submitted; reference to declarations, etc.

What to Submit for Each Proposed Advertisement

- A \$40 fee for *each* advertisement submitted.
- Advertising copy (submit in triplicate).
- Mortgage Loan Advertising Submittal (RE 884) — Submit an RE 884 for *each* advertisement submitted (photocopies are acceptable).
- Credit Card Payment (RE909)— If applicable.

Note — Advertising not submitted in accordance with these instructions will be disapproved without review.

Fee and Mailing Information

A fee of \$40 is required for each duplicate license requested. This request and fee may be submitted in person at any district office or mailed to the Sacramento office.

Acceptable payment methods — Cashiers' check, money order, check or credit card.

- Make check or money order payable to:
Department of Real Estate
- If submitted by mail, a Credit Card Payment (RE909) form must accompany this request to charge the fee.

Mail to:

Department of Real Estate
MLB Advertising
P.O. Box 187000
Sacramento, CA 95818

PERTINENT LAW SECTIONS & REGULATIONS

Detach and retain for your use.

BUSINESS AND PROFESSIONS CODE

REAL ESTATE AND SUBDIVIDED LANDS LAW

Disclosure of Licensed Status in Advertising

10140.6. A real estate licensee shall not publish, circulate, distribute, nor cause to be published, circulated, or distributed in any newspaper or periodical, or by mail any matter pertaining to any activity for which a real estate license is required which does not contain a designation disclosing that he is performing acts for which a real estate license is required.

The provisions of this section shall not apply to classified rental advertisements reciting the telephone number at the premises of the property offered for rent or the address of the property offered for rent.

Fictitious Name

10159.5. Every person applying for a license under this chapter who desires to have such license issued under a fictitious business name shall file with his application a certified copy of his fictitious business name statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.

Branch Offices

10163. If the applicant for a real estate broker's license maintains more than one place of business within the State he shall apply for and procure an additional license for each branch office so maintained by him. Every such application shall state the name of the person and the location of the place or places of business for which such license is desired. The commissioner may determine whether or not a real estate broker is doing a real estate brokerage business at or from any particular location which requires him to have a branch office license.

Proposed Advertising – Submission – Fee – Regulations – Duration of Approval

10232.1. (a) A real estate broker, prior to the use of any proposed advertisement in connection with the conduct of activities described in subdivisions (d) and (e) of Section 10131 and Section 10131.1, may submit a true copy thereof to the Department of Real Estate for approval. The submission shall be accompanied by a fee of not more than forty dollars (\$40). The commissioner shall by regulation prescribe the amount of the fee. If disapproval of the proposed advertisement is not communicated by the department to the broker within 15 calendar days after receipt of the copy of the proposed advertisement by the department, the proposed advertisement shall be deemed approved, but the department shall not be precluded from disapproving a later publication or other use of the same or similar advertising.

The commissioner shall adopt regulations pertaining to the submittal and clearance of that advertising and establishing criteria for approval to ensure that the public will be protected against false or misleading representations.

Except as provided in subdivision (b), "advertisement" includes dissemination in any newspaper, circular, form letter, brochure or similar publication, display, sign, radio broadcast or telecast, which concerns (1) the use, terms, rates, conditions, or the amount of any loan or sale referred to in subdivisions (d) and (e) of Section 10131 or Section 10131.1 or (2) the security, solvency, or stability of any person carrying on the activities described in those sections.

(b) "Advertisement" does not include a letter or brochure that

meets both of the following criteria:

- (1) It is restricted in distribution to other real estate brokers and to persons for whom the broker has previously acted as an agent in arranging a loan secured by real property or in the purchase, sale, or exchange of a deed of trust or real property sales contract.
- (2) It is restricted in content to the identification and a description of the terms of loans, mortgages, deeds of trust, real property sales contracts, or any combination thereof offered for funding or purchase through the broker as agent.

(c) Subdivision (a) is not applicable to advertising that is used exclusively in connection with an offering authorized by permit issued pursuant to the applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code).

(d) All advertising approvals shall be for a period of five years after the date of approval. The approval period applies to all advertising, including that which was previously submitted on a mandatory basis.

Misleading Advertising

10235. No real estate licensee shall knowingly advertise, print, display, publish, distribute, telecast or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, televised or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for making, purchasing or negotiating loans or real property sales contracts which is false, misleading or deceptive.

Indicating or otherwise implying any specific yield or return on any note other than the interest rate specified in said note shall be prima facie evidence that such advertisement is misleading or deceptive unless the advertisement sets forth the actual interest rate specified in the note and the discount from the outstanding principal balance at which it is being offered for sale.

Advertising of Loan – License Disclosure

10235.5. No real estate licensee shall place an advertisement disseminated primarily in this state for a loan unless there is disclosed within the printed text of that advertisement, or the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged.

Inducement Prohibited

10236.1. No real estate licensee shall advertise to give or to offer to give to a prospective purchaser or lender any premium, gift or any other object of value as an inducement for making a loan, or purchasing a promissory note secured directly or collaterally by a lien on real property or a real property sales contract.

Disclosure of License Number in Advertising; License Number and DRE License Information Telephone Number in Disclosure Statements

10236.4. (a) In compliance with Section 10235.5, every licensed real estate broker shall also display his or her license number on all advertisements where there is a solicitation for borrowers or potential investors.

(b) The disclosures required by Sections 10232.4 and 10240 shall include the licensee's license number and the department's license

information telephone number.

(c) This section shall become operative July 1, 1998.

BUSINESS AND PROFESSIONS CODE

CHAPTER 4. SOLICITATIONS FOR FINANCIAL SERVICES

14700. (a) "Lender" as used in this chapter means a bank, savings and loan association, savings bank, credit union, industrial bank, or other lender licensed to make loans in California or a subsidiary or an affiliate of one of those entities.

(b) "Financial services" as used in this chapter means financial services or products that are considered to be financial in nature as described in Section 1843(k) of Title 12 of the United States Code.

14701. (a) No person shall include the name, trade name, logo, or tagline of a lender in a written solicitation for financial services directed to a consumer who has obtained a loan from the lender without the consent of the lender, unless the solicitation clearly and conspicuously states that the person is not sponsored by or affiliated with the lender and that the solicitation is not authorized by the lender, which shall be identified by name. This statement shall be made in close proximity to, and in the same or larger font size as, the first and the most prominent use or uses of the name, trade name, logo, or tagline in the solicitation, including on an envelope or through an envelope window containing the solicitation.

(b) No person shall use the name of a lender or a name similar to that of a lender in a solicitation for financial services directed to consumers if that use could cause a reasonable person to be confused, mistaken, or deceived initially or otherwise as to either of the following:

- (1) The lender's sponsorship, affiliation, connection, or association with the person using the name.
- (2) The lender's approval or endorsement of the person using the name or the person's services or products.

14702. No person shall include a consumer's loan number or loan amount, whether or not publicly available, in a solicitation for services or products without the consent of the consumer, unless the solicitation clearly and conspicuously states, when applicable, that the person is not sponsored by or affiliated with the lender and that the solicitation is not authorized by the lender, and states that the consumer's loan information was not provided to that person by that lender. This statement shall be made in close proximity to, and in the same or larger font as, the first and the most prominent use or uses of the consumer's loan information in the solicitation, including on an envelope or through an envelope window containing the solicitation.

14703. It is not a violation of this chapter for a person in an advertisement or solicitation for services or products to use the name, trade name, logo, or tagline of a lender without the statement described in subdivision (a) of Section 14701 if that use is exclusively part of a comparison of like services or products in which the person clearly and conspicuously identifies itself or that otherwise constitutes nominative fair use. Nothing in this chapter shall be deemed or interpreted to alter or modify the trade name and trademark laws of this state, including Chapter 2 (commencing with Section 14200) and Chapter 3 (commencing with Section 14400).

14704. (a) A person who violates Section 14701 or 14702 shall be subject to an injunction against that use. In an action to enjoin a violation of subdivision (a) of Section 14701 or Section 14702, it is not necessary to allege or to prove actual damage to the plaintiff, and irreparable harm and interim harm to the plaintiff shall

be presumed. In the action to enjoin a violation of subdivision (b) of Section 14701, affidavits that show consumers were confused, mistaken, or deceived as to a matter described in subdivision (b) of Section 14701 is prima facie evidence of damage and injury to the plaintiff. In addition to injunctive relief, the plaintiff is entitled to recover in the action the amount of the actual damages, if any, it sustained.

(b) The prevailing party in an action brought under this chapter is entitled to recover its costs and reasonable attorney's fees as the court may determine.

Business Solicitations – Governmental Terms or Symbols

17533.6. It is unlawful for any person, firm, corporation, or association that is a nongovernmental entity to solicit information, or to solicit the purchase of or payment for a product or service, or to solicit the contribution of funds or membership fees, by means of a mailing, electronic message, or Internet Web site that contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any state or local government connection, approval, or endorsement, unless the requirements of subdivision (a) or (b) have been met, as follows:

(a) The nongovernmental entity has an expressed connection with, or the approval or endorsement of, a state or local government entity, if permitted by other provisions of law.

(b) The solicitation meets both of the following requirements:

- (1) The solicitation bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other type on its face, the following notice:

"THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY ANY GOVERNMENT AGENCY, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE GOVERNMENT."

- (2) In the case of a mailed solicitation, the envelope or outside cover or wrapper in which the matter is mailed bears on its face in capital letters and in conspicuous and legible type, the following notice:

"THIS IS NOT A GOVERNMENT DOCUMENT."

Real Property Loans – Disclosure of License – Excepted Institutions

17539.4. No person shall place an advertisement disseminated primarily in this state for a loan which utilizes real property as collateral unless there is disclosed within the printed text of that advertisement, or the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged, the state regulatory entity supervising that type of loan transaction or, in the case of unlicensed lending activity, a statement that the loan is being made or arranged by an unlicensed party who is not operating under the regulatory supervision of a state agency.

This section shall not apply to any bank or bank holding company, or to any savings association or federal association as defined by Section 5102 of the Financial Code, or to any industrial loan company or credit union, or to any subsidiary or affiliate of these entities if the subsidiary or affiliate is not separately licensed.

Simulated Checks

22433. (a) As used in this section, "simulated check" means any document that is not currency or a check, draft, note, bond, or other negotiable instrument but that, because of its appearance, has the

tendency to mislead or deceive any person viewing it into believing that it, in fact, represents any of the following:

- (1) currency or a negotiable instrument that can be deposited in a bank or used for third party payments;
- (2) a prize, gift, or monetary benefit that the recipient has won or is entitled or guaranteed to receive; or
- (3) an actual check or other item of value that can be claimed or redeemed. "Simulated check" does not include a nonnegotiable check, draft, note, or other instrument that is used for soliciting orders for the purchase of checks, drafts, notes, bonds, or other instruments, and that is clearly marked as a sample, specimen, or nonnegotiable. "Simulated check" also does not include any document indicating in a truthful and nonmisleading manner that a person, in fact, unconditionally has won or is entitled or guaranteed to receive a specific prize, gift, or amount of money or credit.

(b) No person shall produce, advertise, offer for sale, sell, distribute, or otherwise transfer for use in this state any simulated check.

(c) The Attorney General may bring an action to enjoin a violation of this section, and to recover a civil penalty of not more than one hundred dollars (\$100) for each violation of this section. A violation of this section may be enjoined without proof that any person has, in fact, been injured or damaged by the violation.

REGULATIONS OF THE REAL ESTATE COMMISSIONER

2731. Use of False or Fictitious Name.

(a) A licensee shall not use a fictitious name in the conduct of any activity for which a license is required under the Real Estate Law unless the licensee is the holder of a license bearing the fictitious name.

(b) The Department shall issue a license required under the Real Estate Law only in the legal name of the licensee or in the fictitious business name of a broker who presents evidence of having complied with the provisions of Sections 17910 and 17917 of the Code.

(c) The commissioner may refuse to issue a license bearing a fictitious name to a broker if the fictitious name:

- (1) Is misleading or would constitute false advertising.
- (2) Implies a partnership or corporation when a partnership or corporation does not exist in fact.
- (3) Includes the name of a real estate salesperson.
- (4) Constitutes a violation of the provisions of Sections 17910, 17910.5, 17913 or 17917 of the Code.
- (5) Is the name formerly used by a licensee whose license has since been revoked.

2847. Voluntary Submission of Proposed Advertising.

(a) A real estate broker may submit for departmental approval advertising proposed to be used in connection with the performance of acts for which a real estate license is required pursuant to Section 10131.1 or subdivision (d) or (e) of Section 10131 of the Code.

(b) Proposed advertising copy shall be submitted to the Sacramento office of the Department. Written or graphic advertising shall be submitted in the format in which it will be displayed to the public. A written script shall be submitted for radio or television advertisements. A submission of advertisement to the Department shall be accompanied by the maximum fee set forth in Section 10232.1 of the Code.

2847.3. Disclosure of License and Issuing Department.

(a) Use of either of the following statements shall satisfy the requirements of Sections 10235.5 and 17539.4 of the Code:

- (1) Real estate broker, California Department of Real Estate.
- (2) California Department of Real Estate, real estate broker.

The words "California" and "Department" may be abbreviated only as "CA" or "CAL" or "Calif" and "Dept". A dash (-) may be used in lieu of the comma appearing in the statements set forth above in paragraphs (1) and (2).

(b) The type size of the statement shall be no less than the smallest size type used in the advertisement copy.

(c) Use of either statement as set forth in subdivision (a) will also satisfy the designation requirements of Section 10140.6 of the Code.

2848. Advertising Criteria.

(a) In administering Sections 10232.1 and 10235 of the Code, the commissioner shall take such action as is appropriate to prevent or halt the publication of advertising that is false, misleading or deceptive in itself or through the omission of information necessary to make a representation not misleading in the context in which it is used. To this end, the commissioner may disapprove or require verification of representations in advertising submitted pursuant to Section 10232.1 of the Code, or Section 2847 of these regulations.

In addition to the actual text, consideration shall be given to such factors as format, pictorial display and emphasis in determining whether an advertisement is likely to create a false impression.

By way of illustration and not of limitation, advertising containing any of the following is considered to be false, misleading or deceptive and will not ordinarily be approved for publication by the commissioner:

(1) The use of "guaranteed," "insured," "bonded," "sure," "safe," "sound" or other words or phrases of similar import to describe or characterize the security of lenders' or purchasers' funds, or the return to lenders or purchasers from the use of their funds, without an accompanying statement of fact supporting the use of the words or phrases implying high security. A representation to the effect that no losses or minimal losses have been sustained by lenders or purchasers doing business with the licensee shall include the period of time to which the representation applies.

(2) The use of terms in the comparative or superlative degree to describe any aspect of the business of the licensee, or any terms applicable to loans negotiated by the licensee, without such additional information as necessary to make the representation unambiguous in the context in which it is used.

(3) A statement that the licensee represents any lender enumerated in Section 10133.1(a) of the Code unless the licensee has a contractual arrangement to act as agent or representative for such lender.

(4) An implication contrary to the fact that the licensee will act in the capacity of a lender rather than as an agent or that a borrower will be able to obtain a loan without deductions from the principal amount for the payment of commissions, costs and expenses customarily attendant upon mortgage loan broker transactions.

(5) A representation of a specific installment in repayment of a loan without an equally prominent disclosure of the following

information about the loan:

- (A) Principal amount
- (B) Simple annual interest rate
- (C) Annual percentage rate
- (D) Number, amount and period of payments scheduled to the date of maturity
- (E) Balance due at maturity (balloon payment) if not fully amortized.

(6) A representation of a specific installment payment, interest rate, annual percentage rate or other provision concerning a loan unless it is clearly indicated whether the advertised terms are available for first loans, junior loans or for both first and junior loans.

(7) A representation or implication that loans are available on terms more favorable to the borrower than terms then generally available in the community through mortgage loan brokers or other sources for loan funds unless the advertised terms are in fact then available to a borrower without the application of undisclosed, special conditions or restrictions to qualify the borrower or the security for the loan.

(8) A representation or implication that loans are available on terms more favorable to the borrower than terms then generally available in the community through mortgage loan brokers or other sources for loan funds unless the broker has previously presented evidence satisfactory to the commissioner that the advertising is not illusory or deceptive in light of all relevant factors of the broker's business practices including the amount of loan funds prospectively available to meet borrower demands in response to the advertising.

(9) A representation that loans are available at or to a maximum percentage of market value unless there is a disclosure as to how market value will be determined for purposes of a loan transaction.

(10) A representation or implication that the credit rating or other personal financial data of the prospective borrower will not be a factor in determining eligibility for a loan unless the broker in fact neither conducts nor causes to be conducted any investigation or inquiry into any aspect of any prospective borrower's credit rating or into his personal financial circumstances for the purpose of determining his qualifications for a loan.

(11) A representation or implication that a loan can or will be approved by telephone.

(12) A representation implying that the Department or any other governmental agency has endorsed or approved any aspect of the licensee's business activities. A statement that the offering referred to in the advertisement is being made under authority of a permit issued by the Department or by the Department of Corporations without more, will not be considered to be a representation implying endorsement or approval by a governmental entity.

(13) A representation or implication contrary to fact as to the number and location of offices maintained by the licensee for the conduct of his/her mortgage loan brokerage business.

(14) Use of "investment plan," "growth plan," or similar term to describe a program of a licensee carrying on activities described in Section 10131.1.

(15) The use of "savings," "savings plan" or terms of similar

import indicating that the licensee is engaged in business activities requiring a particular license, permit or authority unless the licensee then has such a license, permit or authority.

(16) A representation of a simple annual interest rate without an equally prominent disclosure of the annual percentage rate.

(17) A representation of an installment in repayment of an adjustable rate, interest only or payment-option loan without an equally prominent disclosure of the following information about the loan:

- (A) Principal amount
- (B) Term of loan
- (C) Initial interest rate
- (D) Number of months the initial interest rate will be in effect
- (E) Fully-indexed interest rate
- (F) Maximum interest rate
- G) If different, an explanation of the difference between the payment rate, initial interest rate and fully-indexed rate.
- (H) Annual percentage rate
- (I) How often the interest rate and payments can change
- (J) Maximum periodic change in the interest rate and payments (periodic caps)
- (K) Number of months and percentage of original loan amount after which minimum payments will not be accepted and the loan re-amortizes
- L) The monthly payment based on the maximum interest rate, and the loan balance after all negative amortization is included, assuming minimum payments are made
- (M) If the loan contains a prepayment penalty, a statement to that effect
- (N) If the loan contains a balloon payment, a statement to that effect

(18) A statement that the licensee can arrange "low doc/no doc", "no income/no asset", "stated income", "stated asset", "no ratio" or similar loan products without a statement that these products may have a higher interest rate, more points or more fees than other products requiring documentation.