

California Financial Code

(a) "Annual percentage rate" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth in Lending Act and the regulations adopted thereunder by the Federal Reserve Board.

(b) "Covered loan" means 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 the Federal National Mortgage Association in the case of a mortgage or deed of trust, and where one of the following conditions are met:

(1) For a mortgage or deed of trust, the annual percentage rate at consummation of the transaction will exceed by more than eight percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor.

(2) The total points and fees payable by the consumer at or before closing for a mortgage or deed of trust will exceed 6 percent of the total loan amount.

(c) "Points and fees" shall include the following:

(1) All items required to be disclosed as finance charges under Sections 226.4(a) and 226.4(b) of Title 12 of the Code of Federal Regulations, including the Official Staff Commentary, as amended from time to time, except interest.

(2) All compensation and fees paid to mortgage brokers in connection with the loan transaction.

(3) All items listed in Section 226.4(c)(7) 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.

(d) "Consumer loan" means a consumer credit transaction that is secured by real property located in this 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. "Consumer loan" does not include a reverse mortgage, an open line of credit as defined in Part 226 of Title 12 of the Code of Federal Regulations (Regulation Z), or a consumer credit transaction that is secured by rental property or second homes. "Consumer loan" does not include a bridge loan. For purposes of this division, a bridge loan is any temporary loan, having a maturity of one year or less, for the purpose of acquisition or construction of a dwelling intended to become the consumer's principal dwelling.

(e) "Original principal balance" means the total initial amount the consumer is obligated to repay on the loan.

(f) "Licensing agency" shall mean the Department of Real Estate for licensed real estate brokers, the Department of Corporations for licensed residential mortgage lenders and licensed finance lenders and brokers, and the Department of Financial Institutions for commercial and industrial banks and savings associations and credit unions organized in this state.

(g) "Licensed person" means a real estate broker licensed under the Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code), a finance lender or broker licensed under the California Finance Lenders Law (Division 9 (commencing with Section 22000)), a residential mortgage lender licensed under the California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000)), a commercial or industrial bank organized under the Banking Law (Division 1 (commencing with Section 99)), a savings association organized under the Savings Association Law (Division 2 (commencing with Section 5000)), and a credit union organized under the California Credit Union Law (Division 5 (commencing with Section 14000)). Nothing in this division shall be construed to prevent any enforcement by a governmental entity against any person who originates a loan and who is exempt or excluded from licensure by all of the licensing agencies, based on a violation of any provision of this division. Nothing in this division shall be construed to prevent the Department of Real Estate from enforcing this division against a licensed salesperson employed by a licensed real estate broker as if that salesperson were a licensed person under this division. A licensed

person includes any person engaged in the practice of consumer lending, as defined in this division, for which a license is required under any other provision of law, but whose license is invalid, suspended or revoked, or where no license has been obtained.

(h) "Originate" means to arrange, negotiate, or make a consumer loan.

(i) "Servicer" has the same meaning provided in Section 6 (i)(2) of the Real Estate Settlement Procedures Act of 1974.