

WHICH LENDING LICENSE IS BETTER: DRE OR CFL?

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Private lenders and mortgage brokers in California often ask whether to operate under a Department of Real Estate (DRE) broker's license or a California Finance Lender (CFL) license. While both licenses authorize lending activities, they differ in scope, compliance obligations, and business flexibility. While deciding which license is best for you should be done after consulting with your counsel, understanding the key distinctions between the licenses will help lenders and brokers choose the license that best aligns with their business model.

Key Differences Between DRE and CFL Licenses

| Category | DRE Broker License | CFL License |
|------------------------|---|---|
| Regulator | Department of Real Estate (DRE) | Department of Financial Protection & Innovation (DFPI) |
| Authorized Activities | Solicit borrowers/lenders, negotiate or service loans secured by real property (Bus. & Prof. Code § 10131). | Make consumer and commercial loans (Fin. Code § 22009). |
| Office Requirement | Must maintain a physical office in California. | No in-state office requirement. |
| Net Worth / Bond | No net worth requirement; bond only if required by DRE. | Minimum net worth of \$25,000 (\$250,000 if making residential mortgage loans). Bond of at least \$25,000 required. |
| Education & Experience | Broker must complete 8 real estate courses and have at least 2 years of real estate experience. | No pre-licensing experience required; 20 hours of education for MLOs. |
| Annual Reporting | Trust account and business activity reports required if holding or servicing loans. | Annual and quarterly NMLS reports; annual assessment and financial condition reporting. |
| Loan Sale Limits | May sell loans broadly, subject to disclosure and suitability rules. | Generally limited to institutional investors (Fin. Code § 22340). |
| Servicing Loans | May service for any investor, with statutory compliance requirements. | Limited to servicing loans for institutional investors. |

Choosing Between a DRE and a CFL License

The right license depends on the lender's or broker's business model:

- A DRE license is often best for brokers arranging loans funded by private investors. It allows flexibility in placing loans and servicing for a wide range of investors, both institutional and non-institutional, although it carries detailed compliance obligations.

- A CFL license is commonly chosen by private lenders making loans in their own name, often using a mortgage fund, or those lenders who want the flexibility to make unsecured loans or loans secured by collateral other than real property, such as accounts receivable, or manufactured homes. The CFL provides clear authority to make loans directly but restricts loan sales and servicing largely to institutional investors.

In practice, many private lenders and brokers select a license based on their funding sources, whether they intend to service loans for third parties, and the level of regulatory oversight they are prepared to meet. Both frameworks have advantages, and the choice should align with long-term strategy. In addition, some private lenders and brokers opt to have both licenses.

Wright, Finlay & Zak, LLP regularly advises private lenders and brokers on licensing strategy, compliance, and operational issues. Choosing the correct license at the outset can prevent regulatory pitfalls and position your business for growth. To determine which license is best for you, please contact your preferred counsel or Michelle Rodriguez at mrodriguez@wrightlegal.net.



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