

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2039**

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**Introduced by Assembly Member Muratsuchi**

February 20, 2014

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An act to amend Section 2079.23 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2039, as amended, Muratsuchi. Real property sales: auction companies: liability.

Existing law requires listing and selling agents, as defined, to provide sellers and buyers in a residential real property transaction with a disclosure form, as prescribed, containing general information on real estate agency relationships. Existing law authorizes a contract between a principal and agent, in this context, to be modified to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties.

This bill would ~~require~~ *prohibit a lender or an auction company that is retained to control aspects of a residential real property transaction from requiring, as a condition of receiving a lender's approval of the transaction, to defend the listing agent for any liability alleged to result from the auction company's actions and to indemnify the agent for liability resulting from the auction company's actions a homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company and would declare a clause, provision, covenant, or agreement in violation of this prohibition to be against public policy, void, and unenforceable.*

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

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

1 SECTION 1. Section 2079.23 of the Civil Code is amended  
2 to read:

3 2079.23. (a) A contract between the principal and agent may  
4 be modified or altered to change the agency relationship at any  
5 time before the performance of the act which is the object of the  
6 agency with the written consent of the parties to the agency  
7 relationship.

8 (b) ~~If a lender or an auction company is retained by a lender~~  
9 ~~to control aspects of a transaction of real property subject to this~~  
10 ~~part, including validating the sales price, shall not require, as a~~  
11 ~~condition of receiving a the lender's approval of the transaction,~~  
12 ~~the auction company shall defend the listing agent for any liability~~  
13 ~~alleged to result from the auction company's actions and shall~~  
14 ~~indemnify the agent for liability the agent suffers as a result of the~~  
15 ~~auction company's actions~~ *the homeowner or listing agent to*  
16 *defend or indemnify the lender or auction company from any*  
17 *liability alleged to result from the actions of the lender or auction*  
18 *company. Any clause, provision, covenant, or agreement*  
19 *purporting to impose an obligation to defend or indemnify a lender*  
20 *or an auction company in violation of this subdivision is against*  
21 *public policy, void, and unenforceable.*