

**Introduced by Senator Wyland**

February 22, 2013

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An act to amend Section 2079.13 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as introduced, Wyland. Residential property.

Existing law requires listing agents and selling agents to provide the seller and buyer in a real property transaction with a copy of a specified disclosure form and, except as specified, to obtain a signed acknowledgment of receipt from that seller or buyer subject to certain terms and conditions. Existing law defines various terms for purposes of carrying out that and other related disclosure provisions.

This bill would make a nonsubstantive change to that definition provision.

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 2079.13 of the Civil Code is amended
- 2 to read:
- 3 2079.13. As used in Sections 2079.14 to 2079.24, inclusive,
- 4 the following terms *shall* have the following meanings:
- 5 (a) "Agent" means a person acting under provisions of Title 9
- 6 (commencing with Section 2295) in a real property transaction,
- 7 and includes a person who is licensed as a real estate broker under
- 8 Chapter 3 (commencing with Section 10130) of Part 1 of Division

1 4 of the Business and Professions Code, and under whose license  
2 a listing is executed or an offer to purchase is obtained.

3 (b) “Associate licensee” means a person who is licensed as a  
4 real estate broker or salesperson under Chapter 3 (commencing  
5 with Section 10130) of Part 1 of Division 4 of the Business and  
6 Professions Code and who is either licensed under a broker or has  
7 entered into a written contract with a broker to act as the broker’s  
8 agent in connection with acts requiring a real estate license and to  
9 function under the broker’s supervision in the capacity of an  
10 associate licensee.

11 The agent in the real property transaction bears responsibility  
12 for his or her associate licensees who perform as agents of the  
13 agent. When an associate licensee owes a duty to any principal,  
14 or to any buyer or seller who is not a principal, in a real property  
15 transaction, that duty is equivalent to the duty owed to that party  
16 by the broker for whom the associate licensee functions.

17 (c) “Buyer” means a transferee in a real property transaction,  
18 and includes a person who executes an offer to purchase real  
19 property from a seller through an agent, or who seeks the services  
20 of an agent in more than a casual, transitory, or preliminary manner,  
21 with the object of entering into a real property transaction. “Buyer”  
22 includes vendee or lessee.

23 (d) “Dual agent” means an agent acting, either directly or  
24 through an associate licensee, as agent for both the seller and the  
25 buyer in a real property transaction.

26 (e) “Listing agreement” means a contract between an owner of  
27 real property and an agent, by which the agent has been authorized  
28 to sell the real property or to find or obtain a buyer.

29 (f) “Listing agent” means a person who has obtained a listing  
30 of real property to act as an agent for compensation.

31 (g) “Listing price” is the amount expressed in dollars specified  
32 in the listing for which the seller is willing to sell the real property  
33 through the listing agent.

34 (h) “Offering price” is the amount expressed in dollars specified  
35 in an offer to purchase for which the buyer is willing to buy the  
36 real property.

37 (i) “Offer to purchase” means a written contract executed by a  
38 buyer acting through a selling agent which becomes the contract  
39 for the sale of the real property upon acceptance by the seller.

1 (j) “Real property” means any estate specified by subdivision  
2 (1) or (2) of Section 761 in property which constitutes or is  
3 improved with one to four dwelling units, any leasehold in this  
4 type of property exceeding one year’s duration, and mobilehomes,  
5 when offered for sale or sold through an agent pursuant to the  
6 authority contained in Section 10131.6 of the Business and  
7 Professions Code.

8 (k) “Real property transaction” means a transaction for the sale  
9 of real property in which an agent is employed by one or more of  
10 the principals to act in that transaction, and includes a listing or  
11 an offer to purchase.

12 (l) “Sell,” “sale,” or “sold” refers to a transaction for the transfer  
13 of real property from the seller to the buyer, and includes exchanges  
14 of real property between the seller and buyer, transactions for the  
15 creation of a real property sales contract within the meaning of  
16 Section 2985, and transactions for the creation of a leasehold  
17 exceeding one year’s duration.

18 (m) “Seller” means the transferor in a real property transaction,  
19 and includes an owner who lists real property with an agent,  
20 whether or not a transfer results, or who receives an offer to  
21 purchase real property of which he or she is the owner from an  
22 agent on behalf of another. “Seller” includes both a vendor and a  
23 lessor.

24 (n) “Selling agent” means a listing agent who acts alone, or an  
25 agent who acts in cooperation with a listing agent, and who sells  
26 or finds and obtains a buyer for the real property, or an agent who  
27 locates property for a buyer or who finds a buyer for a property  
28 for which no listing exists and presents an offer to purchase to the  
29 seller.

30 (o) “Subagent” means a person to whom an agent delegates  
31 agency powers as provided in Article 5 (commencing with Section  
32 2349) of Chapter 1 of Title 9. However, “subagent” does not  
33 include an associate licensee who is acting under the supervision  
34 of an agent in a real property transaction.

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