

AMENDED IN SENATE JUNE 2, 2014
AMENDED IN ASSEMBLY APRIL 21, 2014
AMENDED IN ASSEMBLY APRIL 10, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2018

Introduced by Assembly Member Bocanegra

February 20, 2014

An act to amend Section 10159.5 of, *and to add Sections 10159.6 and 10159.7 to*, the Business and Professions Code, relating to real estate licensees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2018, as amended, Bocanegra. Real estate licensees: fictitious business names.

Existing law, *the violation of which is a misdemeanor*, provides for the licensure and regulation of real estate brokers and real estate salespersons by the Bureau of Real Estate headed by the Real Estate Commissioner. Existing law requires an applicant who desires to have his or her license issued under a fictitious business name to file with his or her application a certified copy of his or her fictitious business name statement.

This bill would *authorize a supervising broker, as defined, by contract, to permit a salesperson to apply for a fictitious business name with the appropriate county and the bureau, to be identified with that supervising broker's license number, and to maintain ownership of a fictitious business name, as defined. The bill would define a team name and provide, for purposes of the provisions described above, that a business team name is not a fictitious business name if the name is used*

by two or more real estate licensees, the name includes ~~one or more first and last names or surnames~~ *a licensee’s surname* in conjunction with the term “associates,” “group,” or “team,” and the ~~licensees name does not include terms that imply the existence of a real estate entity independent of a supervising broker. The bill would require advertising that contains a team name, including print or electronic media and “for sale” signage, to include certain identifying information on marketing and advertising materials, “for sale” signage, and solicitation materials intended to be the first point of contact with consumers.~~ *information. Because any violation of these provisions would be a misdemeanor, the bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10159.5 of the Business and Professions
- 2 Code is amended to read:
- 3 10159.5. (a) Every person applying for a license under this
- 4 chapter who desires to have the license issued under a fictitious
- 5 business name shall file with his or her application a certified copy
- 6 of his or her fictitious business name statement filed with the
- 7 county clerk pursuant to Chapter 5 (commencing with Section
- 8 17900) of Part 3 of Division 7.
- 9 ~~(b) For purposes of this section, a business name is not a~~
- 10 ~~fictitious business name if all of the following conditions are~~
- 11 ~~satisfied:~~
- 12 ~~(1) The name is used by two or more real estate licensees.~~
- 13 ~~(2) The name includes one or more first and last names or~~
- 14 ~~surnames in conjunction with the term “associates,” “group,” or~~
- 15 ~~“team.”~~
- 16 ~~(3) The licensees include all of the following information on~~
- 17 ~~all marketing and advertising materials in print or electronic media,~~
- 18 ~~“for sale” signage, and solicitation materials intended to be the~~

1 ~~first point of contact with consumers, as defined in paragraph (2)~~
2 ~~of subdivision (b) of Section 10140.6:~~

3 ~~(A) Name or surname.~~

4 ~~(B) License number.~~

5 ~~(C) Name of the employing broker, which shall be equally~~
6 ~~prominent as the first and last names or surnames used in~~
7 ~~conjunction with the term “associates,” “group,” or “team.”~~

8 ~~(e) Nothing in this section shall be construed to limit or change~~
9 ~~a real estate broker’s duties to supervise a salesperson under this~~
10 ~~division.~~

11 ~~(d) A business name using the term “associates,” “group,” or~~
12 ~~“team,” means an association of two or more real estate licensees.~~

13 ~~(1) A supervising broker may, by contract, permit a salesperson~~
14 ~~to do all of the following:~~

15 ~~(A) File an application with a county clerk to obtain a fictitious~~
16 ~~business name.~~

17 ~~(B) Deliver to the bureau an application, signed by the~~
18 ~~supervising broker, requesting the bureau’s approval to use a~~
19 ~~county approved fictitious business name that shall be identified~~
20 ~~with the broker’s license number.~~

21 ~~(C) Pay for any fees associated with filing an application with~~
22 ~~a county or the bureau to obtain or use a fictitious business name.~~

23 ~~(D) Maintain ownership of a fictitious business name, as defined~~
24 ~~in paragraph (4) of subdivision (a) of Section 10159.7, that may~~
25 ~~be used subject to the control of a supervising broker.~~

26 ~~(b) (1) A salesperson using a fictitious business name authorized~~
27 ~~by subdivision (a), shall use that name only as permitted by his or~~
28 ~~her supervising broker.~~

29 ~~(2) This section does not change a real estate broker’s duties~~
30 ~~under this division to supervise a salesperson.~~

31 ~~(c) A person applying to a county for a fictitious business name~~
32 ~~pursuant to subdivision (a) may file his or her application in the~~
33 ~~county or counties where the fictitious business name will be used.~~

34 ~~(d) Marketing materials, including print or electronic media~~
35 ~~and “for sale” signage, using a fictitious business name obtained~~
36 ~~in accordance with subdivision (a) shall include the supervising~~
37 ~~broker’s identity in a manner equally as prominent as the fictitious~~
38 ~~business name.~~

39 ~~(e) Notwithstanding subdivision (b) of Section 10140.6,~~
40 ~~advertising, including print or electronic media and “for sale”~~

1 signage, containing a fictitious business name obtained in
2 accordance with subdivision (a) shall include the salesperson's
3 name and license number.

4 SEC. 2. Section 10159.6 is added to the Business and
5 Professions Code, to read:

6 10159.6. All of the following apply to use of a team name, as
7 defined in subdivision (c) of Section 10159.7:

8 (a) Notwithstanding subdivision (b) of Section 10140.6,
9 advertising that contains a team name, including print or electronic
10 media and "for sale" signage, shall include the licensee's name
11 and license number.

12 (b) The supervising broker's identity shall be displayed as
13 prominently as the team name in all advertising.

14 (c) The advertising material shall not contain terms that imply
15 the existence of a real estate entity independent of the supervising
16 broker.

17 SEC. 3. Section 10159.7 is added to the Business and
18 Professions Code, to read:

19 10159.7. (a) For the purposes of this article, the following
20 definitions shall apply:

21 (1) "Fictitious business name" means a professional identity
22 or brand name under which activity requiring a real estate license
23 is conducted and the use of which is subject to approval by the
24 bureau pursuant to Section 10159.5.

25 (2) "Ownership of a fictitious business name" means the right
26 to use, renew, and control the use of a fictitious business name
27 obtained in accordance with Section 10159.5.

28 (3) "Supervising broker" means a corporate designated officer
29 responsible for the exercise of control of corporate activities under
30 Section 10159.2, or a licensee subject to discipline under
31 subdivision (h) of Section 10177 for failure to supervise activity
32 requiring a real estate license. The supervision of a salesperson
33 required under this part is limited to regulatory compliance and
34 consumer protection.

35 (4) "Team name" means a professional identity or brand name
36 used by a salesperson or broker associate. A team name does not
37 constitute a fictitious business name if all of the following apply:

38 (A) The name is used by two or more real estate licensees.

39 (B) The name includes a licensee's surname in conjunction with
40 the term "associates," "group," or "team."

1 (C) *The name does not include terms that imply the existence*
2 *of a real estate entity independent of a supervising broker.*

3 (b) *Nothing in this section changes a real estate broker's duties*
4 *under this division to supervise a salesperson.*

5 *SEC. 4. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *the only costs that may be incurred by a local agency or school*
8 *district will be incurred because this act creates a new crime or*
9 *infraction, eliminates a crime or infraction, or changes the penalty*
10 *for a crime or infraction, within the meaning of Section 17556 of*
11 *the Government Code, or changes the definition of a crime within*
12 *the meaning of Section 6 of Article XIII B of the California*
13 *Constitution.*