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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 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

**Leap year is this year and isn't it time you made the leap to being in compliance? Happy extra day of 2012!**



## Dodd-Frank and Agent Contracts

We are rapidly approaching a year since Dodd-Frank was implemented and I constantly run into companies who are using **old contracts** and **old compensation plans**. If you haven't made the changes, now is definitely the time to act. I haven't found any "generic" contracts or commission agreements that will work, but I know a great attorney who can create these especially for your company. Let me know if you need a referral. Don't get caught on the wrong side of this issue!

## Contract Processors

Even though we are well past a year since the NMLS rules took effect (January 1, 2011), many **contract processors**, it seems, still don't understand that in order to work for multiple brokers they must be a **broker** themselves **and** must have the NMLS endorsement. If you are using contract processors, please make sure they are in compliance with DRE and NMLS.

## Hard Money Updates from Golden Omega

*Thanks to my friends at Golden Omega software for the following updates:*

### New High Cost Mortgage Limits

The Federal Reserve Board has published its annual adjustment to the amount of fees that triggers additional disclosure requirements under the Truth in Lending Act (TILA) and the Home Ownership and Equity Protection Act of 1994 (HOEPA) for home mortgage loans that bear rates or fees above a certain amount.

**The dollar amount of the fee-based trigger has been adjusted to \$611 for 2012** based on the annual percentage change reflected in the consumer price index (CPI) that was in effect as of June 1, 2011.

The adjustment is required by statute and is effective *January 1, 2012*. The adjustment does not affect the rules for "higher-priced mortgage loans" adopted by the Board in July 2008. Coverage of mortgage loans under the July 2008 rules is determined using a different rate-based trigger.

The Home Ownership and Equity Protection Act restricts credit terms such as balloon payments and requires additional disclosures when total points and fees payable by the consumer exceed the fee-based trigger or 8 percent of the total loan amount, whichever is larger.

### New California Investor Disclosure in compliance with Business & Professions Code § 10236.7

On January 1, 2012, California Business & Professions Code § 10236.7 came into force to govern all new loans – commercial or residential –

experience and research in the Real Estate industry and must not be considered legal advice. Please consult with appropriate legal counsel for further clarification.

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originated on or after January 1, 2012.

The new rule continues the requirement that a Broker who arranges a transaction pursuant to the Business & Professions Code or the Corporate Securities Law of 1968 "shall clearly indicate in the real estate broker's transaction file the provision or provisions of the [Business & Professions Code] or the Corporate Securities Law of 1968 pertaining to **qualification** or **exemption from qualification** under which the transaction is being conducted."

However, the new rule imposes the further requirement that "[t]he real estate **broker shall submit a copy of the information . . . to any investor from whom the real estate broker obtains funds in connection with the transaction**, either directly or through an agent or affiliate, **within 10 days of receipt of those funds.**" Thus, the broker must comply with both requirements or face the possibility of license discipline or legal liability should an investor or the Department of Real Estate later contend that the note was not properly exempted from or qualified by California's securities law.

### **New California Disclosure for Adjustable Rate Loans**

In accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the Consumer Financial Protection Bureau (CFPB) last year amended the Alternative Mortgage Transaction Parity Act (AMPTA; 12 U.S.C. 3801, et seq.).

As a result, federal law no longer preempts state regulations of loan features or charges that are not integral to alternative mortgage transactions, including Adjustable Rate Mortgages (ARM's).

Thus, **California Civil Code § 1916.5 disclosure requirements pertaining to ARM's now control** and you must comply with these rules or run the risk of having your loans invalidated later on.

## 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 DRE audit. Further information is available on her website: [www.pamstrickland.com](http://www.pamstrickland.com)