

## Department of Real Estate SAFE ACT - Frequently Asked Questions

### Questions Regarding the RE Form 866 – Mortgage Loan Activity Notification

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Q. Who completes Form RE 866?

A. All salespersons, brokers and licensed real estate corporations performing mortgage loan activities for residential properties under the DRE license. (B&P §10166.02)

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Q. Where is the Form RE 866? It is not found under “forms” on the DRE website.

A. It is found at the link for Form RE 866 (<https://secure.dre.ca.gov/licensing/nmls.asp>). It is an online completion.

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Q. How do I confirm that I already submitted the RE 866 report using the DRE on-line system?

A. If you try to begin to complete the form again by entering your identifying information, you will be given the option to “amend” or “cancel”. If you have not submitted the report, you will be given the option to “add”.

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Q. How do I cancel the RE 866 report I previously submitted?

A. Begin to complete the RE 866 form by entering your identifying information. When the RE 866 screen comes up, select the link to “cancel”.

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Q. How do I change the information I submitted on the RE 866 report about the activities I perform?

A. Begin to complete the form by entering your identifying information. When the RE 866 screen comes up, select the link to “amend”.

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Q. How do I notify the Department that I am NOT doing residential mortgage loan activities?

A. Notification is NOT submitted to the Department if you are not performing residential mortgage loan activities as described in B& P Code Section 10166.02.

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Q. Do I submit the RE 866 if I perform residential mortgage loan activities under a Department of Financial Protection and Innovation (DFPI) license?

A. No.

Q. If I previously submitted the RE 866 and I am doing all residential mortgage loan activities under a DFPI license, should I cancel the RE 866?

A. Yes.

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Q. Do I submit the RE 866 if I perform residential mortgage loan activities for a bank?

A. No.

Q. If I previously submitted the RE 866 and I am doing all residential mortgage loan activities for a bank, should I cancel the RE 866?

A. Yes.

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Q. Do I submit the RE 866 if I perform residential mortgage loan activities for a credit union?

A. No.

Q. If I previously submitted the RE 866 and I am doing all residential mortgage loan activities for a credit union, should I cancel the RE 866?

A. Yes.

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Q. What if I completed the RE 866 and I do not perform residential mortgage loan activities, but I want to keep my DRE license active?

A. If you do not perform residential mortgage loan activities you must cancel the RE 866 which reports you ARE performing residential mortgage loan activities. This will not cancel the DRE license.

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Q. Do I submit the RE 866 notification if I am **not** doing residential mortgage loan **originator** activities?

A. The RE 866 is required if you are performing residential mortgage loan activities which include servicing loans, funding loans, or arranging/brokering loans. These are activities which will not require a Mortgage Loan Originator License Endorsement, but will require RE 866 notification to the DRE.

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Q. I submitted an RE 866 and then discovered I either entered incorrect information or want to change the information. How do I correct it?

A. Begin to complete the form by entering your identifying information. When the next screen appears, select the link to “amend”.

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Q. What are the time limits involved?

A. Form RE 866 is required to be filed within 30 days of commencing residential mortgage loan activity.

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Q. I have a broker license and a licensed corporation. How do I file Form RE 866?

A. Register under both licensees separately if you are using both licenses to perform mortgage loan activities for residential properties.

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Q. I have a broker license and two or more corporations. How do I file Form RE 866?

A. Register all licenses separately that are being used to perform mortgage loan activities for residential properties.

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Q. I have salespersons and affiliated brokers. How do I file Form RE 866?

A. Each licensee must file Form RE 866 if they are performing mortgage loan activities for residential properties.

**Q.** Which license number do I enter?

**A.** Use the individual license number when registering the individual broker license and the corporation license number when registering the corporation license.

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**Q.** Do we register every time we complete a loan transaction?

**A.** No, you are only required to register using Form RE 866 once. You will complete the online form again if you are making a change or canceling.

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**Q.** Do I submit the RE 866 if I only broker apartment complexes with 5 or more units?

**A.** No.

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**Q.** I do not perform mortgage loan activity and checked no boxes, but could not submit the form.

**A.** The form can only be completed by licensees who perform residential mortgage loan activities.

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**Q.** What is meant by “arrange” loans?

**A.** The term means to broker between a lender and a borrower for compensation or gain or in the expectation of compensation or gain.

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**Q.** What is meant by “fund” loans?

**A.** The term means to provide the loan funds to the borrower, from whatever source, for compensation or gain or in the expectation of compensation or gain.

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**Q.** What is meant by “mortgage loan originator”?

**A.** “Mortgage loan originator” means an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan.

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**Q.** What is meant by “offers or negotiates the terms of a residential mortgage loan”?

**A.** This term refers to presentation of residential mortgage loan terms for acceptance by a borrower or prospective borrower. The acts occur where a mortgage loan originator communicates directly or indirectly with a borrower or prospective borrower for the purpose of reaching an understanding about prospective residential mortgage loan terms or when a mortgage loan originator recommends, refers, or steers a borrower or prospective borrower to a particular lender or set of residential mortgage loan terms. The acts only fall within the scope of this program where the mortgage loan originator receives or expects to receive payment of money or anything of value in connection with these activities or as a result of any residential mortgage loan terms entered into as a result of such activities.

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**Q.** I am the designated broker for more than one licensed corporation. Do I file Form RE 866 for each separate corporation?

**A.** Yes. Register each corporation that performs residential mortgage loan activities.

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**Q.** I submitted my Form RE 866. Can I now perform mortgage loan activities?

**A.** A Mortgage Loan Originator License Endorsement is required before loans can be originated for residential properties.

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**Q.** I have salespeople working under a Department of Financial Protection and Innovation CFL license. Do they report to DRE by filing Form RE 866?

**A.** No.

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**Q.** I have not yet received my new DRE license. I cannot complete Form RE 866.

**A.** The form RE 866 can only be completed by current licensees.

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**Q.** Can I complete the RE 866 while I am in the process of obtaining a DRE license?

**A.** No.

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**Q.** If I sent you a letter describing the activities I perform, do I have to submit the RE 866?

**A.** If you perform residential mortgage loan activities, you must submit the RE 866. If you do not perform residential mortgage loan activities, you do not submit the RE 866.

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**Q.** If I am closing my business and no longer doing loan originations, do I need to submit the RE 866?

**A.** You should cancel the RE 866 because this is a tool DRE uses to initiate investigations of licensees who report they are doing activities which require a Mortgage Loan Originator License Endorsement.

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**Q.** My broker requested that all employed licensees submit the RE 866. I do not perform any residential mortgage loan activities. Do I cancel the RE 866?

**A.** You should discuss this with your broker. Licensees who do not perform residential mortgage loan activity should not submit an RE 866 and they should cancel the RE 866 if they submitted it in error.

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**Q.** I am unable to complete the RE 866 because I do not perform any of the activities listed.

**A.** If you do not perform residential mortgage loan activities, do not submit the RE 866.

**Q.** I am retired, but want to keep my DRE license. Do I cancel the RE 866 I submitted?

**A.** Yes. If you are no longer doing residential mortgage loan activities, cancel the RE 866. This will not cancel the DRE license.

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**Q.** I am not active in real estate or loans, but want to keep my DRE license. Do I cancel the RE 866 I submitted?

**A.** Yes. If you are no longer doing residential mortgage loan activities, cancel the RE 866. This will not cancel the DRE license.

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**Q.** I am having trouble submitting the RE 866 because it says “No Match Found”. It is possible my social security number or birth date is wrong in DRE records.

**A.** Contact the Licensing Section (877) 373-4542 to make any necessary corrections to your DRE Licensing record.

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**Q.** I am a broker or officer of a licensed real estate corporation, but I cannot complete the RE 866.

**A.** The RE 866 must be submitted by the Designated Officer of the real estate corporation.

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**Q.** I submitted the RE 866, but I keep getting reminders from the Department.

**A.** If you are a licensed broker and you have a licensed corporation, each licensee must submit the RE 866. If you are the Designated Officer, you must submit the RE 866 for the corporation as well as for your individual license.

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**Q.** I cancelled the RE 866, but I keep getting reminders from the Department.

**A.** If you are a licensed broker and you have a licensed corporation, each licensee must cancel the RE 866. If you are the Designated Officer, you must cancel the RE 866 for the corporation as well as for your individual license.

**Q.** I submitted the RE 866 before I had an NMLS ID number. How can I correct the RE 866?

**A.** Begin to complete the form by entering your identifying information. When the next screen comes up, select the link to “amend”.