

## Mortgage+Care

The fields in this document are filled in by Mortgage+Care Loan Origination Software.  
Please contact us at (800)481-2708 or [www.mortcare.com](http://www.mortcare.com) for a list of mergeable documents.

«f80»  
«f81»  
«f82», «f83»

# NOTICE TO EMPLOYEES

By signing below, you acknowledge receipt of a copy of the administrative and civil remedy provisions of Assembly Bill 489 as amended by Assembly Bill 344 that could affect your liability if you violated the provisions of this law:

### Section 4974.

(a) Any compliance failure that was not willful or intentional and resulted from a bona fide error, that occurred notwithstanding the maintenance of procedures reasonably adopted to avoid those errors, including, but not limited to, those involving clerical, calculation, computer malfunction and programming, and printing errors shall be corrected no later than 45 days after receipt of the complaint or discovery of the error. A person who originates a covered loan shall not be administratively, civilly, or criminally liable for a bona fide error corrected pursuant to this section.

(b) If a person who originates covered loans makes a loan where the person knew of and showed reckless disregard for a violation of this division by a broker, the person and broker shall be jointly and severally liable for all damages awarded under this division with respect to the broker's unlawful conduct. This section does not impose or transfer liability for a breach of the broker's fiduciary duty.

### Section 4975.

(a) (1) Any licensed person who violates any provision of Section 4973, 4979.6, or 4979.7 shall be deemed to have violated that person's licensing law.

(2) After a knowing and willful violation, the licensing agency may bring a proceeding to suspend the license of the licensed person for not less than six months and not more than three years.

(b) After a knowing and willful violation resulting in a second or subsequent administrative or civil action, the licensing agency may bring a proceeding to permanently revoke the license of the licensed person or impose any lesser-licensed sanction for at least three years.

(c) A licensing agency may exercise any and all authority and powers available to it under any other provisions of law, to administer and enforce this division including, but not limited to, investigating and examining the licensed person's books and records, and charging and collecting the reasonable costs for these activities. The licensing agency shall not charge a licensed person twice for the same service. Any civil, criminal, and administrative authority and remedies available to the licensing agency pursuant to its licensing law may be sought and employed in any combination deemed advisable by the licensing agency to enforce the provisions of this division.

(d) Nothing in this section shall be construed to impair or impede a licensing agency's authority under any other provision of law.

### Section 4977.

(a) A licensing agency may, after appropriate notice and opportunity for hearing, by order levy administrative penalties against a person who violates any provision of this division, and the person shall be liable for administrative penalties of not more than two thousand five hundred dollars (\$2,500) for each violation. Except for licensing agencies exempt from the provisions of the Administrative Procedure Act, any hearing shall be held in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the licensing agency shall have all the powers granted under that act.

(b) Any person who willfully and knowingly violates any provision of this division shall be liable for a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the licensing agency in any court of competent jurisdiction.

(c) Nothing in this section requires exhaustion of administrative remedies prior to an injured party bringing a civil action.

(d) If the licensing agency determines that it is in the public interest, the licensing agency may include, in any action for penalties authorized by subdivision (b), a claim for relief in addition to the penalties, including a claim for restitution or disgorgement, and the court shall have jurisdiction to award the additional relief.

(e) Nothing in this section shall be construed to impair or impede the Attorney General from representing a licensing agency in bringing an action to enforce this division at the request and on behalf of the licensing agency.

**Comment [COMMENT1]:** The following document/illustration is intended to be sample document or education material. It is not intended to be legal advice or a substitute for specific analysis of the law as it might apply to a specific factual situation. Consult your attorney for specific assistance on the topic of this document.

This document was created by Dennis Doss Esquire  
(714) 752-5370  
4695 MacArthur Court #590, Newport Beach, CA  
92660

(f) In any action brought by the licensing agency, or the Attorney General acting at the request and on behalf of the licensing agency, under this division in which a judgment against a person is rendered, the licensing agency or the Attorney General shall be entitled to recover costs which, in the discretion of the court, may include an amount representing reasonable attorney's fees and investigative expenses for services rendered for deposit in the appropriate fund of that licensing agency.

(g) The amounts collected under subdivisions (a) and (b) shall be deposited in the appropriate fund of the licensing agency to be used by that licensing agency, subject to appropriation by the Legislature, for the purposes of education and enforcement in connection with abusive lending practices.

**Section 4978.**

(a) A person who fails to comply with the provisions of this division is civilly liable to the consumer in an amount equal to any actual damages suffered by the consumer, plus attorney's fees and costs. For a willful and knowing violation of this division, the person shall be liable to the consumer in the amount of fifteen thousand dollars (\$15,000) or the consumers actual damages, whichever is greater, plus attorneys fees and costs.

(b) (1) If a provision in a contract in a covered loan violates subdivision (a), (b), (c), (d), (e), or (f) of Section 4973, Section 4979.6, or Section 4979.7, that provision is unenforceable. A court in which any action is brought by, or on behalf of, an aggrieved consumer for relief may issue an order or injunction to reform the terms of the covered loan to conform to the provisions of this division.

(2) A court may, in addition to any other remedy, award punitive damages to the consumer upon a finding that such damages are warranted pursuant to Section 3294 of the Civil Code. (c) Nothing in this section is intended, nor shall be construed, to abrogate existing common law provisions prohibiting double recovery of damages.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

DD-NTE.DOC