

## Supplemental Statements State Component Safe Act Test

1. A broker may use electronic storage media to retain copies of listings, purchase agreements, trust records, and canceled checks. Records must be easily accessible, prepared in the normal course of business, and near the time of creation of the record.

Regulations of the Real Estate Commissioner, 2729.

2. WORM means *Write Once, Read Many*. It means the electronic image is non-changeable and non-erasable. Regulations of the Real Estate Commissioner, 2729 (1)

3. Before issuing a real estate license, the Real Estate Commissioner must determine the honesty and truthfulness of the applicant, that the applicant has an appropriate, usable knowledge of the English language, an understanding of the principles of real estate conveyancing, and of the obligations between agent and principal. Business & Professions Code, 10153.

4. It is a misdemeanor for any person to practice deception or fraud with regard to his/her identity in connection with any examination, application, or request to be examined. B&P Code, 10153.1

5. To take the exam for an original broker's license, an applicant must submit evidence of successful completion of eight three-unit courses approved by the DRE from an accredited institution. B&P Code, 10153.2.

6. The Real Estate Commissioner waives the above educational requirement for members of the California State Bar. B&P Code, 10153.2.

7. To qualify to take the examination for a salesperson's license, an applicant must show evidence of successfully completing a Real Estate Principles course, Real Estate Practice, and an elective approved by the DRE. B&P Code, 10153.3.

8. If a real estate licensee does not successfully complete the required Continuing Education, the Commissioner can either notify the licensee of the extended period for compliance (grace period), or advise the licensee that his or her rights to operate under the prior license will expire five days from the date the notice is mailed. B&P Code 10156.2.

9. Every licensed real estate broker shall have and maintain a definite place of business in the state of California which shall serve as his office for the transaction of business. This office shall be the place where his license is displayed and where personal consultations with clients are held. No real estate license authorizes the licensee to do business except from the location stipulated on the real estate license. B&P Code 10162.

10. The Real Estate Commissioner may adopt, amend, or repeal rules and regulations that are reasonably necessary for the enforcement the law. This practice must be done in accordance with the provisions of the Administrative Procedures Act. B&P Code, 10080.

11. 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, the Commissioner may issue a citation describing the violation. B&P Code, 10080.9.
12. Each citation above may contain an order to desist and refrain immediately and assess an administrative fine not to exceed \$2500. B&P Code, 10080.9
13. If such a citation is issued to a licensee, the Commissioner may issue an order to correct the violation within a reasonable period of time. B&P Code, 10080.9.
14. If the Commissioner has evidence to believe that any person has violated real estate law and those actions will be harmful to the public, he or she may bring an action in the name of the people of the State of California, preventing the individual from continuing those actions. B&P Code, 10081.
15. If the Commissioner can show the court that a person's actions have or will jeopardize funds or properties of others under the control of the defendant, the court may appoint a receiver for management of the defendant's business. B&P Code, 10081.
16. Under certain conditions, the Commissioner can issue a desist and refrain order to any person in violation of real estate law. Upon receipt of the order, the person must cease the activity described in the order immediately.
17. The Real Estate Commissioner could permit a licensee to pay a fine in lieu of suspension if the interest of the public is adequately served. B&P Code 10175.2.
18. The amount of a monetary penalty assessed by the Commissioner cannot exceed \$250 per day of suspension stayed, or a total of \$10,000. B&P Code 10175.2.
19. If the licensee fails to pay the monetary penalty, the Commissioner may reinstate, without a hearing, the suspension. B&P 10175.2.
20. No real estate developer can require, as a condition of sale, that a buyer must use an escrow company in which the developer has an interest. Civil Code Sec 2995.
21. When a customer makes an initial application for a home equity loan, the creditor must provide the applicant with a disclosure to this effect: "This home equity loan that you are applying for will be secured by your home and your failure to repay the loan for any reason could cause you to lose your home," or a similar statement. Civil Code Sec 2970-2971.
22. Disclosures required under B&P Code 10240 and 10241 are satisfied by a GFE in a federally regulated mortgage loan transaction.
23. "Dwelling" means either a single dwelling unit in a condominium or cooperative development or any parcel containing only residential buildings if the total number of units on the parcel is four or less. B&P Code 10240.2.
24. When an agent undertakes to arrange financing in connection with a sale, lease, or exchange of real property, or when a person or entity arranging financing in connection with the sale, lease, or exchange undertakes to act as an agent with respect to that property, that agent, person, or entity shall within 24 hours, make a written disclosure of those roles to all parties to the transaction. B&P Code 10177.6
25. No advertising in this business can be false, misleading, or deceptive in any way. B&P Code 10235.

26. When selling a note, indicating a yield or return that is different from the interest rate on the note is considered prima facie evidence of misleading and deceptive advertising, unless the ad sets forth the actual interest rate and the discount at which the note is offered for sale. B&P Code 10235.
27. All advertising soliciting borrowers or investors must include the real estate broker's DRE license number, the MLO's unique identifier number, and the DRE's license information telephone number. B&P Code 10236.4
28. When a licensee is disclosing the license and issuing department in an ad, either of the following statements is satisfactory: (1) Real Estate Broker, California Department of Real Estate, or (2) California Department of Real Estate, Real Estate Broker. The type size of these statements shall be no less than the smaller type size used in the ad copy. Regulations of the Real Estate Commissioner, 2897.3.
29. The Real Estate Commissioner, may, upon his or her own motion, and shall, upon the verified written complaint of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee. B&P Code 10176.
30. The Real Estate Commissioner may temporarily suspend or permanently revoke a real estate license if the licensee has been found guilty of actions harmful to the public. B&P Code 10176.
31. A real estate salesperson is a natural person employed by a broker to perform acts that require a license. B&P Code, 10132.
32. The following are parties that do not need a real estate license to perform acts otherwise requiring a license: an officer of a corporation that owns the property that is being sold or leased, a person holding a duly executed power of attorney, at attorney at law rendering legal services to a client, a receiver, trustee in bankruptcy, or other person acting under a court order, and a trustee for the beneficiary of a trust deed when selling under the authority of a deed of trust. None of these positions may be used for the purpose of evading the requirements of the licensing law. B&P Code 10133.
33. It is unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for performing any acts requiring a real estate license who is not a licensed real estate salesperson or real estate broker. B&P Code 10137.
34. It is unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any licensee for engaging in an activity for which a mortgage loan originator license endorsement is required if the licensee does not have the mlo endorsement. B&P Code 10137.
35. No real estate salesperson shall be employed by or accept compensation from any person other than the broker under which his/her license is hanging. B&P Code 10137.
36. A real estate broker who accepts funds belonging to another in connection with a transaction shall deposit those funds into a trust account if they are not submitted to escrow or into the hands of the broker's principal. B&P Code 10145.
37. Under certain circumstances, a real estate broker collecting payments or performing services for investors or note owners in connection with loans secured by a first lien on real property may deposit funds received in trust in an out-of-state depository institution insured by the FDIC. B&P Code 10145.

38. A real estate broker who deposits funds held in trust in an out-of-state depository institution must make available in this state the books, records, and files pertaining to the trust account to the Commissioner, or pay reasonable expenses of travel and lodging incurred by the Commissioner or his/her representatives to conduct an audit at that location. B&P Code 10145.
39. When a salesperson receives trust funds on behalf of the broker for whom they are employed, the salesperson must deliver the trust funds to the broker immediately, or follow the broker's instructions to deliver the funds to the trust fund account, escrow, or the broker's principal. B&P Code 10145.
40. Under certain circumstances, a broker, under the direction of his/her principal, may deposit trust funds into an interest bearing account. Under no circumstances may the interest earned inure to the benefit of the broker or any of his/her employees. B&P Code 10145.
41. Even if requested to do so, a broker is under no obligation to place trust funds into an interest bearing account and may refuse to do so. B&P Code 10145.
42. The Real Estate Commissioner may prescribe, by regulation, circumstances in which a real estate broker is authorized to deposit trust funds in an interest-bearing account. B&P Code 10145.
43. A licensed real estate broker must retain for three years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him/her or obtained by him/her in connection with any transactions for which a real estate broker license is required. B&P Code 10148 (a).
44. The retention period shall run from the date of the closing of the transaction or from the date of the listing if the transaction is not consummated. B&P Code 10148 (a).
45. The Commissioner shall charge a broker for the cost of an audit if the Commissioner finds that the broker is in violation of trust account laws (B&P Code 10145). B&P Code 10148 (b).
46. If a broker fails to pay for the cost of an audit within 60 days of billing, the Commissioner may suspend or revoke the broker's license or deny renewal. The suspension or denial shall remain in effect until the cost is paid or the broker's right to renew has expired. After that, the Commissioner may seek a judgment in any court of competent jurisdiction. B&P Code 10148 (c).
47. Minimum standards to renew an mlo endorsement include continuing to meet the minimum standards for obtaining the original endorsement and completing the eight hours of required Continuing Education. B&P Code 10166.09.
48. An MLO may receive credit for a continuing education course only for the year in which it was taken. B&P Code 10166.10 (f).
49. An "arranger of credit" is a person, other than a party to the credit transaction, who is involved in developing or negotiating credit terms. An "arranger of credit" is not an attorney representing one of the parties to the credit transaction, nor is it a person acting in the capacity of an escrow in the transaction. Civil Code Sec 2957.
50. Neither the completion of credit documents in accordance with instructions of a party or his or her agent, nor the furnishing of information regarding credit terms to a party or his or her agent shall be considered to be the development or negotiation of credit terms. Civil Code Sec 2957 (a) (4).

51. In a purchase transaction of a dwelling involving not more than four units, and when the vendor is extending credit to the purchaser, an arranger of credit shall make a written disclosure with respect to the credit transaction, to both vendor and purchaser. Civil Code Sec 2956.
52. A balloon payment means a note which provides for a final payment which is more than twice the amount of any of the immediately preceding six regularly scheduled payments. The existence of an unexercised "call provision" does not deem a note to be a balloon payment. Civil Code Sec 2957 (b).
53. A call provision means the contract term of a note that allows the note holder to call the note due and payable either after a certain specified time period or after a certain date. Civil Code Sec 2957 (c).
54. "Credit" means the right granted by a vendor to a purchaser to buy a property and to defer payments. The credit involved must be subject to a finance charge or payable by written agreement in more than four installments, whether providing for payment of principal and interest or interest only, not counting a downpayment. Civil Code Sec 2957 (d).
55. "Credit documents" are those documents which contain the binding credit terms, and include a note or contract of sale if the contract spells out terms upon which a vendor agrees to provide financing for a purchaser. Civil Code Sec 2957 (e).
56. "Purchase" includes acquisition of equitable title by a real property sales contract, or lease with option to purchase, where the facts demonstrate an intent to transfer equitable title. Civil Code Sec 2957 (f).
57. "Security documents" include a mortgage, deed of trust, real property sales contract, or lease with an option to purchase, where the facts demonstrate an intent to transfer equitable title. Civil Code Sec 2957 (g).
58. "All inclusive trust deed" is an instrument that secures indebtedness owed by the trustor to the beneficiary, which indebtedness includes a debt or debts owed by that beneficiary to the beneficiary of another security document secured by the same property which is senior in priority. Civil Code Sec 2957 (h).
59. A disclosure is not required under this article if a vendor or purchaser is entitled to receive a disclosure under RESPA or TILA. Civil Code Sec 2958.
60. A foreclosure consultant is any person who makes a solicitation for compensation to stop or postpone a foreclosure sale, assist the owner to obtain a loan, extend the period of reinstatement, as well as other related services. Civil Code Sec 2945.1 (a).
61. A foreclosure consultant does not include an attorney rendering service in the course of his or her legal practice, any person licensed to make loans under Division 9 of the Financial Code, a person who is owed an obligation secured by a lien on any residence in foreclosure, as well as other individuals and situations. Civil Code Sec 2945.1.
62. A homeowner has the right to cancel a service contract with a foreclosure consultant until midnight of the fifth business day after the day on which the owner signs a contract. Civil Code Sec 2945.2.
63. Services of a foreclosure consultant include debt, budget, or financial counseling of any type, receiving money for the purpose of distributing it to creditors, contacting creditors on behalf of the owners of the house, advising the homeowner to file any document, giving any advice, explanation, or instruction, as well as other related services. Civil Code Sec 2945.1.

64. Notice of cancellation given by the owner need not take the particular form as provided with the contract, and however expressed, is effective if it indicates the intention of the owner not to be bound by the contract. Civil Code Sec 2945.2.

65. It is a violation of law for a foreclosure consultant to demand or receive any compensation until after they have fully performed each and every service they were contracted to perform. Civil Code Sec 2945.4.

66. It is a violation of law for a foreclosure consultant to take any wage assignment, or any lien of any type on real or personal property, or other security to secure payment of compensation. Civil Code Sec 2945.4.

67. It is a violation of law for a foreclosure consultant to acquire any interest in a residence in foreclosure from an owner in contract with the consultant. Civil Code Sec 2954.4.

68. A person intending to work as a foreclosure consultant must register with the Department of Justice and indicate their name, address, phone numbers, and all of the names, addresses, phone numbers, Internet websites, and email addresses proposed to be used in connection with their work as a foreclosure consultant. Civil Code Sec 2954.45

69. The person intending to work as a foreclosure consultant must not have been found guilty of a crime involving fraud, misrepresentation, dishonesty and is not liable under any civil judgment for fraud or misrepresentation. Civil Code Sec 2945.45(1) (A).

70. The person intending to work as a foreclosure consultant must obtain and maintain a surety bond in the amount of \$100,000 made in favor of the State of California for the benefit of homeowners for damages caused by the consultant's violation of law. Civil Code Sec 2945.45 (E) (2).

71. A person registering with the Department of Justice must pay any fee set by the department to defray reasonable costs incurred in connection with the department's responsibilities under this law. The Foreclosure Consultant Regulation Fund is hereby established in the State Treasury for the costs to oversee these activities. Civil Code Sec 2945.45 (E) (2) (b).

72. The Department of Justice may refuse to issue or revoke a certificate of registration because of any misstatement of truth or because the foreclosure consultant has failed to maintain the bond or any violation of this code. Civil Code Sec 2945. 45 (E) (2) (c).

73. A person who violates this code shall be punished for each violation by a fine of not less than \$1000 for each violation, and not more than \$25,000, and imprisonment in the county jail for not more than one year, or by both fine and imprisonment. Civil Code Sec 2945.45 (E) (2) (d).

74. Any waiver by a homeowner of the provisions of this code shall be deemed void and unenforceable as contrary to public policy. Any attempt by a foreclosure consultant to induce an owner to waive his rights shall be deemed a violation of the law. Civil Code Sec 2945.5.

75. Any interest in real property which is capable of being transferred may be mortgaged. Civil Code Sec 2947.

76. A "covered loan" is a consumer loan in which the original principal balance of the loan does not exceed the most current conforming loan limit for a single family first mortgage loan established by FNMA, and where for a mortgage or trust deed, the APR at consummation will exceed by more than eight percentage points the yield on Treasury securities having comparable periods of maturity on the 15th of the month immediately preceding the month in which the application for the extension of credit was received, OR total points and fees payable by the consumer at or before closing for a mortgage or deed of trust will exceed 6% of the total loan amount. Financial Code Sec 4970 (b).

77. Points and fees include all items required to be disclosed as finance charges, all compensation and fees paid to mortgage brokers in connection with the loan transaction, and all items listed in Section 226.4 (b) of Title 12 of the Code of Federal Regulations, only if the person originating the covered loan receives direct compensation in connection with the charge. Financial Code Sec 4970 (c) (1) (2) (3).

78. "Consumer loan" means a consumer credit transaction that is secured by real property located in the state used, or intended to be used or occupied, as the principal dwelling of the consumer that is improved by a one-to-four residential unit. Financial Code Sec 4970 (d).

79. "Consumer loan" does not include a reverse mortgage, an open line of credit, a consumer credit transaction that is secured by rental property or second homes, nor a bridge loan. Financial Code Sec 4970.

80. "Licensing agency" means the Department of Real Estate for licensed real estate brokers, and the Department of Corporations for licensed residential mortgage lenders (bankers) and licensed finance lenders and brokers. Financial Code Sec 4970 (f).

81. "Licensed person" means a real estate broker licensed under Real Estate Law (commencing with Section 10000 of Division 4 of the Business & Professions Code), a finance lender or broker licensed under the California Finance Lender's Law (CFL), or a residential mortgage lender (banker) licensed under the California Residential Mortgage Lending Act (CRMLA). Financial Code Sec 4970 (g).

82. A covered loan shall not include a prepayment penalty after the first 36 months after the consummation of the loan. Financial Code Sec 4973 (a).

83. A covered loan will not impose the prepayment penalty if the covered loan is accelerated as a result of default. Financial Code Sec 4973 (D).

84. The person who originates the covered loan will not finance a prepayment penalty through a new loan originated by the same person. Financial Code Sec 4973 (E).

85. A covered loan with a term of five years or less may not provide at origination for a payment schedule with regular periodic payments that when aggregated do not fully amortize the principal balance as of the maturity date of the loan. (NO BALLOON PAYMENTS!) Financial Code Sec 4973 (b) (1).

86. A covered loan shall not contain a provision for negative amortization causing the principal balance to increase, unless the loan is a first mortgage and full disclosure to the consumer is made. Financial Code Sec 4973 (c).

87. A covered loan shall not contain a provision that increases the interest rate as a result of default. Financial Code Sec 4973 (e).

88. The mlo who originated covered loans shall not make or arrange a covered loan unless at the time the loan is consummated, the mlo reasonably believes the consumer will be able to make the scheduled payments to repay the obligation. Financial Code Sec 4973 (f) (1).

89. The consumer shall be presumed to be able to make the scheduled payments to repay the obligation if at the time of consummation, the consumer's total monthly debts, including amounts owed under the loan, do not exceed 55% of the consumer's gross monthly income. Financial Code Sec 4973 (f) (1).

90. In the case of a stated income loan, the reasonable belief requirement of Sec 4973 (f) (1) can be based on the income stated by the consumer and other information in the possession of the mlo. The mlo shall not knowingly

originate a covered loan with the intent of evading the provisions of Sec 4973 (f) (1). Financial Code Sec 4973 (f) (3).

91. It is unlawful for a person who originates a covered loan to encourage a consumer to default on an existing consumer loan or other debt so that the making of a covered loan refinances all or any portion of the existing consumer loan or debt. Financial Code Sec 4973 (h).

92. A consumer loan shall not contain a call provision that permits the lender to accelerate the indebtedness. This prohibition does not apply if repayment of the loan has been accelerated in accordance with the terms of the loan documents as a result of the consumer's default, pursuant to a due-on-sale clause, or due to fraud or material misrepresentation on the part of the consumer. Financial Code Sec 4973 (i).

93. An mlo who originates a covered loan shall not do so without an identifiable benefit to the consumer, considering costs and terms of the loan and the consumer's stated purpose for seeking the loan. Financial Code Sec 4973 (j).

94. Before a covered loan can close, the consumer must be presented with a disclosure that explains that the consumer could lose their home if they default on the loan, that they should use caution before proceeding, and that just because they have received these disclosures and signed a loan application, they don't have to proceed, as well as other pertinent information. Financial Code Sec 4973 (k) (1).

95. An mlo who originates a covered loan shall not direct any consumer to accept a loan product with a risk grade less favorable than the risk grade they can qualify for. Financial Code Sec 4973 (1) (1).

96. An mlo who originates a covered loan shall not avoid or attempt to avoid Sec 4973 by structuring a loan transaction as an open-end credit plan for the purpose of evading the provisions of this code or dividing any loan transaction into separate parts for the purpose of evasion. Financial Code Sec 4973 (m) (1) (2).

97. Honest mistakes and bona fide errors made by an mlo involving calculations, clerical issues, computer malfunctions or printing errors shall be corrected within 45 days of discovery or receipt of a complaint. Under these circumstances, the mlo who originates covered loans shall not be criminally, civilly, or administratively liable. Financial Code Sec 4974 (a).

98. After a knowing and willful violation while originating a covered loan, the mlo's licensing agency may bring a proceeding to suspend the license of the mlo for not less than six months and not more than three years, or permanently revoke the license. Financial Code Sec 4975 (a) (2) (b).

99. A licensing agency may, after appropriate notice and opportunity for a hearing, by order levy administrative penalties against a person who violates any provisions of this division. The individual may be liable for administrative penalties in an amount not to exceed \$2500 for each violation. Financial Code Sec 4977 (a).

100. Any person who willfully and knowingly violates any provisions of this division shall be liable for a civil penalty of not more than \$25,000 for each violation. Financial Code Sec 4977 (b).