

AMENDED IN SENATE JUNE 9, 2014
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~~ *Sections 10159.5 and 10165* 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. *Under existing law, any violation of these provisions is a misdemeanor. Existing law also authorizes the commissioner to temporarily suspend or permanently revoke the license of a real estate licensee for violation of any specified provisions, including, but not limited to, a requirement that a real estate broker immediately notify*

the commissioner when he or she employs, or terminates the employment of, a real estate salesperson.

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 team name is not a fictitious business name if the name is used by two or more real estate licensees, the name includes a licensee’s surname in conjunction with the term “associates,” “group,” or “team,” and the 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. ~~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.~~

This bill would provide that a violation of the provisions described above is not a misdemeanor, and would instead expand the commissioner’s authority to temporarily suspend or permanently revoke the license of a licensee for a violation of these provisions.

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

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.

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

3 (A) File an application with a county clerk to obtain a fictitious
4 business name.

5 (B) Deliver to the bureau an application, signed by the
6 supervising broker, requesting the bureau's approval to use a
7 county approved fictitious business name that shall be identified
8 with the broker's license number.

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

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

14 (b) (1) A salesperson using a fictitious business name authorized
15 by subdivision (a), shall use that name only as permitted by his or
16 her supervising broker.

17 (2) This section does not change a real estate broker's duties
18 under this division to supervise a salesperson.

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

22 (d) Marketing materials, including print or electronic media and
23 "for sale" signage, using a fictitious business name obtained in
24 accordance with subdivision (a) shall include the supervising
25 broker's identity in a manner equally as prominent as the fictitious
26 business name.

27 (e) Notwithstanding subdivision (b) of Section 10140.6,
28 advertising, including print or electronic media and "for sale"
29 signage, containing a fictitious business name obtained in
30 accordance with subdivision (a) shall include the salesperson's
31 name and license number.

32 (f) *Notwithstanding Section 10185, a violation of this Section*
33 *is not a misdemeanor and shall be enforced pursuant to Section*
34 *10165.*

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

37 10159.6. All of the following apply to use of a team name, as
38 defined in subdivision (c) of Section 10159.7:

39 (a) Notwithstanding subdivision (b) of Section 10140.6,
40 advertising that contains a team name, including print or electronic

1 media and “for sale” signage, shall include the licensee’s name
2 and license number.

3 (b) The supervising broker’s identity shall be displayed as
4 prominently as the team name in all advertising.

5 (c) The advertising material shall not contain terms that imply
6 the existence of a real estate entity independent of the supervising
7 broker.

8 (d) *Notwithstanding Section 10185, a violation of this Section*
9 *is not a misdemeanor and shall be enforced pursuant to Section*
10 *10165.*

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

13 10159.7. (a) For the purposes of this article, the following
14 definitions shall apply:

15 (1) “Fictitious business name” means a professional identity or
16 brand name under which activity requiring a real estate license is
17 conducted and the use of which is subject to approval by the bureau
18 pursuant to Section 10159.5.

19 (2) “Ownership of a fictitious business name” means the right
20 to use, renew, and control the use of a fictitious business name
21 obtained in accordance with Section 10159.5.

22 (3) “Supervising broker” means a corporate designated officer
23 responsible for the exercise of control of corporate activities under
24 Section 10159.2, or a licensee subject to discipline under
25 subdivision (h) of Section 10177 for failure to supervise activity
26 requiring a real estate license. The supervision of a salesperson
27 required under this part is limited to regulatory compliance and
28 consumer protection.

29 (4) “Team name” means a professional identity or brand name
30 used by a salesperson or broker associate. A team name does not
31 constitute a fictitious business name if all of the following apply:

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

33 (B) The name includes a licensee’s surname in conjunction with
34 the term “associates,” “group,” or “team.”

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

37 (b) Nothing in this section changes a real estate broker’s duties
38 under this division to supervise a salesperson.

39 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
40 ~~Section 6 of Article XIII B of the California Constitution because~~

1 ~~the only costs that may be incurred by a local agency or school~~
2 ~~district will be incurred because this act creates a new crime or~~
3 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
4 ~~for a crime or infraction, within the meaning of Section 17556 of~~
5 ~~the Government Code, or changes the definition of a crime within~~
6 ~~the meaning of Section 6 of Article XIII B of the California~~
7 ~~Constitution.~~

8 *SEC. 4. Section 10165 of the Business and Professions Code*
9 *is amended to read:*

10 10165. For a violation of any of the provisions of Section
11 10159.5, 10159.6, 10160, 10161.8, 10162, or 10163, or subdivision
12 (b) of Section 10164, the commissioner may temporarily suspend
13 or permanently revoke the license of the real estate licensee in
14 accordance with the provisions of this part relating to hearings.