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Pam-a-gram

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Newsletter for California Mortgage & Real Estate Brokers

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About Pam Strickland

Pam is a Real Estate Broker from Santa Barbara with over 30 years experience in Real Estate and Mortgage Lending.

Past-President, CAMB (California Association of Mortgage Brokers). Selected Mortgage Broker of the Year in 1992 by the CAMB and in

New Name – Same Game: How long will it take you to start saying BRE?



DRE is no more!

Bet that got your attention now, didn't it? As of July 1, 2013, the California Department of Real Estate (DRE) became the California Bureau of Real Estate (BRE). The DRE was formed in 1917 and even though none of us were around back then, we've been around long enough that DRE just sounds "right," know what I mean? BRE is gonna be hard for this old lady to get used to, methinks. At the same time, the Department of Corporations (DOC) became the Department of Business Oversight (DBO) and was merged with the Department of Financial Institutions.

OK, now you ask: What do those changes mean to me, the licensee? Honestly, the laws are the same, the names have just changed. The only difference I've seen in the last few months is that audits are increasing, fines (see below) are coming fast and furiously, and you had best be prepared. If they haven't contacted you yet, they will. Oh, yes, they will!

Use of NMLS number

If you are licensed under the BRE, you can originate loans as well as list and sell real estate, perform property management, service loans, etc. If, however, you are originating 1-4 residential loans, you must also have the federal NMLS endorsement. Therefore you would have two separate identifying numbers (your BRE number and your NMLS number). There are various forms (i.e. the MLDS and the 1003) and in advertising and on your business card where the NMLS number AND the BRE number must appear. What a lot of people miss is that *if you have an NMLS number and you are engaging in Real Estate listings and sales, you have to use your NMLS number on those sales transaction forms.* I kid you not! A broker in San Francisco was recently cited for this in an audit and the BRE has the right to "fine" the miscreant \$2500 for the omission. (See below for more on the new fines being levied.)

Here is the Business & Professions code that shows the regulation:

B&P 10140.6 (b) (1) A real estate licensee shall disclose his or her license identification number and, if that licensee is a mortgage loan originator, the unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry, on all solicitation materials intended to be the first point of contact with consumers and on real property purchase agreements when acting as an agent in those transactions.

Bad-ish Broker! \$2500 fine and no soup for you!

Back in the old days of DRE, a broker who was audited and found to have minor violations was often sent a Corrective Action Letter (CAL) and that was that. Nowadays that same broker with the same minor violations is more apt to receive a letter from a Special Investigator or the Compliance Department of the BRE asking for up to a \$2500 fine.

1993 by the NAMB (National Association of Mortgage Brokers).

Member, National Mortgage Review Committee for the SAFE Act Mortgage Test.

Member, California Mortgage Review Committee for the SAFE Act Mortgage Test.

Member, National Legal Review Committee for the SAFE Act Mortgage Test.

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Any recommendations contained in this message are based on Pam's many years of personal experience and research in the Real Estate industry and must not be considered legal advice. Please consult with appropriate legal counsel for further clarification.

Contact Pam at:

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I have seen quite a few of these letters in the past month already. Some have been fined the \$2500 (one broker was fined \$2500 for his corporation for minor trust account violations and an additional \$2500 for his personal license due to "non-supervision") and others were instructed to show how they had cured the violations or told that they could be fined if they didn't prove compliance. This type of letter can be received for something as seemingly minor as not using the NMLS number on a purchase contract (C.A.R. needs to change their forms, since there is no place to put an NMLS number, but that's another story!). Here is the new regulation:

B&P 10080.9. (a) If, upon inspection, examination, or investigation, the commissioner has cause to believe that a person who does not possess a real estate license is engaged or has engaged in activities for which a real estate license is required, or that a licensee is violating or has violated any provision of this division or any rule or order thereunder, the commissioner or his or her designated representative may issue a citation to that person in writing, describing with particularity the basis of the citation. Each citation may contain an order to correct the violation or violations identified and a reasonable time period or periods by which the violation or violations must be corrected. In addition, each citation may assess an administrative fine not to exceed two thousand five hundred dollars (\$2,500), which shall be deposited into the Recovery Account of the Real Estate Fund and shall, upon appropriation by the Legislature, be available for expenditure for the purposes specified in Chapter 6.5 (commencing with Section 10470). In assessing a fine, the commissioner shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the person cited, and the history of previous violations. A citation issued and a fine assessed pursuant to this section, while constituting discipline for a violation of the law, shall be in lieu of other administrative discipline by the commissioner for the offense or offenses cited, and the citation against and payment of any fine by a licensee shall not be reported as disciplinary action taken by the commissioner.

## Compliance Consulting

For a thorough evaluation of your company's compliance with the multitude of regulations that pertain to the real estate industry, Pam is available for private, confidential in-office consulting. She can also help you prepare for and get through a BRE audit. Further information is available on her website: [www.pamstrickland.com](http://www.pamstrickland.com)