

AMENDED IN SENATE APRIL 26, 2016

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 685

Introduced by Assembly Member Irwin

February 25, 2015

~~An act to amend Sections 10080.9, 10177, and 10186.2 of the Business and Professions Code, relating to real estate licensees. An act to amend and repeal Section 10160 of, to amend, repeal, and add Sections 6742, 10001, 10003, 10007, 10008, 10009.5, 10010, 10011, 10012, 10013, 10014, 10015, 10016, 10023, 10024, 10026, 10027, 10050, 10074, 10080.9, 10082, 10131.01, 10132, 10133.1, 10136, 10137, 10140.5, 10142, 10143.5, 10144, 10158, 10159, 10159.6, 10159.7, 10161.5, 10161.8, 10164, 10166.03, 10176, 10177, 10178, 10179, 10186.2, 10232.3, 10238, 10243, 10509, 10561, 11212, and 11267 of, to add Sections 10015.1, 10015.2, 10015.3, 10015.4, 10018.01, 10018.02, 10018.03, 10018.04, 10018.05, 10018.06, 10018.07, 10018.08, 10018.09, 10018.10, 10018.11, 10018.12, 10018.13, 10018.14, 10018.15, 10018.16, 10018.17, and 10018.18 to, and to repeal Section 10017 of, the Business and Professions Code, to amend and repeal Sections 1102.14, 1103.14, 2079.18, and 2079.20 of, to amend, repeal, and add Sections 1102, 1102.1, 1102.2, 1102.3, 1102.4, 1102.5, 1102.6a, 1102.6b, 1102.6c, 1102.9, 1102.12, 1102.155, 1103, 1103.1, 1103.2, 1103.3, 1103.4, 1103.5, 1103.8, 1103.9, 1103.12, 2079, 2079.6, 2079.7, 2079.8, 2079.9, 2079.10, 2079.10.5, 2079.10a, 2079.13, 2079.14, 2079.15, 2079.16, 2079.17, 2079.19, 2079.21, 2079.22, 2079.23, and 2079.24 of, to add Section 1103.1.5 to, and to repeal and add Article 6 (commencing with Section 1086) of Chapter 1 of Title 4~~

of Part 4 of Division 2 of, the Civil Code, and to amend, repeal, and add Section 31210 of the Corporations Code, relating to real estate.

LEGISLATIVE COUNSEL'S DIGEST

AB 685, as amended, Irwin. ~~Real estate licensees.~~ *Real Estate Law: sales of real property: real property disclosure requirements.*

(1) Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers and salesmen by the Real Estate Commissioner, the chief officer of the Bureau of Real Estate. A willful violation of the law and other related real estate provisions is a crime.

Under existing law, a real estate salesman is a natural person who is employed by a licensed real estate broker to do specified acts.

This bill would redefine the term “salesman” as a “salesperson” who is retained by a licensed real estate broker. The bill would also define various terms to describe the relationships between real estate brokers and salespersons. The bill would require a real estate broker to immediately notify the commissioner whenever a licensee affiliates or is retained by a real estate broker, if that affiliation is terminated or if the licensee acquires a new business address. Because a willful violation of these reporting requirements would be a crime, the bill would impose a state-mandated local program.

This bill would define various terms to describe the parties involved in the sale of real estate transactions, including, but not limited to, seller, buyer, seller’s licensee, buyer’s licensee, dual broker, and dual licensee. The bill would also define various other terms for purposes of carrying out the law.

Existing law makes it unlawful for any licensed real estate salesperson to pay any compensation for performing specified acts to any real estate licensee except through the broker under whom he or she is at the time licensed.

This bill would authorize a licensee to enter into an agreement with another licensee to share compensation provided that the compensation is paid through the responsible broker.

Existing law requires a notice containing certain information to be filed with the commissioner within a specified period of time after the first transaction and within that same time period if there is any material change in the required information. Existing law requires the broker or the designated officer or corporate broker to sign the notice.

This bill would require the responsible broker, as defined for purposes of the law, to sign that notice. Because a willful violation of that signature requirement would be a crime, the bill would impose a state-mandated local program.

Under existing law, when a real estate license is issued to a corporation, if it desires any of its officers other than the specified designated officer to act under its license as a real estate broker, it is required to procure an additional license to so employ each additional officer.

This bill would authorize a corporation, in the event of death or incapacity of a sole designated broker-officer, to operate continuously under its existing license if notice is provided to the bureau within a specified period of time of the death or incapacity. Because the willful failure to provide that notice would be a crime, the bill would impose a state-mandated local program.

Under existing law, each officer of a corporation through whom it is licensed to act as a real estate broker is, while so employed under that license, a licensed real estate broker, but is only licensed to act as such for and on behalf of the corporation as an officer.

This bill would not preclude a designated corporate officer who has a separate individual license from conducting licensed activity for another entity if the entity for which he or she acts is clearly disclosed and apparent to any member of the public using his or her services outside the corporation. When a corporation wishes to act as a real estate broker, the bill would require the corporation to be licensed by the Bureau of Real Estate through qualified broker officers, as provided. The bill would provide that an officer of a corporation through whom it is licensed to act need not maintain an individual broker's license, but would provide that the officer is subject to all duties and responsibilities of a licensed real estate broker. Because a willful violation of these requirements would be a crime, the bill would impose a state-mandated local program.

(2) (A) Existing civil law governing agency listings for the transfer of certain property, which includes real property and mobilehomes, prohibits a listing from being placed in a multiple listing service (MLS), as defined, unless authorized or directed by the owner in the listing.

If an open listing is placed in the multiple listing service, existing law requires the total compensation that the owner is to pay to go to the selling agent who procures an enforceable offer from a ready, able, and willing buyer on the terms accepted by the owner. Existing law

does not require an open listing to specify compensation to the selling agent, but authorizes the open listing to state that the compensation is to be negotiated between the selling agent and the owner. Existing law authorizes an open listing to contain an agreement by the owner to pay the listing agent compensation in any amount, at any time, and for any services, other than for selling the property or procuring or finding a buyer, as the agreement may specify.

This bill would delete those provisions relating to an open listing and would revise and recast those provisions to make the definitions in the Real Estate Law, as described in paragraph (1), applicable to these provisions.

(B) Existing civil law governing disclosures upon the transfer of residential property requires the transferor of any real property to deliver to the prospective transferee a specified written statement disclosure subject to specified requirements. If any disclosure, or any material amendment of any disclosure, is delivered after the execution of an offer to purchase, existing law requires the transferee to have a specified period of time to terminate his or her offer by delivery of a written notice of termination to the transferor or the transferor's agent. Existing law requires these disclosures to be made on a specified form.

This bill would make the definitions in the Real Estate Law, as described in paragraph (1), applicable to these provisions. The bill would provide that disclosure is complete when the 3 sections of the disclosure form are completed and delivered. The bill would also authorize a real estate licensee to complete his or her portion of the form using a comparable form that includes all of the same information, as provided.

Under existing law, neither the transferor nor any listing or selling agent is required to be liable for any error, inaccuracy, or omission of any information delivered pursuant to these disclosure requirements if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or that listing or selling agent, was based on information timely provided by public agencies or by certain licensed persons that is required to be disclosed, and ordinary care was exercised in obtaining and transmitting it.

When a licensed person responds to such a request, existing law authorizes an expert to indicate, in writing, an understanding that the information provided will be used in fulfilling the disclosure requirements, which relieves the expert from responsibility for any items of information other than those expressly set forth in the statement.

This bill would delete those provisions relating to expert responsibility.

Existing law authorizes a city or county to elect to require a local option real estate disclosure document in addition to the real estate transfer disclosure document.

This bill would update the content of that optional disclosure document based on making the Real Estate Law definitions, as described in paragraph (1), applicable to these provisions.

Under existing law, if more than one licensed real estate broker is acting as an agent in a transaction, the broker who has obtained the offer made by the transferee is required to deliver the disclosure to the transferee, unless the transferor has given other written instructions for delivery.

If there is only one real estate licensee in a transaction, the bill would require that real estate licensee to deliver the disclosure to the buyer. If there is no real estate licensee in a transaction, the bill would require the seller to deliver the disclosure to the buyer.

(C) Existing law generally requires the disclosure of natural and environmental hazards, right-to-farm, and other disclosures upon the transfer of residential property.

This bill would make the definitions in the Real Estate Law, as described in paragraph (1), applicable to these provisions. The bill would update the content of the Natural Hazard Disclosure Statement based on those newly defined terms.

(D) Under existing law, real estate brokers and salespersons owe certain duties to prospective purchasers of real property.

This bill would make the definitions in the Real Estate Law, as described in paragraph (1), applicable to these provisions.

Existing law requires listing agents and selling agents to provide the seller and buyer in a real property transaction with a copy of a disclosure form, which includes specified statutory provisions printed on the back, regarding real estate agency relationships. Existing law further requires these agency relationships to be confirmed to the buyer and seller in a specified form.

This bill would eliminate the requirement to include those statutory provisions, revise the content of that form to include at a minimum certain information, including consumer responsibilities, and update the terms used in that form based on the application of the Real Estate Law terminology to these provisions. The bill would also update the content of the form required to confirm real estate licensee relationships.

~~Under~~

(3) *Under* existing law, if the Real Estate Commissioner has cause to believe that a person who does not have a real estate license is engaged in activities for which a license is required, he or she may issue a citation to that person which may include an administrative fine. Existing law prohibits the commissioner from renewing the license of a person who has failed to comply with the terms of a citation or to pay an outstanding fine.

This bill would also prohibit the commissioner from issuing a license to a person who has failed to comply with the terms of a citation or to pay an outstanding fine.

Existing law authorizes the commissioner to suspend or revoke the license of a real estate licensee if he or she has engaged in specified activities or has had a license issued by another agency, another state, or the federal government revoked or suspended for engaging in those activities, if specified conditions are met.

This bill would also authorize the commissioner to suspend or revoke the license of a real estate licensee who surrendered a license issued by another agency, another state, or the federal government. The bill would also authorize the commissioner to suspend or revoke the license of a licensee for failure to surrender a license that was issued in error or by mistake.

Existing law requires real estate licensees to report the bringing of an indictment or information charging a felony against the licensee. A willful or knowing violation of this requirement is punishable by a fine and imprisonment.

This bill would also require a licensee to report the bringing of a criminal complaint charging a felony against the licensee to the Bureau of Real Estate. Because the bill would change the definition of a crime, it would impose a state-mandated local program.

The bill would also make other nonsubstantive changes.

~~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.~~

(4) *This bill would make numerous conforming and nonsubstantive changes.*

(5) *This bill would delay the operation of these provisions to July 1, 2018.*

(6) *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: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 6742 of the Business and Professions
2 Code is amended to read:

3 6742. (a) Any person, firm or corporation holding a license
4 as real estate broker or real estate salesman, when making
5 appraisals and valuations of real estate properties, while engaged
6 in the business or acting in the capacity of a real estate broker or
7 a real estate salesman, within the meaning of the California Real
8 Estate Act is exempt from registration under the provisions of this
9 chapter.

10 (b) *This section shall repeal on July 1, 2018.*

11 SEC. 2. Section 6742 is added to the Business and Professions
12 Code, to read:

13 6742. (a) Any person, firm or corporation holding a license
14 as real estate broker or real estate salesperson, when making
15 appraisals and valuations of real estate properties, while engaged
16 in the business or acting in the capacity of a real estate broker or
17 a real estate salesperson, within the meaning of the California
18 Real Estate Act is exempt from registration under the provisions
19 of this chapter.

20 (b) *This section shall become operative on July 1, 2018.*

21 SEC. 3. Section 10001 of the Business and Professions Code
22 is amended to read:

23 10001. (a) The definitions in this chapter apply to the
24 provisions of this part only and do not affect any other provisions
25 of this code.

26 (b) *This section shall repeal on July 1, 2018.*

27 SEC. 4. Section 10001 is added to the Business and Professions
28 Code, to read:

1 10001. (a) Except as otherwise specified, the definitions in
2 this chapter apply to the provisions of this part only and do not
3 affect any other provisions of this code.

4 (b) This section shall become operative on July 1, 2018.

5 SEC. 5. Section 10003 of the Business and Professions Code
6 is amended to read:

7 10003. (a) “Commissioner” refers to the Real Estate
8 Commissioner.

9 (b) This section shall repeal on July 1, 2018.

10 SEC. 6. Section 10003 is added to the Business and Professions
11 Code, to read:

12 10003. (a) “Commissioner” means the Real Estate
13 Commissioner.

14 (b) This section shall become operative on July 1, 2018.

15 SEC. 7. Section 10007 of the Business and Professions Code
16 is amended to read:

17 10007. (a) “Provisions of this part relating to real estate”
18 refers to the provisions of Chapters 1, 2, ~~3~~ 3, and 6 of Part 1.

19 (b) This section shall repeal on July 1, 2018.

20 SEC. 8. Section 10007 is added to the Business and Professions
21 Code, to read:

22 10007. (a) “Provisions of this part relating to real estate”
23 means the provisions of Chapters 1, 2, 3, and 6 of Part 1.

24 (b) This section shall become operative on July 1, 2018.

25 SEC. 9. Section 10008 of the Business and Professions Code
26 is amended to read:

27 10008. (a) “Provisions of this part relating to business
28 opportunity regulation” refers to the provisions of Chapters 1, 2,
29 and 6 of Part 1.

30 (b) This section shall repeal on July 1, 2018.

31 SEC. 10. Section 10008 is added to the Business and
32 Professions Code, to read:

33 10008. (a) “Provisions of this part relating to business
34 opportunity regulation” means the provisions of Chapters 1, 2,
35 and 6 of Part 1.

36 (b) This section shall become operative on July 1, 2018.

37 SEC. 11. Section 10009.5 of the Business and Professions Code
38 is amended to read:

1 10009.5. (a) “Provisions of this part relating to mineral, oil,
2 oil, and gas brokerage” refers to the provisions of Chapters 1, 2,
3 6 6, and 7, of Part 1.

4 (b) *This section shall repeal on July 1, 2018.*

5 SEC. 12. *Section 10009.5 is added to the Business and*
6 *Professions Code, to read:*

7 10009.5. (a) “Provisions of this part relating to mineral, oil,
8 and gas brokerage” means the provisions of Chapters 1, 2, 6, and
9 7, of Part 1.

10 (b) *This section shall become operative on July 1, 2018.*

11 SEC. 13. *Section 10010 of the Business and Professions Code*
12 *is amended to read:*

13 10010. (a) “Provisions of this part relating to hearings” refers
14 to the provisions of Article 3 of Chapter 2 of Part 1.

15 (b) *This section shall repeal on July 1, 2018.*

16 SEC. 14. *Section 10010 is added to the Business and*
17 *Professions Code, to read:*

18 10010. (a) “Provisions of this part relating to hearings” means
19 the provisions of Article 3 of Chapter 2 of Part 1.

20 (b) *This section shall become operative on July 1, 2018.*

21 SEC. 15. *Section 10011 of the Business and Professions Code*
22 *is amended to read:*

23 10011. (a) “Licensee,” when used without modification, refers
24 to a person, whether broker or salesman, licensed under any of the
25 provisions of this part.

26 (b) *This section shall repeal on July 1, 2018.*

27 SEC. 16. *Section 10011 is added to the Business and*
28 *Professions Code, to read:*

29 10011. (a) “Licensee,” when used without modification, means
30 to a person, whether broker or salesperson, licensed under any of
31 the provisions of this part.

32 (b) *This section shall become operative on July 1, 2018.*

33 SEC. 17. *Section 10012 of the Business and Professions Code*
34 *is amended to read:*

35 10012. (a) “Broker,” when used without modification, refers
36 to a person licensed as a broker under any of the provisions of this
37 part.

38 (b) *This section shall repeal on July 1, 2018.*

39 SEC. 18. *Section 10012 is added to the Business and*
40 *Professions Code, to read:*

1 10012. (a) “Broker,” when used without modification, means
 2 a person licensed as a broker under any of the provisions of this
 3 part.

4 (b) This section shall become operative on July 1, 2018.

5 SEC. 19. Section 10013 of the Business and Professions Code
 6 is amended to read:

7 10013. (a) “Salesman,” when used without modification,
 8 refers to a person licensed as a ~~salesman~~ salesman under any of the
 9 provisions of this part.

10 (b) This section shall repeal on July 1, 2018.

11 SEC. 20. Section 10013 is added to the Business and
 12 Professions Code, to read:

13 10013. (a) “Salesperson,” when used without modification,
 14 means a person licensed as a salesperson under any of the
 15 provisions of this part. Whenever the word salesman is used in
 16 this division, or in the rules and regulations of the commissioner,
 17 it means salesperson. A licensee may elect to refer to his or her
 18 licensed status as real estate salesman, real estate saleswoman,
 19 or real estate salesperson.

20 (b) This section shall become operative on July 1, 2018.

21 SEC. 21. Section 10014 of the Business and Professions Code
 22 is amended to read:

23 10014. (a) “Real estate licensee” refers to a person, whether
 24 broker or salesman, licensed under Chapter 3 of this part.

25 (b) This section shall repeal on July 1, 2018.

26 SEC. 22. Section 10014 is added to the Business and
 27 Professions Code, to read:

28 10014. (a) “Real estate licensee” means a person, whether
 29 broker or salesperson, licensed under Chapter 3 of this part.

30 (b) This section shall become operative on July 1, 2018.

31 SEC. 23. Section 10015 of the Business and Professions Code
 32 is amended to read:

33 10015. (a) “Real estate broker” refers to a person licensed as
 34 a broker under Chapter 3 of this part.

35 (b) This section shall repeal on July 1, 2018.

36 SEC. 24. Section 10015 is added to the Business and
 37 Professions Code, to read:

38 10015. (a) “Real estate broker” means a person licensed as
 39 a broker under Chapter 3 of this part.

40 (b) This section shall become operative on July 1, 2018.

1 SEC. 25. Section 10015.1 is added to the Business and
2 Professions Code, to read:

3 10015.1. (a) “Responsible broker” means a real estate broker
4 responsible for the exercise of control and supervision of real
5 estate salespersons under Section 10159.2 or a real estate licensee
6 subject to discipline under subdivision (h) of Section 10177 for
7 failure to supervise activity requiring a real estate license. The
8 supervision of a salesperson required under this part is limited to
9 regulatory compliance and consumer protection.

10 (b) This section shall become operative on July 1, 2018.

11 SEC. 26. Section 10015.2 is added to the Business and
12 Professions Code, to read:

13 10015.2. (a) “Branch manager” or “division manager” means
14 a real estate licensee authorized to perform supervisory services
15 for a responsible broker.

16 (b) This section shall become operative on July 1, 2018.

17 SEC. 27. Section 10015.3 is added to the Business and
18 Professions Code, to read:

19 10015.3. (a) “Broker associate” means a broker affiliated
20 with another real estate broker as an independent contractor or
21 affiliated in another capacity who has authority to provide services
22 requiring a real estate license on behalf of the real estate broker.

23 (b) This section shall become operative on July 1, 2018.

24 SEC. 28. Section 10015.4 is added to the Business and
25 Professions Code, to read:

26 10015.4. (a) “Broker identity” means the name under which
27 the broker operates or conducts business and may include a sole
28 proprietorship or business entity name.

29 (b) This section shall become operative on July 1, 2018.

30 SEC. 29. Section 10016 of the Business and Professions Code
31 is amended to read:

32 10016. (a) “Real estate salesman” refers to a person licensed
33 as a salesman under Chapter 3 of this part.

34 (b) This section shall repeal on July 1, 2018.

35 SEC. 30. Section 10016 is added to the Business and
36 Professions Code, to read:

37 10016. (a) “Real estate salesperson” means a person licensed
38 as a salesperson under Chapter 3 of this part or a broker associate.

39 (b) This section shall become operative on July 1, 2018.

1 *SEC. 31. Section 10017 of the Business and Professions Code*
 2 *is amended to read:*

3 10017. (a) Whenever the word salesman is used in this
 4 division, or in the rules and regulations of the commissioner, it
 5 means salesperson. A licensee, however, may elect to refer to the
 6 licensed status as real estate salesman, real estate saleswoman, or
 7 real estate salesperson.

8 (b) *This section shall repeal on July 1, 2018.*

9 *SEC. 32. Section 10018.01 is added to the Business and*
 10 *Professions Code, to read:*

11 10018.01. (a) “Retained” means the relationship between a
 12 broker and a real estate licensee who is either an independent
 13 contractor or otherwise affiliated with a broker to perform
 14 activities that require a license and are performed under a broker’s
 15 supervision.

16 (b) *This section shall become operative on July 1, 2018.*

17 *SEC. 33. Section 10018.02 is added to the Business and*
 18 *Professions Code, to read:*

19 10018.02. (a) “Seller” means a transferor in a real property
 20 transaction, and includes an owner who lists real property with a
 21 broker, whether or not a transfer results, or who receives an offer
 22 to purchase real property of which he or she is the owner from a
 23 licensee on behalf of another. “Seller” includes both a vendor and
 24 lessor of real property.

25 (b) *This section shall become operative on July 1, 2018.*

26 *SEC. 34. Section 10018.03 is added to the Business and*
 27 *Professions Code, to read:*

28 10018.03. (a) “Listing licensee” means a real estate licensee
 29 who provides services requiring a real estate license for a seller
 30 pursuant to a listing agreement.

31 (b) *This section shall become operative on July 1, 2018.*

32 *SEC. 35. Section 10018.04 is added to the Business and*
 33 *Professions Code, to read:*

34 10018.04. (a) “Seller’s licensee” means a real estate licensee
 35 who provides services requiring a real estate license for a seller.

36 (b) *This section shall become operative on July 1, 2018.*

37 *SEC. 36. Section 10018.05 is added to the Business and*
 38 *Professions Code, to read:*

39 10018.05. (a) “Buyer” means a transferee in a real property
 40 transaction, and includes a person who executes an offer to

1 purchase real property from a seller through a broker, or a broker
2 associate or real estate salesperson acting on behalf of a broker,
3 or who seeks the services of a real estate licensee in more than a
4 casual, transitory, or preliminary manner, with the object of
5 entering into a real property transaction. "Buyer" includes both
6 a vendee and lessee of real property. Buyer also includes a
7 transferee or purchaser.

8 (b) This section shall become operative on July 1, 2018.

9 SEC. 37. Section 10018.06 is added to the Business and
10 Professions Code, to read:

11 10018.06. (a) "Buyer's licensee," "cooperating licensee,"
12 and "selling licensee" each means a real estate licensee who
13 provides services requiring a real estate license for a buyer.

14 (b) This section shall become operative on July 1, 2018.

15 SEC. 38. Section 10018.07 is added to the Business and
16 Professions Code, to read:

17 10018.07. (a) "Real property" means any estate specified in
18 paragraphs (1) or (2) Section 761 of the Civil Code in property,
19 and includes (a) residential property, (b) multiunit residential
20 property with more than four dwelling units, (c) commercial real
21 property, (d) a ground lease coupled with improvements, or (e) a
22 mobilehome as defined in Section 18008 of the Health and Safety
23 Code.

24 (b) This section shall become operative on July 1, 2018.

25 SEC. 39. Section 10018.08 is added to the Business and
26 Professions Code, to read:

27 10018.08. (a) "Residential property" means property (1)
28 improved with one to four dwelling units, (2) any leasehold
29 exceeding one year's duration, (3) a unit in a residential stock
30 cooperative, or (4) a mobilehome when offered for sale or sold
31 through a real estate broker.

32 (b) This section shall become operative on July 1, 2018.

33 SEC. 40. Section 10018.09 is added to the Business and
34 Professions Code, to read:

35 10018.09. (a) "Commercial real property" means all real
36 property in the state, except (1) residential real property, (2)
37 dwelling units made subject to Chapter 2 (commencing with Section
38 1940) of Title 5 of Part 4 of Division 3 of the Civil Code, (3) a
39 mobilehome as defined in Section 798.3 of the Civil Code, or (4)

1 a recreational vehicle as defined in Section 799.29 of the Civil
2 Code.

3 (b) This section shall become operative on July 1, 2018.

4 SEC. 41. Section 10018.10 is added to the Business and
5 Professions Code, to read:

6 10018.10. (a) "Sell," "sale," or "sold" means a transaction
7 for the transfer of real property from a seller to a buyer, and
8 includes (1) an exchange of real property between a seller and a
9 buyer, (2) transactions for the creation of a real property sales
10 contract within the meaning of Section 2985 of the Civil Code,
11 and (3) a leasehold exceeding one year's duration.

12 (b) This section shall become operative on July 1, 2018.

13 SEC. 42. Section 10018.11 is added to the Business and
14 Professions Code, to read:

15 10018.11. (a) "Dual broker" means a responsible broker that
16 has both a seller's licensee and a buyer's licensee under his or
17 her supervision in the same transaction or who individually
18 provides services for both a seller and a buyer in the same
19 transaction.

20 (b) This section shall become operative on July 1, 2018.

21 SEC. 43. Section 10018.12 is added to the Business and
22 Professions Code, to read:

23 10018.12. (a) "Dual licensee" means a real estate salesperson
24 or broker associate who individually provides services requiring
25 a real estate license for both a seller and a buyer at the same time
26 in the same transaction.

27 (b) This section shall become operative on July 1, 2018.

28 SEC. 44. Section 10018.13 is added to the Business and
29 Professions Code, to read:

30 10018.13. (a) "Transaction coordinator" means a person who
31 provides services which include administrative and clerical tasks
32 for a real estate licensee that do not include licensed activities.

33 (b) This section shall become operative on July 1, 2018.

34 SEC. 45. Section 10018.14 is added to the Business and
35 Professions Code, to read:

36 10018.14. (a) "Appraiser" means one licensed or certified
37 under Part 3 (commencing with Section 11300) of Division 4.

38 (b) This section shall become operative on July 1, 2018.

39 SEC. 46. Section 10018.15 is added to the Business and
40 Professions Code, to read:

1 10018.15. (a) “Listing agreement” means a written contract
2 between an owner of real property and a real estate licensee by
3 which the licensee has been authorized to sell the real property
4 or find or obtain a buyer.

5 (b) This section shall become operative on July 1, 2018.

6 SEC. 47. Section 10018.16 is added to the Business and
7 Professions Code, to read:

8 10018.16. (a) “Exclusive right to sell listing” means a listing
9 agreement whereby the owner grants to a broker, for a specified
10 period of time, the exclusive right to sell, find, or obtain a buyer
11 for the real property, and the broker is entitled to the agreed
12 compensation if during that period of time the real property is
13 sold, no matter who effected the sale, or when the listing broker
14 receives and presents to the owner any enforceable offer from a
15 ready, able, and willing buyer on terms authorized by the listing
16 agreement or which is accepted by the owner. The “exclusive right
17 to sell listing” may provide for compensation to the listing broker
18 if the property is sold within a specified period after termination
19 of the listing agreement.

20 (b) This section shall become operative on July 1, 2018.

21 SEC. 48. Section 10018.17 is added to the Business and
22 Professions Code, to read:

23 10018.17. (a) “Exclusive agency listing” means an “exclusive
24 right to sell listing” in which the owner reserves the right to sell
25 directly but not through any other broker and, in that event, without
26 obligation to pay compensation to the broker.

27 (b) This section shall become operative on July 1, 2018.

28 SEC. 49. Section 10018.18 is added to the Business and
29 Professions Code, to read:

30 10018.18. (a) “Open listing” means a listing agreement which
31 grants no exclusive rights or priorities to the listing broker, and
32 the agreed commission is payable to the broker only if the listing
33 broker obtains and presents to the owner an enforceable offer from
34 a ready, able, and willing buyer on the terms authorized by the
35 listing agreement which is accepted by the owner, before the
36 property is otherwise sold either through another broker or by the
37 owner directly and before the listing agreement expires by its terms
38 or is revoked.

39 (b) This section shall become operative on July 1, 2018.

1 *SEC. 50. Section 10023 of the Business and Professions Code*
2 *is amended to read:*

3 10023. (a) “Mineral, ~~oil~~ oil, and gas licensee” refers to a
4 person licensed under Chapter 7 (commencing with Section 10500)
5 of this part.

6 (b) *This section shall repeal on July 1, 2018.*

7 *SEC. 51. Section 10023 is added to the Business and*
8 *Professions Code, to read:*

9 10023. (a) “Mineral, oil, and gas licensee” means a person
10 licensed under Chapter 7 (commencing with Section 10500) of
11 this part.

12 (b) *This section shall become operative on July 1, 2018.*

13 *SEC. 52. Section 10024 of the Business and Professions Code*
14 *is amended to read:*

15 10024. (a) “Mineral, ~~oil~~ oil, and gas broker” refers to a person
16 licensed as a broker under Chapter 7 of this part.

17 (b) *This section shall repeal on July 1, 2018.*

18 *SEC. 53. Section 10024 is added to the Business and*
19 *Professions Code, to read:*

20 10024. (a) “Mineral, oil, and gas broker” means a person
21 licensed as a broker under Chapter 7 of this part.

22 (b) *This section shall become operative on July 1, 2018.*

23 *SEC. 54. Section 10026 of the Business and Professions Code*
24 *is amended to read:*

25 10026. (a) The term “advance fee,” as used in this part, is a
26 fee, regardless of the form, that is claimed, demanded, charged,
27 received, or collected by a licensee for services requiring a license,
28 or for a listing, as that term is defined in Section 10027, before
29 fully completing the service the licensee contracted to perform or
30 represented would be performed. Neither an advance fee nor the
31 services to be performed shall be separated or divided into
32 components for the purpose of avoiding the application of this
33 division.

34 (b) For the purposes of this section, the term “advance fee” does
35 not include:

36 (1) “Security” as that term is used in Section 1950.5 of the Civil
37 Code.

38 (2) A “screening fee” as that term is used in Section 1950.6 of
39 the Civil Code.

1 (3) A fee that is claimed, demanded, charged, received, or
2 collected for the purpose of advertising the sale, lease, or exchange
3 of real estate, or of a business opportunity, in a newspaper of
4 general circulation, any other written publication, or through
5 electronic media comparable to any type of written publication,
6 provided that the electronic media or the publication is not under
7 the control or ownership of the broker.

8 (4) A fee earned for a specific service under a “limited service”
9 contract. For purposes of this section, a “limited service” contract
10 is a written agreement for real estate services described in
11 subdivision (a), (b), or (c) of Section 10131, and pursuant to which
12 such services are promoted, advertised, or presented as stand-alone
13 services, to be performed on a task-by-task basis, and for which
14 compensation is received as each separate, contracted-for task is
15 completed. To qualify for this exclusion, all services performed
16 pursuant to the contract must be described in subdivision (a), (b),
17 or (c) of Section 10131.

18 (c) A contract between a real estate broker and a principal that
19 requires payment of a commission to the broker after the contract
20 is fully performed does not represent an agreement for an advance
21 fee.

22 (d) This section does not exempt from regulation the charging
23 or collecting of a fee under Section 1950.5 or 1950.6 of the Civil
24 Code, but instead regulates fees that are not subject to those
25 sections.

26 (e) *This section shall repeal on July 1, 2018.*

27 *SEC. 55. Section 10026 is added to the Business and*
28 *Professions Code, to read:*

29 *10026. (a) The term “advance fee,” as used in this part, is a*
30 *fee, regardless of the form, that is claimed, demanded, charged,*
31 *received, or collected by a licensee for services requiring a license,*
32 *or for a listing agreement, as that term is defined in Section 10027,*
33 *before fully completing the service the licensee contracted to*
34 *perform or represented would be performed. Neither an advance*
35 *fee nor the services to be performed shall be separated or divided*
36 *into components for the purpose of avoiding the application of*
37 *this division.*

38 *(b) For the purposes of this section, the term “advance fee”*
39 *does not include:*

- 1 (1) “Security” as that term is used in Section 1950.5 of the Civil
- 2 Code.
- 3 (2) A “screening fee” as that term is used in Section 1950.6 of
- 4 the Civil Code.
- 5 (3) A fee that is claimed, demanded, charged, received, or
- 6 collected for the purpose of advertising the sale, lease, or exchange
- 7 of real estate, or of a business opportunity, in a newspaper of
- 8 general circulation, any other written publication, or through
- 9 electronic media comparable to any type of written publication,
- 10 provided that the electronic media or the publication is not under
- 11 the control or ownership of the broker.
- 12 (4) A fee earned for a specific service under a “limited service”
- 13 contract. For purposes of this section, a “limited service” contract
- 14 is a written agreement for real estate services described in
- 15 subdivision (a), (b), or (c) of Section 10131, and pursuant to which
- 16 such services are promoted, advertised, or presented as stand-alone
- 17 services, to be performed on a task-by-task basis, and for which
- 18 compensation is received as each separate, contracted-for task is
- 19 completed. To qualify for this exclusion, all services performed
- 20 pursuant to the contract shall be described in subdivision (a), (b),
- 21 or (c) of Section 10131.
- 22 (5) A fee approved by the bureau pursuant to Section 10085.
- 23 (c) A contract between a real estate broker and a principal that
- 24 requires payment of a commission to the broker after the contract
- 25 is fully performed does not represent an agreement for an advance
- 26 fee.
- 27 (d) This section does not exempt from regulation the charging
- 28 or collecting of a fee under Section 1950.5 or 1950.6 of the Civil
- 29 Code, but instead regulates fees that are not subject to those
- 30 sections.
- 31 (e) This section shall become operative on July 1, 2018.
- 32 SEC. 56. Section 10027 of the Business and Professions Code
- 33 is amended to read:
- 34 10027. (a) The term “listing” as used in this part includes, but
- 35 is not limited to:
- 36 ~~(a)~~
- 37 (1) The name or a list of the names, of the owners, landlords,
- 38 exchangers, or lessors, or the location or locations, of property, or
- 39 of an interest in property, offered for rent, sale, lease, or exchange.
- 40 ~~(b)~~

1 (2) The name, or a list of the names, or the location or locations
2 at which prospective or potential purchasers, buyers, lessees,
3 tenants or exchangers of property may be found or contacted.

4 ~~(e)~~

5 (3) An agreement by which a person who is engaged in the
6 business of promoting the sale or lease of business opportunities
7 or real estate agrees to render to an owner or lessee of such property
8 any services, to promote the sale or lease of said property.

9 ~~(d)~~

10 (4) An agreement by which a person who is engaged in the
11 business of finding, locating or promoting the sale or lease of
12 business opportunities or real estate, agrees to circularize, notify
13 or refer real estate brokers or salesmen to said property which is
14 offered for sale or lease.

15 *(b) This section shall repeal on July 1, 2018.*

16 *SEC. 57. Section 10027 is added to the Business and*
17 *Professions Code, to read:*

18 *10027. (a) The term "listing agreement" as used in this part*
19 *includes, but is not limited to:*

20 *(1) The name or a list of the names, of the owners, landlords,*
21 *exchangers, or lessors, or the location or locations, of property,*
22 *or of an interest in property, offered for rent, sale, lease, or*
23 *exchange.*

24 *(2) The name, or a list of the names, or the location or locations*
25 *at which prospective or potential buyers, lessees, tenants, or*
26 *exchangers of property may be found or contacted.*

27 *(3) An agreement by which a person who is engaged in the*
28 *business of promoting the sale or lease of business opportunities*
29 *or real estate agrees to render to an owner or lessee of such*
30 *property any services, to promote the sale or lease of said property.*

31 *(4) An agreement by which a person who is engaged in the*
32 *business of finding, locating, or promoting the sale or lease of*
33 *business opportunities or real estate, agrees to circularize, notify,*
34 *or refer real estate brokers or salespersons to said property which*
35 *is offered for sale or lease.*

36 *(b) This section shall become operative on July 1, 2018.*

37 *SEC. 58. Section 10050 of the Business and Professions Code*
38 *is amended to read:*

1 10050. (a) There is in the Department of Consumer Affairs a
2 Bureau of Real Estate, the chief officer of which bureau is named
3 the Real Estate Commissioner.

4 (b) It shall be the principal responsibility of the commissioner
5 to enforce all laws in this part (commencing with Section 10000)
6 and Chapter 1 (commencing with Section 11000) of Part 2 of this
7 division in a manner that achieves the maximum protection for the
8 purchasers of real property and those persons dealing with real
9 estate licensees.

10 (c) Wherever the term “commissioner” is used in this division,
11 it means the Real Estate Commissioner.

12 (d) *This section shall repeal on July 1, 2018.*

13 *SEC. 59. Section 10050 is added to the Business and*
14 *Professions Code, to read:*

15 10050. (a) *There is in the Department of Consumer Affairs a*
16 *Bureau of Real Estate, the chief officer of which bureau is named*
17 *the Real Estate Commissioner.*

18 (b) *It shall be the principal responsibility of the commissioner*
19 *to enforce all laws in this part (commencing with Section 10000)*
20 *and Chapter 1 (commencing with Section 11000) of Part 2 of this*
21 *division in a manner that achieves the maximum protection for the*
22 *buyers of real property and those persons dealing with real estate*
23 *licensees.*

24 (c) *Wherever the term “commissioner” is used in this division,*
25 *it means the Real Estate Commissioner.*

26 (d) *This section shall become operative on July 1, 2018.*

27 *SEC. 60. Section 10074 of the Business and Professions Code*
28 *is amended to read:*

29 10074. (a) *After qualifying as such neither the commissioner*
30 *nor any of the deputies, clerks or employees of the department*
31 *shall be interested in any mineral, oil or gas business, mineral, oil*
32 *or gas brokerage firm, real estate company or any real estate*
33 *brokerage firm, as director, stockholder, officer, member, agent*
34 *or employee, or act as a broker or salesman, or act as a co-partner*
35 *or agent for any broker or brokers, salesman or salesmen.*

36 (b) *This section shall repeal on July 1, 2018.*

37 *SEC. 61. Section 10074 is added to the Business and*
38 *Professions Code, to read:*

39 10074. (a) *After qualifying as such neither the commissioner*
40 *nor any of the deputies, clerks or employees of the department*

1 shall be interested in any mineral, oil, or gas business, mineral,
2 oil, or gas brokerage firm, real estate company or any real estate
3 brokerage firm, as director, stockholder, officer, member, agent,
4 or employee, or act as a broker or salesperson, or act as a
5 copartner or agent for any broker or brokers, salesperson or
6 salespersons.

7 (b) This section shall become operative on July 1, 2018.

8 SEC. 62. Section 10080.9 of the Business and Professions Code
9 is amended to read:

10 10080.9. (a) If, upon inspection, examination, or investigation,
11 the commissioner has cause to believe that a person who does not
12 possess a real estate license is engaged or has engaged in activities
13 for which a real estate license is required, or that a person who
14 does not possess a prepaid rental listing service license or a real
15 estate broker license is engaged or has engaged in activities for
16 which a license is required pursuant to Section 10167.2, or that a
17 licensee is violating or has violated any provision of this division
18 or any rule or order thereunder, the commissioner or his or her
19 designated representative may issue a citation to that person in
20 writing, describing with particularity the basis of the citation. Each
21 citation may contain an order to correct the violation or violations
22 identified and a reasonable time period or periods by which the
23 violation or violations must be corrected. In addition, each citation
24 may assess an administrative fine not to exceed two thousand five
25 hundred dollars (\$2,500), which shall be deposited into the
26 Recovery Account of the Real Estate Fund and shall, upon
27 appropriation by the Legislature, be available for expenditure for
28 the purposes specified in Chapter 6.5 (commencing with Section
29 10470). In assessing a fine, the commissioner shall give due
30 consideration to the appropriateness of the amount of the fine with
31 respect to factors such as the gravity of the violation, the good
32 faith of the person cited, and the history of previous violations. A
33 citation issued and a fine assessed pursuant to this section, while
34 constituting discipline for a violation of the law, shall be in lieu
35 of other administrative discipline by the commissioner for the
36 offense or offenses cited, and the citation against and payment of
37 any fine by a licensee shall not be reported as disciplinary action
38 taken by the commissioner.

39 (b) Notwithstanding subdivision (a), nothing in this section shall
40 prevent the commissioner from issuing an order to desist and

1 refrain from engaging in a specific business activity or activities
2 or an order to suspend all business operations to a person who is
3 engaged in or has engaged in continued or repeated violations of
4 this part. In any of these circumstances, the sanctions authorized
5 under this section shall be separate from, and in addition to, all
6 other administrative, civil, or criminal penalties.

7 (c) If, within 30 days from the receipt of the citation or the
8 citation and fine, the person cited fails to notify the commissioner
9 that he or she intends to request a hearing as described in
10 subdivision (d), the citation or the citation and fine shall be deemed
11 final.

12 (d) Any hearing under this section shall be conducted in
13 accordance with Chapter 5 (commencing with Section 11500) of
14 Part 1 of Division 3 of Title 2 of the Government Code.

15 (e) After the exhaustion of the review procedures provided for
16 in this section, the commissioner may apply to the appropriate
17 superior court for a judgment in the amount of any administrative
18 penalty imposed pursuant to subdivision (a) and an order
19 compelling the cited person to comply with the order of the
20 commissioner. The application, which shall include a certified
21 copy of the final order of the commissioner, shall constitute a
22 sufficient showing to warrant the issuance of the judgment and
23 order.

24 (f) Failure of any person to comply with the terms of a citation
25 or pay a fine assessed pursuant to this section, within a reasonable
26 period specified by the commissioner, shall subject that person to
27 disciplinary action by the commissioner. In no event may a license
28 be renewed if an unpaid fine remains outstanding or the terms of
29 a citation have not been complied with.

30 (g) *This section shall repeal on July 1, 2018.*

31 *SEC. 63. Section 10080.9 is added to the Business and*

32 *Professions Code, to read:*
33 *10080.9. (a) If, upon inspection, examination, or investigation,*
34 *the commissioner has cause to believe that a person who does not*
35 *possess a real estate license is engaged or has engaged in activities*
36 *for which a real estate license is required, or that a person who*
37 *does not possess a prepaid rental listing service license or a real*
38 *estate broker license is engaged or has engaged in activities for*
39 *which a license is required pursuant to Section 10167.2, or that*
40 *a licensee is violating or has violated any provision of this division*

1 or any rule or order thereunder, the commissioner or his or her
2 designated representative may issue a citation to that person in
3 writing, describing with particularity the basis of the citation.
4 Each citation may contain an order to correct the violation or
5 violations identified and a reasonable time period or periods by
6 which the violation or violations must be corrected. In addition,
7 each citation may assess an administrative fine not to exceed two
8 thousand five hundred dollars (\$2,500), that shall be deposited
9 into the Recovery Account of the Real Estate Fund and shall, upon
10 appropriation by the Legislature, be available for expenditure for
11 the purposes specified in Chapter 6.5 (commencing with Section
12 10470). In assessing a fine, the commissioner shall give due
13 consideration to the appropriateness of the amount of the fine with
14 respect to factors such as the gravity of the violation, the good
15 faith of the person cited, and the history of previous violations. A
16 citation issued and a fine assessed pursuant to this section, while
17 constituting discipline for a violation of the law, shall be in lieu
18 of other administrative discipline by the commissioner for the
19 offense or offenses cited, and the citation against and payment of
20 any fine by a licensee shall not be reported as disciplinary action
21 taken by the commissioner.

22 (b) Notwithstanding subdivision (a), nothing in this section shall
23 prevent the commissioner from issuing an order to desist and
24 refrain from engaging in a specific business activity or activities
25 or an order to suspend all business operations to a person who is
26 engaged in or has engaged in continued or repeated violations of
27 this part. In any of these circumstances, the sanctions authorized
28 under this section shall be separate from, and in addition to, all
29 other administrative, civil, or criminal penalties.

30 (c) If, within 30 days from the receipt of the citation or the
31 citation and fine, the person cited fails to notify the commissioner
32 that he or she intends to request a hearing as described in
33 subdivision (d), the citation or the citation and fine shall be deemed
34 final.

35 (d) Any hearing under this section shall be conducted in
36 accordance with Chapter 5 (commencing with Section 11500) of
37 Part 1 of Division 3 of Title 2 of the Government Code.

38 (e) After the exhaustion of the review procedures provided for
39 in this section, the commissioner may apply to the appropriate
40 superior court for a judgment in the amount of any administrative

1 *penalty imposed pursuant to subdivision (a) and an order*
2 *compelling the person cited to comply with the order of the*
3 *commissioner. The application, which shall include a certified*
4 *copy of the final order of the commissioner, shall constitute a*
5 *sufficient showing to warrant issuing the judgment and order.*

6 *(f) Failure of any person to comply with the terms of a citation*
7 *or pay a fine assessed pursuant to this section, within a reasonable*
8 *period specified by the commissioner, shall subject that person to*
9 *disciplinary action by the commissioner. In no event may a license*
10 *be issued or renewed if an unpaid fine remains outstanding or the*
11 *terms of a citation have not been complied with.*

12 *(g) This section shall become operative on July 1, 2018.*

13 *SEC. 64. Section 10082 of the Business and Professions Code*
14 *is amended to read:*

15 10082. (a) The commissioner may publish or cause to be
16 published at appropriate intervals a directory or list of licensed
17 brokers and salesmen and may publish therewith such matter as
18 he may deem pertinent to this part and Chapter 1
19 ~~(commencing~~(commencing with Section 11000) of Part 2. He shall
20 furnish one copy of such directory to each licensed broker upon
21 his request and the payment of an appropriate charge based upon
22 cost of publication. Such directory may contain copies of the Real
23 Estate Law, Chapter 1 (commencing with Section 11000) of Part
24 2 of Division 4 of the Business and Professions Code, and the
25 Rules and Regulations of the Real Estate Commissioner.

26 *(b) This section shall repeal on July 1, 2018.*

27 *SEC. 65. Section 10082 is added to the Business and*
28 *Professions Code, to read:*

29 10082. (a) The commissioner may publish or cause to be
30 published at appropriate intervals a directory or list of licensed
31 brokers and salespersons and may publish therewith such matter
32 as he may deem pertinent to this part and Chapter 1 (commencing
33 with Section 11000) of Part 2. He shall furnish one copy of such
34 directory to each licensed broker upon his request and the payment
35 of an appropriate charge based upon cost of publication. Such
36 directory may contain copies of the Real Estate Law, Chapter 1
37 (commencing with Section 11000) of Part 2 of Division 4 of the
38 Business and Professions Code, and the Rules and Regulations of
39 the Real Estate Commissioner.

40 *(b) This section shall become operative on July 1, 2018.*

1 *SEC. 66. Section 10131.01 of the Business and Professions*
2 *Code is amended to read:*

3 10131.01. (a) Subdivision (b) of Section 10131 does not apply
4 to (1) the manager of a hotel, motel, auto and trailer park, to the
5 resident manager of an apartment building, apartment complex,
6 or court, or to the employees of that manager, or (2) any person
7 or entity, including a person employed by a real estate broker,
8 who, on behalf of another or others, solicits or arranges, or accepts
9 reservations or money, or both, for transient occupancies described
10 in paragraphs (1) and (2) of subdivision (b) of Section 1940 of the
11 Civil Code, in a dwelling unit in a common interest development,
12 as defined in Section 4100 of the Civil Code, in a dwelling unit in
13 an apartment building or complex, or in a single-family home, or
14 (3) any person other than the resident manager or employees of
15 that manager, performing the following functions, who is the
16 employee of the property management firm retained to manage a
17 residential apartment building or complex or court and who is
18 performing under the supervision and control of a broker of record
19 who is an employee of that property management firm or a
20 salesperson licensed to the broker who meets certain minimum
21 requirements as specified in a regulation issued by the
22 commissioner:

23 (A) Showing rental units and common areas to prospective
24 tenants.

25 (B) Providing or accepting preprinted rental applications, or
26 responding to inquiries from a prospective tenant concerning the
27 completion of the application.

28 (C) Accepting deposits or fees for credit checks or administrative
29 costs and accepting security deposits and rents.

30 (D) Providing information about rental rates and other terms
31 and provisions of a lease or rental agreement, as set out in a
32 schedule provided by an employer.

33 (E) Accepting signed leases and rental agreements from
34 prospective tenants.

35 (b) A broker or salesperson shall exercise reasonable supervision
36 and control over the activities of nonlicensed persons acting under
37 paragraph (3) of subdivision (a).

38 (c) A broker employing nonlicensed persons to act under
39 paragraph (3) of subdivision (a) shall comply with Section 10163

1 for each apartment building or complex or court where the
2 nonlicensed persons are employed.

3 *(d) This section shall repeal on July 1, 2018.*

4 *SEC. 67. Section 10131.01 is added to the Business and*
5 *Professions Code, to read:*

6 *10131.01. (a) Subdivision (b) of Section 10131 does not apply*
7 *to (1) the manager of a hotel, motel, auto and trailer park, to the*
8 *resident manager of an apartment building, apartment complex,*
9 *or court, or to the employees of that manager, or (2) any person*
10 *or entity, including a person retained by a real estate broker, who,*
11 *on behalf of another or others, solicits or arranges, or accepts*
12 *reservations or money, or both, for transient occupancies described*
13 *in paragraphs (1) and (2) of subdivision (b) of Section 1940 of the*
14 *Civil Code, in a dwelling unit in a common interest development,*
15 *as defined in Section 4100 of the Civil Code, in a dwelling unit in*
16 *an apartment building or complex, or in a single-family home, or*
17 *(3) any person other than the resident manager or employees of*
18 *that manager, performing the following functions, who is the*
19 *employee of the property management firm retained to manage a*
20 *residential apartment building or complex or court and who is*
21 *performing under the supervision and control of a broker of record*
22 *who is an employee of that property management firm or a*
23 *salesperson licensed to the broker who meets certain minimum*
24 *requirements as specified in a regulation issued by the*
25 *commissioner:*

26 *(A) Showing rental units and common areas to prospective*
27 *tenants.*

28 *(B) Providing or accepting preprinted rental applications, or*
29 *responding to inquiries from a prospective tenant concerning the*
30 *completion of the application.*

31 *(C) Accepting deposits or fees for credit checks or administrative*
32 *costs and accepting security deposits and rents.*

33 *(D) Providing information about rental rates and other terms*
34 *and provisions of a lease or rental agreement, as set out in a*
35 *schedule provided by an employer.*

36 *(E) Accepting signed leases and rental agreements from*
37 *prospective tenants.*

38 *(b) A broker or salesperson shall exercise reasonable*
39 *supervision and control over the activities of nonlicensed persons*
40 *acting under paragraph (3) of subdivision (a).*

1 (c) A broker employing nonlicensed persons to act under
2 paragraph (3) of subdivision (a) shall comply with Section 10163
3 for each apartment building or complex or court where the
4 nonlicensed persons are employed.

5 (e) This section shall become operative on July 1, 2018.

6 SEC. 68. Section 10132 of the Business and Professions Code
7 is amended to read:

8 10132. (a) A real estate salesman within the meaning of this
9 part is a natural person who, for a compensation or in expectation
10 of a compensation, is employed by a licensed real estate broker to
11 do one or more of the acts set forth in Sections 10131, 10131.1,
12 10131.2, 10131.3, 10131.4, and 10131.6.

13 (b) This section shall repeal on July 1, 2018.

14 SEC. 69. Section 10132 is added to the Business and
15 Professions Code, to read:

16 10132. (a) A real estate salesperson within the meaning of
17 this part is a natural person who, for a compensation or in
18 expectation of a compensation, is retained by a licensed real estate
19 broker to do one or more of the acts set forth in Sections 10131,
20 10131.1, 10131.2, 10131.3, 10131.4, and 10131.6.

21 (b) This section shall become operative on July 1, 2018.

22 SEC. 70. Section 10133.1 of the Business and Professions Code
23 is amended to read:

24 10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section
25 10131.1, Article 5 (commencing with Section 10230), and Article
26 7 (commencing with Section 10240) of this code and Section
27 1695.13 of the Civil Code do not apply to any of the following:

28 (1) Any person or employee thereof doing business under any
29 law of this state, any other state, or the United States relating to
30 banks, trust companies, savings and loan associations, industrial
31 loan companies, pension trusts, credit unions, or insurance
32 companies.

33 (2) Any nonprofit cooperative association organized under
34 Chapter 1 (commencing with Section 54001) of Division 20 of the
35 Food and Agricultural Code, in loaning or advancing money in
36 connection with any activity mentioned therein.

37 (3) Any corporation, association, syndicate, joint stock company,
38 or partnership engaged exclusively in the business of marketing
39 agricultural, horticultural, viticultural, dairy, livestock, poultry, or
40 bee products on a cooperative nonprofit basis, in loaning or

1 advancing money to the members thereof or in connection with
2 any business of that type.

3 (4) Any corporation securing money or credit from any federal
4 intermediate credit bank organized and existing pursuant to the
5 provisions of an act of Congress entitled the “Agricultural Credits
6 Act of 1923,” in loaning or advancing money or credit so secured.

7 (5) Any person licensed to practice law in this state, not actively
8 and principally engaged in the business of negotiating loans secured
9 by real property, when that person renders services in the course
10 of his or her practice as an attorney at law, and the disbursements
11 of that person, whether paid by the borrower or other person, are
12 not charges or costs and expenses regulated by or subject to the
13 limitations of Article 7 (commencing with Section 10240), and
14 the fees and disbursements are not shared, directly or indirectly,
15 with the person negotiating the loan or the lender.

16 (6) Any person licensed as a finance lender when acting under
17 the authority of that license.

18 (7) Any cemetery authority as defined by Section 7018 of the
19 Health and Safety Code, that is authorized to do business in this
20 state or its authorized agent.

21 (8) Any person authorized in writing by a savings institution to
22 act as an agent of that institution, as authorized by Section 6520
23 of the Financial Code or comparable authority of the Office of
24 Thrift Supervision of the United States Department of the Treasury
25 by its regulations, when acting under the authority of that written
26 authorization.

27 (9) Any person who is licensed as a securities broker or
28 securities dealer under any law of this state, or of the United States,
29 or any employee, officer, or agent of that person, if that person,
30 employee, officer, or agent is acting within the scope of authority
31 granted by that license in connection with a transaction involving
32 the offer, sale, purchase, or exchange of a security representing an
33 ownership interest in a pool of promissory notes secured directly
34 or indirectly by liens on real property, which transaction is subject
35 to any law of this state or the United States regulating the offer or
36 sale of securities.

37 (10) Any person licensed as a residential mortgage lender or
38 servicer when acting under the authority of that license.

39 (11) Any organization that has been approved by the United
40 States Department of Housing and Urban Development pursuant

1 to Section 106(a)(1)(iii) of the federal Housing and Urban
2 Development Act of 1968 (12 U.S.C. Sec. 1701x), to provide
3 counseling services, or an employee of such an organization, when
4 those services are provided at no cost to the borrower and are in
5 connection with the modification of the terms of a loan secured
6 directly or collaterally by a lien on residential real property
7 containing four or fewer dwelling units.

8 (b) Persons described in paragraph (1), (2), or (3), as follows,
9 are exempt from the provisions of subdivisions (d) and (e) of
10 Section 10131 or Section 10131.1 with respect to the collection
11 of payments or performance of services for lenders or on notes of
12 owners in connection with loans secured directly or collaterally
13 by liens on real property:

14 (1) The person makes collections on 10 or less of those loans,
15 or in amounts of forty thousand dollars (\$40,000) or less, in any
16 calendar year.

17 (2) The person is a corporation licensed as an escrow agent
18 under Division 6 (commencing with Section 17000) of the
19 Financial Code and the payments are deposited and maintained in
20 the escrow agent's trust account.

21 (3) An employee of a real estate broker who is acting as the
22 agent of a person described in paragraph (4) of subdivision (b) of
23 Section 10232.4.

24 For purposes of this subdivision, performance of services does
25 not include soliciting borrowers, lenders, or purchasers for, or
26 negotiating, loans secured directly or collaterally by a lien on real
27 property.

28 (c) (1) Subdivision (d) of Section 10131 does not apply to an
29 employee of a real estate broker who, on behalf of the broker,
30 assists the broker in meeting the broker's obligations to its
31 customers in residential mortgage loan transactions, as defined in
32 Section 50003 of the Financial Code, where the lender is an
33 institutional lender, as defined in Section 50003 of the Financial
34 Code, provided the employee does not participate in any
35 negotiations occurring between the principals.

36 (2) A broker shall exercise reasonable supervision and control
37 over the activities of nonlicensed employees acting under this
38 subdivision, and shall comply with Section 10163 for each location
39 where the nonlicensed persons are employed.

1 This section does not restrict the ability of the commissioner to
2 discipline a broker or corporate broker licensee or its designated
3 officer, or both the corporate broker licensee and its designated
4 officer, for misconduct of a nonlicensed employee acting under
5 this subdivision, or, pursuant to Section 10080, to adopt, amend,
6 or repeal rules or regulations governing the employment or
7 supervision of an employee who is a nonlicensed person as
8 described in this subdivision.

9 *(d) This section shall repeal on July 1, 2018.*

10 *SEC. 71. Section 10133.1 is added to the Business and*
11 *Professions Code, to read:*

12 *10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section*
13 *10131.1, Article 5 (commencing with Section 10230), and Article*
14 *7 (commencing with Section 10240) of this code and Section*
15 *1695.13 of the Civil Code do not apply to any of the following:*

16 *(1) Any person or employee thereof doing business under any*
17 *law of this state, any other state, or the United States relating to*
18 *banks, trust companies, savings and loan associations, industrial*
19 *loan companies, pension trusts, credit unions, or insurance*
20 *companies.*

21 *(2) Any nonprofit cooperative association organized under*
22 *Chapter 1 (commencing with Section 54001) of Division 20 of the*
23 *Food and Agricultural Code, in loaning or advancing money in*
24 *connection with any activity mentioned therein.*

25 *(3) Any corporation, association, syndicate, joint stock company,*
26 *or partnership engaged exclusively in the business of marketing*
27 *agricultural, horticultural, viticultural, dairy, livestock, poultry,*
28 *or bee products on a cooperative nonprofit basis, in loaning or*
29 *advancing money to the members thereof or in connection with*
30 *any business of that type.*

31 *(4) Any corporation securing money or credit from any federal*
32 *intermediate credit bank organized and existing pursuant to the*
33 *provisions of an act of Congress entitled the "Agricultural Credits*
34 *Act of 1923," in loaning or advancing money or credit so secured.*

35 *(5) Any person licensed to practice law in this state, not actively*
36 *and principally engaged in the business of negotiating loans*
37 *secured by real property, when that person renders services in the*
38 *course of his or her practice as an attorney at law, and the*
39 *disbursements of that person, whether paid by the borrower or*
40 *other person, are not charges or costs and expenses regulated by*

1 *or subject to the limitations of Article 7 (commencing with Section*
2 *10240), and the fees and disbursements are not shared, directly*
3 *or indirectly, with the person negotiating the loan or the lender.*

4 *(6) Any person licensed as a finance lender when acting under*
5 *the authority of that license.*

6 *(7) Any cemetery authority as defined by Section 7018 of the*
7 *Health and Safety Code, that is authorized to do business in this*
8 *state or its authorized agent.*

9 *(8) Any person authorized in writing by a savings institution to*
10 *act as an agent of that institution, as authorized by Section 6520*
11 *of the Financial Code or comparable authority of the Office of the*
12 *Comptroller of the Currency of the United States Department of*
13 *the Treasury by its regulations, when acting under the authority*
14 *of that written authorization.*

15 *(9) Any person who is licensed as a securities broker or*
16 *securities dealer under any law of this state, or of the United States,*
17 *or any employee, officer, or agent of that person, if that person,*
18 *employee, officer, or agent is acting within the scope of authority*
19 *granted by that license in connection with a transaction involving*
20 *the offer, sale, purchase, or exchange of a security representing*
21 *an ownership interest in a pool of promissory notes secured directly*
22 *or indirectly by liens on real property, which transaction is subject*
23 *to any law of this state or the United States regulating the offer or*
24 *sale of securities.*

25 *(10) Any person licensed as a mortgage loan lender or servicer*
26 *when acting under the authority of that license.*

27 *(11) Any organization that has been approved by the United*
28 *States Department of Housing and Urban Development pursuant*
29 *to Section 106(a)(1)(iii) of the federal Housing and Urban*
30 *Development Act of 1968 (12 U.S.C. Sec. 1701x), to provide*
31 *counseling services, or an employee of such an organization, when*
32 *those services are provided at no cost to the borrower and are in*
33 *connection with the modification of the terms of a loan secured*
34 *directly or collaterally by a lien on residential real property*
35 *containing four or fewer dwelling units.*

36 *(b) Persons described in paragraph (1), (2), or (3), as follows,*
37 *are exempt from the provisions of subdivisions (d) and (e) of*
38 *Section 10131 or Section 10131.1 with respect to the collection of*
39 *payments or performance of services for lenders or on notes of*

1 owners in connection with loans secured directly or collaterally
2 by liens on real property:

3 (1) The person makes collections on 10 or less of those loans,
4 or in amounts of forty thousand dollars (\$40,000) or less, in any
5 calendar year.

6 (2) The person is a corporation licensed as an escrow agent
7 under Division 6 (commencing with Section 17000) of the Financial
8 Code and the payments are deposited and maintained in the escrow
9 agent's trust account.

10 (3) An employee of a real estate broker who is acting as the
11 agent of a person described in paragraph (4) of subdivision (b) of
12 Section 10232.4.

13 For purposes of this subdivision, performance of services does
14 not include soliciting borrowers, lenders, or purchasers for, or
15 negotiating, loans secured directly or collaterally by a lien on real
16 property.

17 (c) (1) Subdivision (d) of Section 10131 does not apply to an
18 employee of a real estate broker who, on behalf of the broker,
19 assists the broker in meeting the broker's obligations to its
20 customers in residential mortgage loan transactions, as defined
21 in Section 50003 of the Financial Code, where the lender is an
22 institutional lender, as defined in Section 50003 of the Financial
23 Code, provided the employee does not participate in any
24 negotiations occurring between the principals.

25 (2) A broker shall exercise reasonable supervision and control
26 over the activities of nonlicensed employees acting under this
27 subdivision, and shall comply with Section 10163 for each location
28 where the nonlicensed persons are employed.

29 This section does not restrict the ability of the commissioner to
30 discipline a broker or corporate broker licensee or its designated
31 officer, or both the corporate broker licensee and its designated
32 officer, for misconduct of a nonlicensed employee acting under
33 this subdivision, or, pursuant to Section 10080, to adopt, amend,
34 or repeal rules or regulations governing the employment or
35 supervision of an employee who is a nonlicensed person as
36 described in this subdivision.

37 (d) This section shall become operative on July 1, 2018.

38 SEC. 72. Section 10136 of the Business and Professions Code
39 is amended to read:

1 10136. (a) No person engaged in the business or acting in the
2 capacity of a real estate broker or a real estate salesman within this
3 State shall bring or maintain any action in the courts of this State
4 for the collection of compensation for the performance of any of
5 the acts mentioned in this article without alleging and proving that
6 he was a duly licensed real estate broker or real estate salesman
7 at the time the alleged cause of action arose.

8 (b) *This section shall repeal on July 1, 2018.*

9 SEC. 73. *Section 10136 is added to the Business and*
10 *Professions Code, to read:*

11 10136. (a) *No person engaged in the business or acting in the*
12 *capacity of a real estate broker or a real estate salesperson within*
13 *this state shall bring or maintain any action in the courts of this*
14 *state for the collection of compensation for the performance of*
15 *any of the acts mentioned in this article without alleging and*
16 *proving that he was a duly licensed real estate broker or real estate*
17 *salesperson at the time the alleged cause of action arose.*

18 (b) *This section shall become operative on July 1, 2018.*

19 SEC. 74. *Section 10137 of the Business and Professions Code*
20 *is amended to read:*

21 10137. (a) It is unlawful for any licensed real estate broker
22 to employ or compensate, directly or indirectly, any person for
23 performing any of the acts within the scope of this chapter who is
24 not a licensed real estate broker, or a real estate salesperson
25 licensed under the broker employing or compensating him or her,
26 or to employ or compensate, directly or indirectly, any licensee
27 for engaging in any activity for which a mortgage loan originator
28 license endorsement is required, if that licensee does not hold a
29 mortgage loan originator license endorsement; provided, however,
30 that a licensed real estate broker may pay a commission to a broker
31 of another state.

32 ~~No~~

33 (b) *No real estate salesperson shall be employed by or accept*
34 *compensation from any person other than the broker under whom*
35 *he or she is at the time licensed.*

36 ~~It~~

37 (c) *It is unlawful for any licensed real estate salesperson to pay*
38 *any compensation for performing any of the acts within the scope*
39 *of this chapter to any real estate licensee except through the broker*
40 *under whom he or she is at the time licensed.*

1 For

2 (d) For a violation of any of the provisions of this section, the
 3 commissioner may temporarily suspend or permanently revoke
 4 the license of the real estate licensee, in accordance with the
 5 provisions of this part relating to hearings.

6 (e) This section shall repeal on July 1, 2018.

7 SEC. 75. Section 10137 is added to the Business and
 8 Professions Code, to read:

9 10137. (a) It is unlawful for any licensed real estate broker
 10 to compensate, directly or indirectly, any person for performing
 11 any of the acts within the scope of this chapter who is not a licensed
 12 real estate broker, or a real estate salesperson licensed under the
 13 broker affiliated with that broker or to compensate, directly or
 14 indirectly that person's broker, any licensee for engaging in any
 15 activity for which a mortgage loan originator license endorsement
 16 is required, if that licensee does not hold a mortgage loan
 17 originator license endorsement; provided, however, that a licensed
 18 real estate broker may pay a commission to a broker of another
 19 state.

20 (b) No real estate salesperson shall accept compensation for
 21 activity requiring a real estate license from any person other than
 22 the broker under whom he or she is at the time licensed.

23 (c) It is unlawful for any licensed real estate salesperson to pay
 24 any compensation for performing any of the acts within the scope
 25 of this chapter to any real estate licensee except through the
 26 responsible broker under whom he or she is at the time licensed.
 27 A licensee may enter into an agreement with another licensee to
 28 share such compensation provided that any such compensation is
 29 paid through the responsible broker.

30 (d) For a violation of any of the provisions of this section, the
 31 commissioner may temporarily suspend or permanently revoke
 32 the license of the real estate licensee, in accordance with the
 33 provisions of this part relating to hearings.

34 (e) This section shall become operative on July 1, 2018.

35 SEC. 76. Section 10140.5 of the Business and Professions Code
 36 is amended to read:

37 10140.5. (a) Each advertisement or other statement which is
 38 published by a real estate broker or salesman offering to assist
 39 persons to file applications for the purchase or lease of, or to locate
 40 or enter upon, lands owned by the State or Federal Government

1 *state or federal government shall, when published, indicate the*
2 *name of the broker for whom it is published and state that he is*
3 *licensed as a real estate broker by the State of California.*

4 *(b) This section shall repeal on July 1, 2018.*

5 *SEC. 77. Section 10140.5 is added to the Business and*
6 *Professions Code, to read:*

7 *10140.5. (a) Each advertisement or other statement which is*
8 *published by a real estate broker or salesperson offering to assist*
9 *persons to file applications for the purchase or lease of, or to*
10 *locate or enter upon, lands owned by the state or federal*
11 *government shall, when published, indicate the name of the broker*
12 *for whom it is published and state that he is licensed as a real*
13 *estate broker by the State of California.*

14 *(b) This section shall become operative on July 1, 2018.*

15 *SEC. 78. Section 10142 of the Business and Professions Code*
16 *is amended to read:*

17 *10142. (a) When a licensee prepares or has prepared an*
18 *agreement authorizing or employing such licensee to perform any*
19 *of the acts for which he is required to hold a license, or when such*
20 *licensee secures the signature of any person to any contract*
21 *pertaining to such services or transaction, he shall deliver a copy*
22 *of the agreement to the person signing it at the time the signature*
23 *is obtained.*

24 *(b) This section shall repeal on July 1, 2018.*

25 *SEC. 79. Section 10142 is added to the Business and*
26 *Professions Code, to read:*

27 *10142. (a) When a licensee prepares or has prepared an*
28 *agreement authorizing or retaining such licensee to perform any*
29 *of the acts for which he is required to hold a license, or when such*
30 *licensee secures the signature of any person to any contract*
31 *pertaining to such services or transaction, he shall deliver a copy,*
32 *either in printed or electronic format, of the agreement to the*
33 *person signing it as soon as practicable after the time the signature*
34 *is obtained.*

35 *(b) This section shall become operative on July 1, 2018.*

36 *SEC. 80. Section 10143.5 of the Business and Professions Code*
37 *is amended to read:*

38 *10143.5. (a) Any real estate broker who assists another or*
39 *others, or whose real estate salesmen assist another or others, for*
40 *a compensation, in filing an application for the purchase or lease*

1 of, or in locating or entering upon, lands owned by the State or
2 Federal Government shall report to the commissioner the names
3 and addresses of all persons he or his salesmen have assisted in
4 filing applications for land owned by the State or Federal
5 Government and the amount of compensation received from such
6 persons. The report shall be filed quarterly within 10 days after
7 the end of each calendar quarter.

8 *(b) This section shall repeal on July 1, 2018.*

9 *SEC. 81. Section 10143.5 is added to the Business and*
10 *Professions Code, to read:*

11 *10143.5. (a) Any real estate broker who assists another or*
12 *others, or whose real estate salespersons assist another or others,*
13 *for a compensation, in filing an application for the purchase or*
14 *lease of, or in locating or entering upon, lands owned by the state*
15 *or federal government shall report to the commissioner the names*
16 *and addresses of all persons he or his salespersons have assisted*
17 *in filing applications for land owned by the state or federal*
18 *government and the amount of compensation received from such*
19 *persons. The report shall be filed quarterly within 10 days after*
20 *the end of each calendar quarter.*

21 *(b) This section shall become operative on July 1, 2018.*

22 *SEC. 82. Section 10144 of the Business and Professions Code*
23 *is amended to read:*

24 *10144. (a) The commissioner may prescribe by regulation*
25 *the information which shall be contained in contracts or other*
26 *agreements by a real estate broker, or a real estate salesman, to*
27 *assist another or others in filing an application for the purchase or*
28 *lease of, or in locating or entering upon, lands owned by the State*
29 *or Federal Government, including, but not limited to, information*
30 *with regard to the services agreed to be performed and information*
31 *with regard to the hazards which may prevent the person to be*
32 *assisted in filing an application with the State or Federal*
33 *Government ever receiving any state or federal land under the*
34 *application.*

35 *(b) This section shall repeal on July 1, 2018.*

36 *SEC. 83. Section 10144 is added to the Business and*
37 *Professions Code, to read:*

38 *10144. (a) The commissioner may prescribe by regulation the*
39 *information which shall be contained in contracts or other*
40 *agreements by a real estate broker, or a real estate salesperson,*

1 to assist another or others in filing an application for the purchase
2 or lease of, or in locating or entering upon, lands owned by the
3 state or federal government, including, but not limited to,
4 information with regard to the services agreed to be performed
5 and information with regard to the hazards which may prevent
6 the person to be assisted in filing an application with the state or
7 federal government ever receiving any state or federal land under
8 the application.

9 (b) This section shall become operative on July 1, 2018.

10 SEC. 84. Section 10158 of the Business and Professions Code
11 is amended to read:

12 10158. (a) When a real estate license is issued to a
13 corporation, if it desires any of its officers other than the officer
14 designated by it pursuant to Section 10211, to act under its license
15 as a real estate broker, it shall procure an additional license to so
16 employ each of such additional officers.

17 (b) This section shall repeal on July 1, 2018.

18 SEC. 85. Section 10158 is added to the Business and
19 Professions Code, to read:

20 10158. (a) When a real estate license is issued to a
21 corporation, if it desires any of its officers other than the officer
22 designated by it pursuant to Section 10211, to act under its license
23 as a real estate broker, it shall procure an additional license to
24 retain each of such additional officers. In the event of death or
25 incapacity of a sole designated broker-officer, a corporation may
26 operate continuously under its existing license if notice of the event
27 is filed with the bureau before midnight of the 10th day after the
28 event.

29 (b) This section shall become operative on July 1, 2018.

30 SEC. 86. Section 10159 of the Business and Professions Code
31 is amended to read:

32 10159. (a) Each officer of a corporation through whom it is
33 licensed to act as a real estate broker is, while so employed under
34 such license, a licensed real estate broker, but licensed only to act
35 as such for and on behalf of the corporation as an officer.

36 (b) This section shall repeal on July 1, 2018.

37 SEC. 87. Section 10159 is added to the Business and
38 Professions Code, to read:

39 10159. Each officer of a corporation through whom it is
40 licensed to act as a real estate broker need not be a licensed real

1 estate broker, but if not, is licensed only to act as such for and on
2 behalf of the corporation as an officer. This does not preclude a
3 designated corporate officer who has a separate individual license
4 from conducting licensed activity for another entity if the entity
5 for which he or she acts is clearly disclosed and apparent to any
6 member of the public using his or her services outside the
7 corporation.

8 When a corporation wishes to act as a real estate broker, the
9 corporation shall be licensed by the bureau through qualified
10 broker officers, who have either passed the broker license
11 examination and are now qualified to obtain a broker license, or
12 who are currently licensed as real estate brokers. An officer of a
13 corporation through whom it is licensed to act need not maintain
14 an individual broker's license, but is otherwise subject to all duties
15 and responsibilities of a licensed broker.

16 This section shall become operative on July 1, 2018.

17 SEC. 88. Section 10159.6 of the Business and Professions Code
18 is amended to read:

19 10159.6. All of the following apply to use of a team name, as
20 defined in paragraph (5) of subdivision (a) of Section 10159.7:

21 (a) Notwithstanding subdivision (b) of Section 10140.6,
22 advertising and solicitation materials that contain a team name,
23 including print or electronic media and "for sale" signage, shall
24 include, and display in a conspicuous and prominent manner, the
25 team name and the name and license number of at least one of the
26 licensed members of the team.

27 (b) The responsible broker's identity, as defined in paragraph
28 (1) of subdivision (a) of Section 10159.7, shall be displayed as
29 prominently and conspicuously as the team name in all advertising
30 and solicitation materials.

31 (c) The advertising and solicitation materials shall not contain
32 terms that imply the existence of a real estate entity independent
33 of the responsible broker.

34 (d) Notwithstanding Section 10185, a violation of this section
35 is not a misdemeanor.

36 (e) This section shall repeal on July 1, 2018.

37 SEC. 89. Section 10159.6 is added to the Business and
38 Professions Code, to read:

39 10159.6. All of the following apply to use of a team name, as
40 defined in paragraph (3) of subdivision (a) of Section 10159.7:

1 (a) Notwithstanding subdivision (b) of Section 10140.6,
2 advertising and solicitation materials that contain a team name,
3 including print or electronic media and “for sale” signage, shall
4 include, and display in a conspicuous and prominent manner, the
5 team name and the name and license number of at least one of the
6 licensed members of the team.

7 (b) The responsible broker’s identity shall be displayed as
8 prominently and conspicuously as the team name in all advertising
9 and solicitation materials.

10 (c) The advertising and solicitation materials shall not contain
11 terms that imply the existence of a real estate entity independent
12 of the responsible broker.

13 (d) Notwithstanding Section 10185, a violation of this section
14 is not a misdemeanor.

15 (e) This section shall become operative on July 1, 2018.

16 SEC. 90. Section 10159.7 of the Business and Professions Code
17 is amended to read:

18 10159.7. (a) For the purposes of this article, the following
19 definitions shall apply:

20 (1) “Responsible broker’s identity” means a name and the
21 associated license identification number under which the
22 responsible broker is currently licensed by the bureau and conducts
23 business in general or is a substantial division of the real estate
24 firm. Responsible broker’s identity does not include a fictitious
25 business name obtained pursuant to paragraph (2) of subdivision
26 (a) of Section 10159.5 or the use of a team name pursuant to
27 Section 10159.6.

28 (2) “Fictitious business name” means a professional identity or
29 brand name under which activity requiring a real estate license is
30 conducted and the use of which is subject to approval by the bureau
31 pursuant to Section 10159.5.

32 (3) “Ownership of a fictitious business name” means the right
33 to use, renew, and control the use of a fictitious business name
34 obtained in accordance with Section 10159.5.

35 (4) “Responsible broker” means the broker responsible for the
36 exercise of control and supervision of salespersons under Section
37 10159.2, or a licensee subject to discipline under subdivision (h)
38 of Section 10177 for failure to supervise activity requiring a real
39 estate license. The supervision of a salesperson required under this

1 part or any other law is limited to regulatory compliance and
2 consumer protection.

3 (5) “Team name” means a professional identity or brand name
4 used by a salesperson, and one or more other real estate licensees,
5 for the provision of real estate licensed services. Notwithstanding
6 any other law, the use of a team name does not require that a
7 separate license be issued for that name pursuant to Section
8 10159.5. A team name does not constitute a fictitious business
9 name for purposes of this part or any other law or for purposes of
10 filing a fictitious business name statement with an application as
11 required by subdivision (a) of Section 10159.5 if all of the
12 following apply:

13 (A) The name is used by two or more real estate licensees who
14 work together to provide licensed real estate services, or who
15 represent themselves to the public as being a part of a team, group,
16 or association to provide those services.

17 (B) The name includes the surname of at least one of the licensee
18 members of the team, group, or association in conjunction with
19 the term “associates,” “group,” or “team.”

20 (C) The name does not include any term or terms, such as “real
21 estate broker,” “real estate brokerage,” “broker,” or “brokerage”
22 or any other term that would lead a member of the public to believe
23 that the team is offering real estate brokerage services, that imply
24 or suggest the existence of a real estate entity independent of a
25 responsible broker.

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

28 (c) *This section shall repeal on July 1, 2018.*

29 *SEC. 91. Section 10159.7 is added to the Business and*
30 *Professions Code, to read:*

31 *10159.7. (a) For the purposes of this article, the following*
32 *definitions shall apply:*

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

37 (2) *“Ownership of a fictitious business name” means the right*
38 *to use, renew, and control the use of a fictitious business name*
39 *obtained in accordance with Section 10159.5.*

1 (3) “Team name” means a professional identity or brand name
2 used by a salesperson, and one or more other real estate licensees,
3 for the provision of real estate licensed services. Notwithstanding
4 any other law, the use of a team name does not require that a
5 separate license be issued for that name pursuant to Section
6 10159.5. A team name does not constitute a fictitious business
7 name for purposes of this part or any other law or for purposes
8 of filing a fictitious business name statement with an application
9 as required by subdivision (a) of Section 10159.5 if all of the
10 following apply:

11 (A) The name is used by two or more real estate licensees who
12 work together to provide licensed real estate services, or who
13 represent themselves to the public as being a part of a team, group,
14 or association to provide those services.

15 (B) The name includes the surname of at least one of the licensee
16 members of the team, group, or association in conjunction with
17 the term “associates,” “group,” or “team.”

18 (C) The name does not include any term or terms, such as “real
19 estate broker,” “real estate brokerage,” “broker,” or “brokerage”
20 or any other term that would lead a member of the public to believe
21 that the team is offering real estate brokerage services, that imply
22 or suggest the existence of a real estate entity independent of a
23 responsible broker.

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

26 (c) This section shall become operative on July 1, 2018.

27 SEC. 92. Section 10160 of the Business and Professions Code
28 is amended to read:

29 10160. (a) The real estate salesman’s license shall remain in
30 the possession of the licensed real estate broker employer until
31 canceled or until the salesman leaves the employ of the broker,
32 and the broker shall make his license and the licenses of his
33 salesman available for inspection by the commissioner or his
34 designated representative.

35 (b) This section shall repeal on July 1, 2017.

36 SEC. 93. Section 10161.5 of the Business and Professions Code
37 is amended to read:

38 10161.5. (a) When the holder of a real estate broker’s or
39 salesman’s license is required to relinquish his license to assume
40 an office in local, state, or federal government, he may have it

1 reinstated at any time within six months of termination of his
2 service in office upon payment of the appropriate renewal fee, and
3 compliance with the provisions of Article 2.5 (commencing with
4 Section 10170) of this chapter, if the relinquished license was
5 issued four or more years prior to his application for reinstatement.

6 *(b) This section shall repeal on July 1, 2018.*

7 *SEC. 94. Section 10161.5 is added to the Business and*
8 *Professions Code, to read:*

9 *10161.5. (a) When the holder of a real estate broker's or*
10 *salesperson's license is required to relinquish his license to assume*
11 *an office in local, state, or federal government, he may have it*
12 *reinstated at any time within six months of termination of his*
13 *service in office upon payment of the appropriate renewal fee, and*
14 *compliance with the provisions of Article 2.5 (commencing with*
15 *Section 10170) of this chapter, if the relinquished license was*
16 *issued four or more years prior to his application for reinstatement.*

17 *(b) This section shall become operative on July 1, 2018.*

18 *SEC. 95. Section 10161.8 of the Business and Professions Code*
19 *is amended to read:*

20 *10161.8. (a) Whenever a real estate salesman enters the employ*
21 *of a real estate broker, the broker shall immediately notify the*
22 *commissioner thereof in writing.*

23 *(b) Whenever employment of a real estate salesman is*
24 *terminated, the broker shall immediately notify the commissioner*
25 *thereof in writing.*

26 *(c) Whenever a licensee acquires a business address different*
27 *from the address shown on his license he shall mark out the former*
28 *address on the face of the license and type or write the new main*
29 *office address in ink on the reverse side, and date and initial same.*

30 *(d) Whenever a real estate salesman enters the employ of a new*
31 *real estate broker he shall mark out the name of his former broker*
32 *on the face of the license and type or write the name of the new*
33 *employing broker in ink on the reverse side, and date and initial*
34 *same.*

35 *(e) This section shall repeal on July 1, 2018.*

36 *SEC. 96. Section 10161.8 is added to the Business and*
37 *Professions Code, to read:*

38 *10161.8. (a) A broker and a real estate licensee shall*
39 *immediately notify the commissioner in a manner designated by*
40 *the commissioner whenever any of the following occur:*

1 (1) A real estate licensee affiliates as an independent contractor
2 with or is otherwise retained by a real estate broker to conduct
3 licensed activities.

4 (2) A real estate licensee's affiliation with a broker is
5 terminated.

6 (3) A real estate licensee affiliated with or retained by a broker
7 acquires a business address different from the address shown on
8 the records maintained by the commissioner.

9 (4) A real estate licensee affiliates as an independent contractor,
10 or is otherwise retained by, a new real estate broker to conduct
11 licensed activities.

12 (b) This section shall become operative on July 1, 2018.

13 SEC. 97. Section 10164 of the Business and Professions Code
14 is amended to read:

15 10164. (a) An employing broker or corporate designated broker
16 officer may appoint a licensee as a manager of a branch office or
17 division of the employing broker's or employing corporate
18 designated broker officer's real estate business and delegate to the
19 appointed manager the responsibility to oversee day-to-day
20 operations, supervise the licensed activities of licensees, and
21 supervise clerical staff employed in the branch office or division.

22 (b) Notwithstanding subdivision (a), nothing in this section shall
23 be construed to limit the responsibilities of an employing broker
24 or a corporate designated broker officer pursuant to subdivision
25 (h) of Section 10177. A licensee accepting appointment as a
26 manager shall be subject to disciplinary action pursuant to Section
27 10165 for failure to properly supervise licensed activity pursuant
28 to subdivision (a).

29 (c) Appointment of a manager shall only be made by means of
30 a written contract in which the manager accepts the delegated
31 responsibility. The appointing employing broker or corporate
32 designated broker officer shall retain a copy of the contract and
33 send a notice to the department, in a form approved by the
34 commissioner, identifying the appointed manager and the branch
35 office or division the manager is appointed to supervise.

36 (d) A licensee shall not be appointed as a manager if any of the
37 following apply:

38 (1) The licensee holds a restricted license.

39 (2) The licensee is or has been subject to an order of debarment.

1 (3) The licensee is a salesperson with less than two years of
2 full-time real estate experience within five years preceding the
3 appointment.

4 (e) Whenever an appointment of a branch manager is terminated
5 or changed, the employing broker or corporate designated broker
6 officer shall immediately notify the commissioner thereof in
7 writing.

8 (f) This section shall ~~become operative on July 1, 2012. repeal~~
9 ~~on July 1, 2018.~~

10 SEC. 98. Section 10164 is added to the Business and
11 Professions Code, to read:

12 10164. (a) A responsible broker or corporate designated
13 broker officer may appoint a licensee as a manager of a branch
14 office or division of the broker's real estate business and delegate
15 to the appointed manager the responsibility to oversee day-to-day
16 operations, supervise the licensed activities of licensees, and
17 supervise clerical staff employed in the branch office or division.

18 (b) Notwithstanding subdivision (a), nothing in this section shall
19 be construed to limit the responsibilities of a responsible broker
20 or a designated broker corporate officer pursuant to subdivision
21 (h) of Section 10177. A licensee accepting appointment as a
22 manager shall be subject to disciplinary action pursuant to Section
23 10165 for failure to properly supervise licensed activity pursuant
24 to subdivision (a).

25 (c) Appointment of a manager shall only be made by means of
26 a written contract in which the manager accepts the delegated
27 responsibility. The appointing broker shall retain a copy of the
28 contract and send a notice to the department, in a form approved
29 by the commissioner, identifying the appointed manager and the
30 branch office or division the manager is appointed to supervise.

31 (d) A licensee shall not be appointed as a manager if any of the
32 following apply:

33 (1) The licensee holds a restricted license.

34 (2) The licensee is or has been subject to an order of debarment.

35 (3) The licensee is a salesperson with less than two years of
36 full-time real estate experience within five years preceding the
37 appointment.

38 (e) Whenever an appointment of a branch manager is terminated
39 or changed, the appointing broker shall immediately notify the
40 commissioner thereof in writing.

1 (f) *This section shall become operative on July 1, 2018.*

2 SEC. 99. *Section 10166.03 of the Business and Professions*
3 *Code is amended to read:*

4 10166.03. (a) A loan processor or underwriter who does not
5 represent to the public, through advertising or other means of
6 communicating or providing information, including the use of
7 business cards, stationery, brochures, signs, rate lists, or other
8 promotional items, that the individual can or will perform any of
9 the activities of a mortgage loan originator shall not be required
10 to obtain a license endorsement as a mortgage loan originator.

11 (b) An individual engaging solely in loan processor or
12 underwriter activities shall not represent to the public, through
13 advertising or other means of communicating or providing
14 information including the use of business cards, stationery,
15 brochures, signs, rate lists, or other promotional items, that the
16 individual can or will perform any of the activities of a mortgage
17 loan originator.

18 (c) An independent contractor who is employed by a mortgage
19 loan originator may not engage in the activities of a loan processor
20 or underwriter for a residential mortgage loan unless the
21 independent contractor loan processor or underwriter obtains and
22 maintains an endorsement as a mortgage loan originator under this
23 article. Each independent contractor loan processor or underwriter
24 who obtains and maintains an endorsement as a mortgage loan
25 originator under this article shall have and maintain a valid unique
26 identifier issued by the Nationwide Mortgage Licensing System
27 and Registry.

28 (d) *This section shall repeal on July 1, 2018.*

29 SEC. 100. *Section 10166.03 is added to the Business and*
30 *Professions Code, to read:*

31 10166.03. (a) *A loan processor or underwriter who does not*
32 *represent to the public, through advertising or other means of*
33 *communicating or providing information, including the use of*
34 *business cards, stationery, brochures, signs, rate lists, or other*
35 *promotional items, that the individual can or will perform any of*
36 *the activities of a mortgage loan originator shall not be required*
37 *to obtain a license endorsement as a mortgage loan originator.*

38 (b) *An individual engaging solely in loan processor or*
39 *underwriter activities shall not represent to the public, through*
40 *advertising or other means of communicating or providing*

1 information including the use of business cards, stationery,
2 brochures, signs, rate lists, or other promotional items, that the
3 individual can or will perform any of the activities of a mortgage
4 loan originator.

5 (c) An independent contractor who is retained by a mortgage
6 loan originator may not engage in the activities of a loan processor
7 or underwriter for a residential mortgage loan unless the
8 independent contractor loan processor or underwriter obtains and
9 maintains an endorsement as a mortgage loan originator under
10 this article. Each independent contractor loan processor or
11 underwriter who obtains and maintains an endorsement as a
12 mortgage loan originator under this article shall have and maintain
13 a valid unique identifier issued by the Nationwide Mortgage
14 Licensing System and Registry.

15 (d) This section shall become operative on July 1, 2018.

16 SEC. 101. Section 10176 of the Business and Professions Code
17 is amended to read:

18 10176. (a) The commissioner may, upon his or her own
19 motion, and shall, upon the verified complaint in writing of any
20 person, investigate the actions of any person engaged in the
21 business or acting in the capacity of a real estate licensee within
22 this state, and he or she may temporarily suspend or permanently
23 revoke a real estate license at any time where the licensee, while
24 a real estate licensee, in performing or attempting to perform any
25 of the acts within the scope of this chapter has been guilty of any
26 of the following:

27 (a)

28 (1) Making any substantial misrepresentation.

29 (b)

30 (2) Making any false promises of a character likely to influence,
31 persuade, or induce.

32 (c)

33 (3) A continued and flagrant course of misrepresentation or
34 making of false promises through real estate agents or salespersons.

35 (d)

36 (4) Acting for more than one party in a transaction without the
37 knowledge or consent of all parties thereto.

38 (e)

1 (5) Commingling with his or her own money or property the
2 money or other property of others which is received and held by
3 him or her.

4 ~~(f)~~

5 (6) Claiming, demanding, or receiving a fee, compensation, or
6 commission under any exclusive agreement authorizing or
7 employing a licensee to perform any acts set forth in Section 10131
8 for compensation or commission where the agreement does not
9 contain a definite, specified date of final and complete termination.

10 ~~(g)~~

11 (7) The claiming or taking by a licensee of any secret or
12 undisclosed amount of compensation, commission, or profit or the
13 failure of a licensee to reveal to the employer of the licensee the
14 full amount of the licensee's compensation, commission, or profit
15 under any agreement authorizing or employing the licensee to do
16 any acts for which a license is required under this chapter for
17 compensation or commission prior to or coincident with the signing
18 of an agreement evidencing the meeting of the minds of the
19 contracting parties, regardless of the form of the agreement,
20 whether evidenced by documents in an escrow or by any other or
21 different procedure.

22 ~~(h)~~

23 (8) The use by a licensee of any provision allowing the licensee
24 an option to purchase in an agreement authorizing or employing
25 the licensee to sell, buy, or exchange real estate or a business
26 opportunity for compensation or commission, except when the
27 licensee prior to or coincident with election to exercise the option
28 to purchase reveals in writing to the employer the full amount of
29 the licensee's profit and obtains the written consent of the employer
30 approving the amount of the profit.

31 ~~(i)~~

32 (9) Any other conduct, whether of the same or a different
33 character than specified in this section, which constitutes fraud or
34 dishonest dealing.

35 ~~(j)~~

36 (10) Obtaining the signature of a prospective purchaser to an
37 agreement which provides that the prospective purchaser shall
38 either transact the purchasing, leasing, renting, or exchanging of
39 a business opportunity property through the broker obtaining the
40 signature, or pay a compensation to the broker if the property is

1 purchased, leased, rented, or exchanged without the broker first
 2 having obtained the written authorization of the owner of the
 3 property concerned to offer the property for sale, lease, exchange,
 4 or rent.

5 ~~(k)~~

6 (11) Failing to disburse funds in accordance with a commitment
 7 to make a mortgage loan that is accepted by the applicant when
 8 the real estate broker represents to the applicant that the broker is
 9 either of the following:

10 ~~(1)~~

11 (A) The lender.

12 ~~(2)~~

13 (B) Authorized to issue the commitment on behalf of the lender
 14 or lenders in the mortgage loan transaction.

15 ~~(t)~~

16 (12) Intentionally delaying the closing of a mortgage loan for
 17 the sole purpose of increasing interest, costs, fees, or charges
 18 payable by the borrower.

19 ~~(m)~~

20 (13) Violating any section, division, or article of law which
 21 provides that a violation of that section, division, or article of law
 22 by a licensed person is a violation of that person's licensing law,
 23 if it occurs within the scope of that person's duties as a licensee.

24 (b) *This section shall repeal on July 1, 2018.*

25 *SEC. 102. Section 10176 is added to the Business and*
 26 *Professions Code, to read:*

27 *10176. (a) The commissioner may, upon his or her own motion,*
 28 *and shall, upon the verified complaint in writing of any person,*
 29 *investigate the actions of any person engaged in the business or*
 30 *acting in the capacity of a real estate licensee within this state,*
 31 *and he or she may temporarily suspend or permanently revoke a*
 32 *real estate license at any time where the licensee, while a real*
 33 *estate licensee, in performing or attempting to perform any of the*
 34 *acts within the scope of this chapter has been guilty of any of the*
 35 *following:*

36 *(1) Making any substantial misrepresentation.*

37 *(2) Making any false promises of a character likely to influence,*
 38 *persuade, or induce.*

39 *(3) A continued and flagrant course of misrepresentation or*
 40 *making of false promises through licensees.*

1 (4) Acting for more than one party in a transaction without the
2 knowledge or consent of all parties thereto.

3 (5) Commingling with his or her own money or property the
4 money or other property of others which is received and held by
5 him or her.

6 (6) Claiming, demanding, or receiving a fee, compensation, or
7 commission under any exclusive agreement authorizing or
8 retaining a licensee to perform any acts set forth in Section 10131
9 for compensation or commission where the agreement does not
10 contain a definite, specified date of final and complete termination.

11 (7) The claiming or taking by a licensee of any secret or
12 undisclosed amount of compensation, commission, or profit or the
13 failure of a licensee to reveal to the principal retaining the licensee
14 the full amount of the licensee's compensation, commission, or
15 profit under any agreement authorizing or retaining the licensee
16 to do any acts for which a license is required under this chapter
17 for compensation or commission prior to or coincident with the
18 signing of an agreement evidencing the meeting of the minds of
19 the contracting parties, regardless of the form of the agreement,
20 whether evidenced by documents in an escrow or by any other or
21 different procedure.

22 (8) The use by a licensee of any provision allowing the licensee
23 an option to purchase in an agreement authorizing or retaining
24 the licensee to sell, buy, or exchange real estate or a business
25 opportunity for compensation or commission, except when the
26 licensee prior to or coincident with election to exercise the option
27 to purchase reveals in writing to the responsible broker the full
28 amount of the licensee's profit and obtains the written consent of
29 the responsible broker approving the amount of the profit.

30 (9) Any other conduct, whether of the same or of a different
31 character than specified in this section, which constitutes fraud
32 or dishonest dealing.

33 (10) Obtaining the signature of a prospective purchaser to an
34 agreement which provides that the prospective purchaser shall
35 either transact the purchasing, leasing, renting, or exchanging of
36 a business opportunity property through the broker obtaining the
37 signature or pay a compensation to the broker if the property is
38 purchased, leased, rented, or exchanged without the broker first
39 having obtained the written authorization of the owner of the

1 *property concerned to offer the property for sale, lease, exchange,*
2 *or rent.*

3 *(11) Failing to disburse funds in accordance with a commitment*
4 *to make a mortgage loan that is accepted by the applicant when*
5 *the real estate broker represents to the applicant that the broker*
6 *is either of the following:*

7 *(A) The lender.*

8 *(B) Authorized to issue the commitment on behalf of the lender*
9 *or lenders in the mortgage loan transaction.*

10 *(12) Intentionally delaying the closing of a mortgage loan for*
11 *the sole purpose of increasing interest, costs, fees, or charges*
12 *payable by the borrower.*

13 *(13) Violating any section, division, or article of law which*
14 *provides that a violation of that section, division, or article of law*
15 *by a licensed person is a violation of that person's licensing law*
16 *if it occurs within the scope of that person's duties as a licensee.*

17 *(b) This section shall become operative on July 1, 2018.*

18 *SEC. 103. Section 10177 of the Business and Professions Code*
19 *is amended to read:*

20 10177. The commissioner may suspend or revoke the license
21 of a real estate licensee, delay the renewal of a license of a real
22 estate licensee, or deny the issuance of a license to an applicant,
23 who has done any of the following, or may suspend or revoke the
24 license of a corporation, delay the renewal of a license of a
25 corporation, or deny the issuance of a license to a corporation, if
26 an officer, director, or person owning or controlling 10 percent or
27 more of the corporation's stock has done any of the following:

28 (a) Procured, or attempted to procure, a real estate license or
29 license renewal, for himself or herself or a salesperson, by fraud,
30 misrepresentation, or deceit, or by making a material misstatement
31 of fact in an application for a real estate license, license renewal,
32 or reinstatement.

33 (b) Entered a plea of guilty or nolo contendere to, or been found
34 guilty of, or been convicted of, a felony, or a crime substantially
35 related to the qualifications, functions, or duties of a real estate
36 licensee, and the time for appeal has elapsed or the judgment of
37 conviction has been affirmed on appeal, irrespective of an order
38 granting probation following that conviction, suspending the
39 imposition of sentence, or of a subsequent order under Section
40 1203.4 of the Penal Code allowing that licensee to withdraw his

1 or her plea of guilty and to enter a plea of not guilty, or dismissing
2 the accusation or information.

3 (c) Knowingly authorized, directed, connived at, or aided in the
4 publication, advertisement, distribution, or circulation of a material
5 false statement or representation concerning his or her designation
6 or certification of special education, credential, trade organization
7 membership, or business, or concerning a business opportunity or
8 a land or subdivision, as defined in Chapter 1 (commencing with
9 Section 11000) of Part 2, offered for sale.

10 (d) Willfully disregarded or violated the Real Estate Law (Part
11 1 (commencing with Section 10000)) or Chapter 1 (commencing
12 with Section 11000) of Part 2 or the rules and regulations of the
13 commissioner for the administration and enforcement of the Real
14 Estate Law and Chapter 1 (commencing with Section 11000) of
15 Part 2.

16 (e) Willfully used the term “realtor” or a trade name or insignia
17 of membership in a real estate organization of which the licensee
18 is not a member.

19 (f) Acted or conducted himself or herself in a manner that would
20 have warranted the denial of his or her application for a real estate
21 license, or either had a license denied or had a license issued by
22 another agency of this state, another state, or the federal
23 government revoked or suspended for acts that, if done by a real
24 estate licensee, would be grounds for the suspension or revocation
25 of a California real estate license, if the action of denial, revocation,
26 or suspension by the other agency or entity was taken only after
27 giving the licensee or applicant fair notice of the charges, an
28 opportunity for a hearing, and other due process protections
29 comparable to the Administrative Procedure Act (Chapter 3.5
30 (commencing with Section 11340), Chapter 4 (commencing with
31 Section 11370), and Chapter 5 (commencing with Section 11500)
32 of Part 1 of Division 3 of Title 2 of the Government Code), and
33 only upon an express finding of a violation of law by the agency
34 or entity.

35 (g) Demonstrated negligence or incompetence in performing
36 an act for which he or she is required to hold a license.

37 (h) As a broker licensee, failed to exercise reasonable
38 supervision over the activities of his or her salespersons, or, as the
39 officer designated by a corporate broker licensee, failed to exercise

1 reasonable supervision and control of the activities of the
2 corporation for which a real estate license is required.

3 (i) Used his or her employment by a governmental agency in a
4 capacity giving access to records, other than public records, in a
5 manner that violates the confidential nature of the records.

6 (j) Engaged in any other conduct, whether of the same or a
7 different character than specified in this section, that constitutes
8 fraud or dishonest dealing.

9 (k) Violated any of the terms, conditions, restrictions, and
10 limitations contained in an order granting a restricted license.

11 (l) (1) Solicited or induced the sale, lease, or listing for sale or
12 lease of residential property on the ground, wholly or in part, of
13 loss of value, increase in crime, or decline of the quality of the
14 schools due to the present or prospective entry into the
15 neighborhood of a person or persons having a characteristic listed
16 in subdivision (a) or (d) of Section 12955 of the Government Code,
17 as those characteristics are defined in Sections 12926 and 12926.1,
18 subdivision (m) and paragraph (1) of subdivision (p) of Section
19 12955, and Section 12955.2 of the Government Code.

20 (2) Notwithstanding paragraph (1), with respect to familial
21 status, paragraph (1) shall not be construed to apply to housing for
22 older persons, as defined in Section 12955.9 of the Government
23 Code. With respect to familial status, nothing in paragraph (1)
24 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,
25 and 799.5 of the Civil Code, relating to housing for senior citizens.
26 Subdivision (d) of Section 51 and Section 4760 of the Civil Code
27 and subdivisions (n), (o), and (p) of Section 12955 of the
28 Government Code shall apply to paragraph (1).

29 (m) Violated the Franchise Investment Law (Division 5
30 (commencing with Section 31000) of Title 4 of the Corporations
31 Code) or regulations of the Commissioner of Corporations
32 pertaining thereto.

33 (n) Violated the Corporate Securities Law of 1968 (Division 1
34 (commencing with Section 25000) of Title 4 of the Corporations
35 Code) or the regulations of the Commissioner of Corporations
36 pertaining thereto.

37 (o) Failed to disclose to the buyer of real property, in a
38 transaction in which the licensee is an agent for the buyer, the
39 nature and extent of a licensee's direct or indirect ownership
40 interest in that real property. The direct or indirect ownership

1 interest in the property by a person related to the licensee by blood
2 or marriage, by an entity in which the licensee has an ownership
3 interest, or by any other person with whom the licensee has a
4 special relationship shall be disclosed to the buyer.

5 (p) Violated Article 6 (commencing with Section 10237).

6 (q) Violated or failed to comply with Chapter 2 (commencing
7 with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil
8 Code, related to mortgages.

9 If a real estate broker that is a corporation has not done any of
10 the foregoing acts, either directly or through its employees, agents,
11 officers, directors, or persons owning or controlling 10 percent or
12 more of the corporation's stock, the commissioner may not deny
13 the issuance or delay the renewal of a real estate license to, or
14 suspend or revoke the real estate license of, the corporation,
15 provided that any offending officer, director, or stockholder, who
16 has done any of the foregoing acts individually and not on behalf
17 of the corporation, has been completely disassociated from any
18 affiliation or ownership in the corporation. A decision by the
19 commissioner to delay the renewal of a real estate license shall
20 toll the expiration of that license until the results of any pending
21 disciplinary actions against that licensee are final, or until the
22 licensee voluntarily surrenders his, her, or its license, whichever
23 is earlier.

24 ~~This section shall become operative on July 1, 2012.~~

25 *This section shall repeal on July 1, 2018.*

26 *SEC. 104. Section 10177 is added to the Business and*
27 *Professions Code, to read:*

28 *10177. The commissioner may suspend or revoke the license*
29 *of a real estate licensee, delay the renewal of a license of a real*
30 *estate licensee, or deny the issuance of a license to an applicant,*
31 *who has done any of the following, or may suspend or revoke the*
32 *license of a corporation, delay the renewal of a license of a*
33 *corporation, or deny the issuance of a license to a corporation, if*
34 *an officer, director, or person owning or controlling 10 percent*
35 *or more of the corporation's stock has done any of the following:*

36 *(a) Procured, or attempted to procure, a real estate license or*
37 *license renewal, for himself or herself or a salesperson, by fraud,*
38 *misrepresentation, or deceit or by making a material misstatement*
39 *of fact in an application for a real estate license, license renewal,*
40 *or reinstatement.*

1 (b) Entered a plea of guilty or no contest to, or been found guilty
2 of, or been convicted of, a felony, or a crime substantially related
3 to the qualifications, functions, or duties of a real estate licensee,
4 and the time for appeal has elapsed or the judgment of conviction
5 has been affirmed on appeal, irrespective of an order granting
6 probation following that conviction, suspending the imposition of
7 sentence, or of a subsequent order under Section 1203.4 of the
8 Penal Code allowing that licensee to withdraw his or her plea of
9 guilty and to enter a plea of not guilty, or dismissing the accusation
10 or information.

11 (c) Knowingly authorized, directed, connived at, or aided in the
12 publication, advertisement, distribution, or circulation of a material
13 false statement or representation concerning his or her designation
14 or certification of special education, credential, trade organization
15 membership, or business or concerning a business opportunity or
16 a land or subdivision, as defined in Chapter 1 (commencing with
17 Section 11000) of Part 2, offered for sale.

18 (d) Willfully disregarded or violated the Real Estate Law (Part
19 1 (commencing with Section 10000)) or Chapter 1 (commencing
20 with Section 11000) of Part 2 or the rules and regulations of the
21 commissioner for the administration and enforcement of the Real
22 Estate Law and Chapter 1 (commencing with Section 11000) of
23 Part 2.

24 (e) Willfully used the term “realtor” or a trade name or insignia
25 of membership in a real estate organization of which the licensee
26 is not a member.

27 (f) Acted or conducted himself or herself in a manner that would
28 have warranted the denial of his or her application for a real estate
29 license or either had a license denied or had a license issued by
30 another agency of this state, another state, or the federal
31 government revoked, surrendered, or suspended for acts that, if
32 done by a real estate licensee, would be grounds for the suspension
33 or revocation of a California real estate license, if the action of
34 denial, revocation, surrender, or suspension by the other agency
35 or entity was taken only after giving the licensee or applicant fair
36 notice of the charges, an opportunity for a hearing, and other due
37 process protections comparable to the Administrative Procedure
38 Act (Chapter 3.5 (commencing with Section 11340), Chapter 4
39 (commencing with Section 11370), and Chapter 5 (commencing
40 with Section 11500) of Part 1 of Division 3 of Title 2 of the

1 *Government Code) and only upon an express finding of a violation*
2 *of law by the agency or entity.*

3 *(g) Demonstrated negligence or incompetence in performing*
4 *an act for which he or she is required to hold a license.*

5 *(h) As a broker licensee, failed to exercise reasonable*
6 *supervision over the activities of his or her salespersons, or, as*
7 *the officer designated by a corporate broker licensee, failed to*
8 *exercise reasonable supervision and control of the activities of the*
9 *corporation for which a real estate license is required.*

10 *(i) Used his or her employment by a governmental agency in a*
11 *capacity giving access to records, other than public records, in a*
12 *manner that violates the confidential nature of the records.*

13 *(j) Engaged in any other conduct, whether of the same or of a*
14 *different character than specified in this section, that constitutes*
15 *fraud or dishonest dealing.*

16 *(k) Violated any of the terms, conditions, restrictions, and*
17 *limitations contained in an order granting a restricted license.*

18 *(l) (1) Solicited or induced the sale, lease, or listing for sale or*
19 *lease of residential property on the grounds, wholly or in part, of*
20 *loss of value, increase in crime, or decline of the quality of the*
21 *schools due to the present or prospective entry into the*
22 *neighborhood of a person or persons having a characteristic listed*
23 *in subdivision (a) or (d) of Section 12955 of the Government Code,*
24 *as those characteristics are defined in Sections 12926 and 12926.1*
25 *of, subdivision (m) and paragraph (1) of subdivision (p) of Section*
26 *12955 of, and Section 12955.2 of, the Government Code.*

27 *(2) Notwithstanding paragraph (1), with respect to familial*
28 *status, paragraph (1) shall not be construed to apply to housing*
29 *for older persons, as defined in Section 12955.9 of the Government*
30 *Code. With respect to familial status, nothing in paragraph (1)*
31 *shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,*
32 *and 799.5 of the Civil Code, relating to housing for senior citizens.*
33 *Subdivision (d) of Section 51 and Section 4760 of the Civil Code*
34 *and subdivisions (n), (o), and (p) of Section 12955 of the*
35 *Government Code shall apply to paragraph (1).*

36 *(m) Violated the Franchise Investment Law (Division 5*
37 *commencing with Section 31000) of Title 4 of the Corporations*
38 *Code) or regulations of the Commissioner of Corporations*
39 *pertaining thereto.*

1 (n) Violated the Corporate Securities Law of 1968 (Division 1
 2 (commencing with Section 25000) of Title 4 of the Corporations
 3 Code) or the regulations of the Commissioner of Corporations
 4 pertaining thereto.

5 (o) Failed to disclose to the buyer of real property, in a
 6 transaction in which the licensee is an agent for the buyer, the
 7 nature and extent of a licensee’s direct or indirect ownership
 8 interest in that real property. The direct or indirect ownership
 9 interest in the property by a person related to the licensee by blood
 10 or marriage, by an entity in which the licensee has an ownership
 11 interest, or by any other person with whom the licensee has a
 12 special relationship shall be disclosed to the buyer.

13 (p) Violated Article 6 (commencing with Section 10237).

14 (q) Violated or failed to comply with Chapter 2 (commencing
 15 with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil
 16 Code, relating to mortgages.

17 (r) Failure to surrender a license that was issued in error or by
 18 mistake.

19 If a real estate broker that is a corporation has not done any of
 20 the foregoing acts, either directly or through its employees, agents,
 21 officers, directors, or persons owning or controlling 10 percent
 22 or more of the corporation’s stock, the commissioner may not deny
 23 the issuance or delay the renewal of a real estate license to, or
 24 suspend or revoke the real estate license of, the corporation,
 25 provided that any offending officer, director, or stockholder, who
 26 has done any of the foregoing acts individually and not on behalf
 27 of the corporation, has been completely disassociated from any
 28 affiliation or ownership in the corporation. A decision by the
 29 commissioner to delay the renewal of a real estate license shall
 30 toll the expiration of that license until the results of any pending
 31 disciplinary actions against that licensee are final or until the
 32 licensee voluntarily surrenders his, her, or its license, whichever
 33 is earlier.

34 This section shall become operative on July 1, 2018.

35 SEC. 105. Section 10178 of the Business and Professions Code
 36 is amended to read:

37 10178. (a) When any real estate salesman is discharged by his
 38 employer for a violation of any of the provisions of this article
 39 prescribing a ground for disciplinary action, a certified written
 40 statement of the facts with reference thereto shall be filed forthwith

1 with the commissioner by the employer and if the employer fails
2 to notify the commissioner as required by this section, the
3 commissioner may temporarily suspend or permanently revoke
4 the real estate license of the employer, in accordance with the
5 provisions of this part relating to hearings.

6 (b) *This section shall repeal on July 1, 2018.*

7 *SEC. 106. Section 10178 is added to the Business and*
8 *Professions Code, to read:*

9 *10178. (a) When any real estate salesperson is discharged by*
10 *his employer for a violation of any of the provisions of this article*
11 *prescribing a ground for disciplinary action, a certified written*
12 *statement of the facts with reference thereto shall be filed forthwith*
13 *with the commissioner by the employer, and if the employer fails*
14 *to notify the commissioner as required by this section, the*
15 *commissioner may temporarily suspend or permanently revoke*
16 *the real estate license of the employer, in accordance with the*
17 *provisions of this part relating to hearings.*

18 (b) *This section shall become operative on July 1, 2018.*

19 *SEC. 107. Section 10179 of the Business and Professions Code*
20 *is amended to read:*

21 *10179. (a) No violation of any of the provisions of this part*
22 *relating to real estate or of Chapter 1 of Part 2 by any real estate*
23 *salesman or employee of any licensed real estate broker shall cause*
24 *the revocation or suspension of the license of the employer of the*
25 *salesman or employee unless it appears upon a hearing by the*
26 *commissioner that the employer had guilty knowledge of such*
27 *violation.*

28 (b) *This section shall repeal on July 1, 2018.*

29 *SEC. 108. Section 10179 is added to the Business and*
30 *Professions Code, to read:*

31 *10179. (a) No violation of any of the provisions of this part*
32 *relating to real estate or of Chapter 1 of Part 2 of this division by*
33 *any real estate salesperson or employee of any licensed real estate*
34 *broker shall cause the revocation or suspension of the license of*
35 *the employer of the salesperson or employee unless it appears*
36 *upon a hearing by the commissioner that the employer had guilty*
37 *knowledge of the violation.*

38 (b) *This section shall become operative on July 1, 2018.*

39 *SEC. 109. Section 10186.2 of the Business and Professions*
40 *Code is amended to read:*

1 10186.2. (a) (1) A licensee shall report any of the following
 2 to the department:

3 (A) The bringing of an indictment or information charging a
 4 felony against the licensee.

5 (B) The conviction of the licensee, including any verdict of
 6 guilty, or plea of guilty or no contest, of any felony or
 7 misdemeanor.

8 (C) Any disciplinary action taken by another licensing entity
 9 or authority of this state or of another state or an agency of the
 10 federal government.

11 (2) The report required by this subdivision shall be made in
 12 writing within 30 days of the date of the bringing of the indictment
 13 or the charging of a felony, the conviction, or the disciplinary
 14 action.

15 (b) Failure to make a report required by this section shall
 16 constitute a cause for discipline.

17 (c) *This section shall repeal on July 1, 2018.*

18 *SEC. 110. Section 10186.2 is added to the Business and*
 19 *Professions Code, to read:*

20 *10186.2. (a) (1) A licensee shall report any of the following*
 21 *to the bureau:*

22 *(A) The bringing of a criminal complaint, information, or*
 23 *indictment charging a felony against the licensee.*

24 *(B) The conviction of the licensee, including any verdict of*
 25 *guilty, or plea of guilty or no contest, of any felony or*
 26 *misdemeanor.*

27 *(C) Any disciplinary action taken by another licensing entity or*
 28 *authority of this state or of another state or an agency of the federal*
 29 *government.*

30 *(2) The report required by this subdivision shall be made in*
 31 *writing within 30 days of the date of the bringing of the indictment*
 32 *or the charging of a felony, the conviction, or the disciplinary*
 33 *action.*

34 *(b) Failure to make a report required by this section shall*
 35 *constitute a cause for discipline.*

36 *(c) This section shall become operative on July 1, 2018.*

37 *SEC. 111. Section 10232.3 of the Business and Professions*
 38 *Code is amended to read:*

39 10232.3. (a) Any transaction that involves the sale of or offer
 40 to sell a note secured directly by an interest in one or more parcels

1 of real property or the sale of an undivided interest in a note secured
2 directly by one or more parcels of real property shall adhere to all
3 of the following:

4 (1) Except as provided in paragraph (2), the aggregate principal
5 amount of the note or interest sold, together with the unpaid
6 principal amount of any encumbrances upon the real property
7 senior thereto, shall not exceed the following percentages of the
8 current market value of each parcel of the real property, as
9 determined in writing by the broker or appraiser pursuant to Section
10 10232.6, plus the amount for which the payment of principal and
11 interest in excess of the percentage of current market value is
12 insured for the benefit of the holders of the note or interest by an
13 insurer admitted to do business in this state by the Insurance
14 Commissioner:

- 15
- 16 (A) Single-family residence, owner occupied..... 80%
- 17 (B) Single-family residence, not owner occupied..... 75%
- 18 (C) Commercial properties and income-producing properties not
- 19 described in (B) or (E)..... 65%
- 20 (D) Single-family residentially zoned lot or parcel that has installed
- 21 offsite improvements including drainage, curbs, gutters, sidewalks,
- 22 paved roads, and utilities as mandated by the political subdivision
- 23 having jurisdiction over the lot or parcel..... 65%
- 24 (E) Land that produces income from crops, timber, or minerals..... 60%
- 25 (F) Land that is not income producing but has been zoned for (and if
- 26 required, approved for subdivision as) commercial or residential
- 27 development..... 50%
- 28 (G) Other real property..... 35%
- 29

30 (2) The percentage amounts specified in paragraph (1) may be
31 exceeded when and to the extent that the broker determines that
32 the encumbrance of the property in excess of these percentages is
33 reasonable and prudent considering all relevant factors pertaining
34 to the real property. However, in no event shall the aggregate
35 principal amount of the note or interest sold, together with the
36 unpaid principal amount of any encumbrances upon the property
37 senior thereto, exceed 80 percent of the current fair market value
38 of improved real property or 50 percent of the current fair market
39 value of unimproved real property, except in the case of a
40 single-family zoned lot or parcel as defined in paragraph (1), which

1 shall not exceed 65 percent of the current fair market value of that
2 lot or parcel, plus the amount insured as specified in paragraph
3 (1). A written statement shall be prepared by the broker that sets
4 forth the material considerations and facts that the broker relies
5 upon for his or her determination, which shall be retained as a part
6 of the broker's record of the transaction. Either a copy of the
7 statement or the information contained therein shall be included
8 in the disclosures required pursuant to Section 10232.5.

9 (3) A copy of the appraisal or the broker's evaluation, for each
10 parcel of real property securing the note or interest, shall be
11 delivered to the purchaser. The broker shall advise the purchaser
12 of his or her right to receive a copy. For purposes of this paragraph,
13 "appraisal" means a written estimate of value based upon the
14 assembling, analyzing, and reconciling of facts and value indicators
15 for the real property in question. A broker shall not purport to make
16 an appraisal unless the person so employed is qualified on the basis
17 of special training, preparation, or experience.

18 (4) For construction or rehabilitation loans, where the amount
19 withheld for construction or rehabilitation at the start of the project
20 exceeds one hundred thousand dollars (\$100,000), the term "current
21 market value" may be deemed to be the value of the completed
22 project if all of the following safeguards are met:

23 (A) An independent neutral third-party escrow holder is used
24 for all deposits and disbursements relating to the construction or
25 rehabilitation of the secured property.

26 (B) The loan is fully funded, with the entire loan amount to be
27 deposited in escrow prior to recording of the deed or deeds of trust.

28 (C) A comprehensive, detailed draw schedule is used to ensure
29 proper and timely disbursements to allow for completion of the
30 project.

31 (D) The disbursement draws from the escrow account are based
32 on verification from an independent qualified person who certifies
33 that the work completed to date meets the related codes and
34 standards and that the draws were made in accordance with the
35 construction contract and draw schedule. For purposes of this
36 subparagraph, "independent qualified person" means a person who
37 is not an employee, agent, or affiliate of the broker and who is a
38 licensed architect, general contractor, structural engineer, or active
39 local government building inspector acting in his or her official
40 capacity.

1 (E) An appraisal is completed by a qualified and licensed
2 appraiser in accordance with the Uniform Standards of Professional
3 Appraisal Practice (USPAP).

4 (F) The documentation includes a detailed description of the
5 actions that may be taken in the event of a failure to complete the
6 project, whether that failure is due to default, insufficiency of
7 funds, or other causes.

8 (G) The entire amount of the loan does not exceed two million
9 five hundred thousand dollars (\$2,500,000).

10 (5) For construction or rehabilitation loans, where the amount
11 withheld for construction or rehabilitation at the start of the project
12 is one hundred thousand dollars (\$100,000) or less, the term
13 “current market value” may be deemed to be the value of the
14 completed project if all of the following safeguards are met:

15 (A) The loan is fully funded, with the entire loan amount to be
16 deposited in escrow prior to recording of the deed or deeds of trust.

17 (B) A comprehensive, detailed draw schedule is used to ensure
18 proper and timely disbursements to allow for completion of the
19 project.

20 (C) An appraisal is completed by a qualified and licensed
21 appraiser in accordance with the Uniform Standards of Professional
22 Appraisal Practice (USPAP).

23 (D) The documentation includes a detailed description of the
24 actions that may be taken in the event of a failure to complete the
25 project, whether that failure is due to default, insufficiency of
26 funds, or other causes.

27 (E) The entire amount of the loan does not exceed two million
28 five hundred thousand dollars (\$2,500,000).

29 (6) If a note or an interest will be secured by more than one
30 parcel of real property, for the purpose of determining the
31 maximum amount of the note or interest, each security property
32 shall be assigned a portion of the note or interest that shall not
33 exceed the percentage of current market value determined by, and
34 in accordance with, the provisions of paragraphs (1) and (2).

35 (b) The note or interest shall not be sold, unless the purchaser
36 meets one or both of the qualifications of income or net worth set
37 forth below and signs a statement, which shall be retained by the
38 broker for four years, conforming to the following:

39
40 “Transaction Identifier: _____

1 Name of Purchaser: _____ Date: _____

2 Check either one of the following, if true:

3 () My investment in the transaction does not exceed 10% of my net worth,
4 exclusive of home, furnishings, and automobiles.

5 () My investment in the transaction does not exceed 10% of my adjusted
6 gross income for federal income tax purposes for my last tax year or,
7 in the alternative, as estimated for the current year.

8 _____
9 Signature”

10
11 (c) This section shall repeal on July 1, 2018.

12 SEC. 112. Section 10232.3 is added to the Business and
13 Professions Code, to read:

14 10232.3. (a) Any transaction that involves the sale of or offer
15 to sell a note secured directly by an interest in one or more parcels
16 of real property or the sale of an undivided interest in a note
17 secured directly by one or more parcels of real property shall
18 adhere to all of the following:

19 (1) Except as provided in paragraph (2), the aggregate principal
20 amount of the note or interest sold, together with the unpaid
21 principal amount of any encumbrances upon the real property
22 senior thereto, shall not exceed the following percentages of the
23 current market value of each parcel of the real property, as
24 determined in writing by the broker or appraiser pursuant to
25 Section 10232.6, plus the amount for which the payment of
26 principal and interest in excess of the percentage of current market
27 value is insured for the benefit of the holders of the note or interest
28 by an insurer admitted to do business in this state by the Insurance
29 Commissioner:

- 30
- 31 (A) Single-family residence, owner occupied..... 80%
- 32 (B) Single-family residence, not owner occupied..... 75%
- 33 (C) Commercial properties and income-producing properties not
- 34 described in (B) or (E)..... 65%
- 35 (D) Single-family residentially zoned lot or parcel that has installed
- 36 offsite improvements, including drainage, curbs, gutters, sidewalks,
- 37 paved roads, and utilities as mandated by the political subdivision
- 38 having jurisdiction over the lot or parcel..... 65%
- 39 (E) Land that produces income from crops, timber, or minerals..... 60%

- 1 (F) Land that is not income producing but has been zoned for (and, if
- 2 required, approved for subdivision as) commercial or residential
- 3 development..... 50%
- 4 (G) Other real property..... 35%

5

6 (2) The percentage amounts specified in paragraph (1) may be

7 exceeded when and to the extent that the broker determines that

8 the encumbrance of the property in excess of these percentages is

9 reasonable and prudent considering all relevant factors pertaining

10 to the real property. However, in no event shall the aggregate

11 principal amount of the note or interest sold, together with the

12 unpaid principal amount of any encumbrances upon the property

13 senior thereto, exceed 80 percent of the current fair market value

14 of improved real property or 50 percent of the current fair market

15 value of unimproved real property, except in the case of a

16 single-family zoned lot or parcel as defined in paragraph (1),

17 which shall not exceed 65 percent of the current fair market value

18 of that lot or parcel, plus the amount insured as specified in

19 paragraph (1). A written statement shall be prepared by the broker

20 that sets forth the material considerations and facts that the broker

21 relies upon for his or her determination, which shall be retained

22 as part of the broker’s record of the transaction. Either a copy of

23 the statement or the information contained therein shall be included

24 in the disclosures required pursuant to Section 10232.5.

25 (3) A copy of the appraisal or the broker’s evaluation, for each

26 parcel of real property securing the note or interest, shall be

27 delivered to the purchaser. The broker shall advise the purchaser

28 of his or her right to receive a copy. For purposes of this

29 paragraph, “appraisal” means a written estimate of value based

30 upon the assembling, analyzing, and reconciling of facts and value

31 indicators for the real property in question. A broker shall not

32 purport to make an appraisal unless he or she is qualified on the

33 basis of special training, preparation, or experience.

34 (4) For construction or rehabilitation loans, where the amount

35 withheld for construction or rehabilitation at the start of the project

36 exceeds one hundred thousand dollars (\$100,000), the term

37 “current market value” may be deemed to be the value of the

38 completed project if all of the following safeguards are met:

1 (A) An independent neutral third-party escrow holder is used
2 for all deposits and disbursements relating to the construction or
3 rehabilitation of the secured property.

4 (B) The loan is fully funded, with the entire loan amount to be
5 deposited in escrow prior to the recording of the deed or deeds of
6 trust.

7 (C) A comprehensive, detailed draw schedule is used to ensure
8 proper and timely disbursements to allow for completion of the
9 project.

10 (D) The disbursement draws from the escrow account are based
11 on verification from an independent qualified person who certifies
12 that the work completed to date meets the related codes and
13 standards and that the draws were made in accordance with the
14 construction contract and draw schedule. For purposes of this
15 subparagraph, “independent qualified person” means a person
16 who is not an employee, agent, or affiliate of the broker and who
17 is a licensed architect, general contractor, structural engineer, or
18 active local government building inspector acting in his or her
19 official capacity.

20 (E) An appraisal is completed by a qualified and licensed
21 appraiser in accordance with the Uniform Standards of
22 Professional Appraisal Practice (USPAP).

23 (F) The documentation includes a detailed description of the
24 actions that may be taken in the event of a failure to complete the
25 project, whether that failure is due to default, insufficiency of funds,
26 or other causes.

27 (G) The entire amount of the loan does not exceed two million
28 five hundred thousand dollars (\$2,500,000).

29 (5) For construction or rehabilitation loans, where the amount
30 withheld for construction or rehabilitation at the start of the project
31 is one hundred thousand dollars (\$100,000) or less, the term
32 “current market value” may be deemed to be the value of the
33 completed project if all of the following safeguards are met:

34 (A) The loan is fully funded, with the entire loan amount to be
35 deposited in escrow prior to the recording of the deed or deeds of
36 trust.

37 (B) A comprehensive, detailed draw schedule is used to ensure
38 proper and timely disbursements to allow for completion of the
39 project.

1 (C) An appraisal is completed by a qualified and licensed
2 appraiser in accordance with the Uniform Standards of
3 Professional Appraisal Practice (USPAP).

4 (D) The documentation includes a detailed description of the
5 actions that may be taken in the event of a failure to complete the
6 project, whether that failure is due to default, insufficiency of funds,
7 or other causes.

8 (E) The entire amount of the loan does not exceed two million
9 five hundred thousand dollars (\$2,500,000).

10 (6) If a note or an interest will be secured by more than one
11 parcel of real property, for the purpose of determining the
12 maximum amount of the note or interest, each security property
13 shall be assigned a portion of the note or interest that shall not
14 exceed the percentage of current market value determined by, and
15 in accordance with, the provisions of paragraphs (1) and (2).

16 (b) The note or interest shall not be sold, unless the purchaser
17 meets one or both of the qualifications of income or net worth set
18 forth below and signs a statement, which shall be retained by the
19 broker for four years, conforming to the following:

20
21 “Transaction Identifier: _____

22 Name of Purchaser: _____ Date: _____

23 Check either one of the following, if true:

24 () My investment in the transaction does not exceed 10% of my net worth,
25 exclusive of home, furnishings, and automobiles.

26 () My investment in the transaction does not exceed 10% of my adjusted
27 gross income for federal income tax purposes for my last tax year or,
28 in the alternative, as estimated for the current year.

29 _____
30 Signature”

31
32 (c) This section shall become operative on July 1, 2018.

33 SEC. 113. Section 10238 of the Business and Professions Code
34 is amended to read:

35 10238. (a) A notice in the following form and containing the
36 following information shall be filed with the commissioner within
37 30 days after the first transaction and within 30 days of any material
38 change in the information required in the notice:

1 TO: Real Estate Commissioner
 2 Mortgage Loan Section
 3 1651 Exposition Boulevard
 4 Sacramento, CA 95815

5 This notice is filed pursuant to Sections 10237 and 10238 of the Business and
 6 Professions Code.

7 () Original Notice () Amended Notice

8 1. Name of Broker conducting transaction under Section 10237:
 9 _____

10
 11 2. Broker license identification number: _____

12
 13 3. List the month the fiscal year ends: _____

14
 15 4. Broker’s telephone number: _____

16
 17 5. Firm name (if different from “1”):
 18 _____

19
 20 6. Street address (main location):
 21 _____

22 # and Street City State ZIP Code
 23 _____

24 7. Mailing address (if different from “6”):
 25 _____

26
 27 8. Servicing agent: Identify by name, address, and telephone number the
 28 person or entity who will act as the servicing agent in transactions pursuant
 29 to Section 10237 (including the undersigned Broker if that is the case):
 30 _____

31 _____
 32

33 9. Total number of multilender notes arranged: _____

34
 35 10. Total number of interests sold to investors on the
 36 multilender’s notes: _____

37
 38 11. Inspection of trust account (before answering this question, review the
 39 provisions of paragraph (3) of subdivision (k) of Section 10238).

40 CHECK ONLY ONE OF THE FOLLOWING:

1 () The undersigned Broker is (or expects to be) required to file reports of
2 inspection of its trust account(s) with the Real Estate Commissioner
3 pursuant to paragraph (3) of subdivision (k) of Section 10238.

4 Amount of Multilender Payments Collected Last Fiscal Quarter: _____

5
6 Total Number of Investors Due Payments Last Fiscal Quarter: _____

7
8 () The undersigned Broker is NOT (or does NOT expect to be) required to
9 file reports of inspection of its trust account(s) with the Real Estate
10 Commissioner pursuant to paragraph (3) of subdivision (k) of Section
11 10238.

12
13 12. Signature. The contents of this notice are true and correct.

Date	Type Name of Broker
	Signature of Broker or of Designated Officer of Corporate Broker
	Type Name of Person(s) Signing This Notice

14
15
16
17
18
19
20
21
22 **NOTE: AN AMENDED NOTICE MUST BE FILED BY THE**
23 **BROKER WITHIN 30 DAYS OF ANY MATERIAL CHANGE**
24 **IN THE INFORMATION REQUIRED TO BE SET FORTH**
25 **HEREIN.**

26
27 (b) A broker or person who becomes the servicing agent for
28 notes or interests sold pursuant to this article, upon which payments
29 due during any period of three consecutive months in the aggregate
30 exceed one hundred twenty-five thousand dollars (\$125,000) or
31 the number of persons entitled to the payments exceeds 120, shall
32 file the notice required by subdivision (a) with the commissioner
33 within 30 days after becoming the servicing agent.

34 (c) All advertising employed for transactions under this article
35 shall show the name of the broker and comply with Section 10235
36 of this code and Sections 260.302 and 2848 of Title 10 of the
37 California Code of Regulations. Brokers and their agents are
38 cautioned that a reference to a prospective investor that a
39 transaction is conducted under this article may be deemed

1 misleading or deceptive if this representation may reasonably be
2 construed by the investor as an implication of merit or approval
3 of the transaction.

4 (d) Each parcel of real property directly securing the notes or
5 interests shall be located in this state, the note or notes shall not
6 by their terms be subject to subordination to any subsequently
7 created deed of trust upon the real property, and the note or notes
8 shall not be promotional notes secured by liens on separate parcels
9 of real property in one subdivision or in contiguous subdivisions.
10 For purposes of this subdivision, a promotional note means a
11 promissory note secured by a trust deed, executed on unimproved
12 real property or executed after construction of an improvement of
13 the property but before the first purchase of the property as so
14 improved, or executed as a means of financing the first purchase
15 of the property as so improved, that is subordinate, or by its terms
16 may become subordinate, to any other trust deed on the property.
17 However, the term “promotional note” does not include either of
18 the following:

19 (1) A note that was executed in excess of three years prior to
20 being offered for sale.

21 (2) A note secured by a first trust deed on real property in a
22 subdivision that evidences a bona fide loan made in connection
23 with the financing of the usual cost of the development in a
24 residential, commercial, or industrial building or buildings on the
25 property under a written agreement providing for the disbursement
26 of the loan funds as costs are incurred or in relation to the progress
27 of the work and providing for title insurance insuring the priority
28 of the security as against mechanic’s and materialmen’s liens or
29 for the final disbursement of at least 10 percent of the loan funds
30 after the expiration of the period for the filing of mechanic’s and
31 materialmen’s liens.

32 (e) The notes or interests shall be sold by or through a real estate
33 broker, as principal or agent. At the time the notes or interests are
34 originally sold or assigned, neither the broker nor an affiliate of
35 the broker shall have an interest as owner, lessor, or developer of
36 the property securing the loan, or any contractual right to acquire,
37 lease, or develop the property securing the loan. This provision
38 does not prohibit a broker from conducting the following
39 transactions if, in either case, the disclosure statement furnished
40 by the broker pursuant to subdivision (l) discloses the interest of

1 the broker or affiliate in the transaction and the circumstances
2 under which the broker or affiliate acquired the interest:

3 (1) A transaction in which the broker or an affiliate of the broker
4 is acquiring the property pursuant to a foreclosure under, or sale
5 pursuant to, a deed of trust securing a note for which the broker is
6 the servicing agent or that the broker sold to the holder or holders.

7 (2) A transaction in which the broker or an affiliate of the broker
8 is reselling from inventory property acquired by the broker pursuant
9 to a foreclosure under, or sale pursuant to, a deed of trust securing
10 a note for which the broker is the servicing agent or that the broker
11 sold to the holder or holders.

12 (f) (1) The notes or interests shall not be sold to more than 10
13 persons, each of whom meets one or both of the qualifications of
14 income or net worth set forth below and signs a statement, which
15 shall be retained by the broker for four years, conforming to the
16 following:

17
18 Transaction Identifier: _____

19 Name of Purchaser: _____ Date: _____

20 Check either one of the following, if true:

21 () My investment in the transaction does not exceed 10% of my net worth,
22 exclusive of home, furnishings, and automobiles.

23
24 () My investment in the transaction does not exceed 10% of my adjusted
25 gross income for federal income tax purposes for my last tax year or, in
26 the alternative, as estimated for the current year.

27 _____
28 Signature

29
30 (2) The number of offerees shall not be considered for the
31 purposes of this section.

32 (3) Spouses and their dependents, and an individual and his or
33 her dependents, shall be counted as one person.

34 (4) A retirement plan, trust, business trust, corporation, or other
35 entity that is wholly owned by an individual and the individual's
36 spouse or the individual's dependents, or any combination thereof,
37 shall not be counted separately from the individual, but the
38 investments of these entities shall be aggregated with those of the
39 individual for the purposes of the statement required by paragraph

40 (1). If the investments of any entities are required to be aggregated

1 under this subdivision, the adjusted gross income or net worth of
2 these entities may also be aggregated with the net worth, income,
3 or both, of the individual.

4 (5) The “institutional investors” enumerated in subdivision (i)
5 of Section 25102 or subdivision (c) of Section 25104 of the
6 Corporations Code, or in a rule adopted pursuant thereto, shall not
7 be counted.

8 (6) A partnership, limited liability company, corporation, or
9 other organization that was not specifically formed for the purpose
10 of purchasing the security offered in reliance upon this exemption
11 from securities qualification is counted as one person.

12 (g) The notes or interests of the purchasers shall be identical in
13 their underlying terms, including the right to direct or require
14 foreclosure, rights to and rate of interest, and other incidents of
15 being a lender, and the sale to each purchaser pursuant to this
16 section shall be upon the same terms, subject to adjustment for the
17 face or principal amount or percentage interest purchased and for
18 interest earned or accrued. This subdivision does not preclude
19 different selling prices for interests to the extent that these
20 differences are reasonably related to changes in the market value
21 of the loan occurring between the sales of these interests. The
22 interest of each purchaser shall be recorded pursuant to
23 subdivisions (a) to (c), inclusive, of Section 10234.

24 (h) (1) Except as provided in paragraph (2), the aggregate
25 principal amount of the notes or interests sold, together with the
26 unpaid principal amount of any encumbrances upon the real
27 property senior thereto, shall not exceed the following percentages
28 of the current market value of each parcel of the real property, as
29 determined in writing by the broker or appraiser pursuant to Section
30 10232.6, plus the amount for which the payment of principal and
31 interest in excess of the percentage of current market value is
32 insured for the benefit of the holders of the notes or interests by
33 an insurer admitted to do business in this state by the Insurance
34 Commissioner:

- 35
- 36 (A) Single-family residence, owner occupied 80%
- 37 (B) Single-family residence, not owner occupied 75%
- 38 (C) Commercial properties and income-producing properties not
- 39 described in (B) or (E)..... 65%

- 1 (D) Single-family residentially zoned lot or parcel that has installed
- 2 offsite improvements including drainage, curbs, gutters,
- 3 sidewalks, paved roads, and utilities as mandated by the political
- 4 subdivision having jurisdiction over the lot or parcel 65%
- 5 (E) Land that produces income from crops, timber, or minerals..... 60%
- 6 (F) Land that is not income producing but has been zoned for (and
- 7 if required, approved for subdivision as) commercial or
- 8 residential development 50%
- 9 (G) Other real property 35%

10
 11 (2) The percentage amounts specified in paragraph (1) may be
 12 exceeded when and to the extent that the broker determines that
 13 the encumbrance of the property in excess of these percentages is
 14 reasonable and prudent considering all relevant factors pertaining
 15 to the real property. However, in no event shall the aggregate
 16 principal amount of the notes or interests sold, together with the
 17 unpaid principal amount of any encumbrances upon the property
 18 senior thereto, exceed 80 percent of the current fair market value
 19 of improved real property or 50 percent of the current fair market
 20 value of unimproved real property, except in the case of a
 21 single-family zoned lot or parcel as defined in paragraph (1), which
 22 shall not exceed 65 percent of the current fair market value of that
 23 lot or parcel, plus the amount insured as specified in paragraph
 24 (1). A written statement shall be prepared by the broker that sets
 25 forth the material considerations and facts that the broker relies
 26 upon for his or her determination, which shall be retained as a part
 27 of the broker’s record of the transaction. Either a copy of the
 28 statement or the information contained therein shall be included
 29 in the disclosures required pursuant to subdivision (l).

30 (3) A copy of the appraisal or the broker’s evaluation, for each
 31 parcel of real property securing the notes or interests, shall be
 32 delivered to each purchaser. The broker shall advise purchasers
 33 of their right to receive a copy. For purposes of this paragraph,
 34 “appraisal” means a written estimate of value based upon the
 35 assembling, analyzing, and reconciling of facts and value indicators
 36 for the real property in question. A broker shall not purport to make
 37 an appraisal unless the person so employed is qualified on the basis
 38 of special training, preparation, or experience.

1 (4) For construction or rehabilitation loans, the term “current
2 market value” may be deemed to be the value of the completed
3 project if the following safeguards are met:

4 (A) An independent neutral third-party escrow holder is used
5 for all deposits and disbursements.

6 (B) The loan is fully funded, with the entire loan amount to be
7 deposited in escrow prior to recording of the deed or deeds of trust.

8 (C) A comprehensive, detailed draw schedule is used to ensure
9 proper and timely disbursements to allow for completion of the
10 project.

11 (D) The disbursement draws from the escrow account are based
12 on verification from an independent qualified person who certifies
13 that the work completed to date meets the related codes and
14 standards and that the draws were made in accordance with the
15 construction contract and draw schedule. For purposes of this
16 subparagraph, “independent qualified person” means a person who
17 is not an employee, agent, or affiliate of the broker and who is a
18 licensed architect, general contractor, structural engineer, or active
19 local government building inspector acting in his or her official
20 capacity.

21 (E) An appraisal is completed by a qualified and licensed
22 appraiser in accordance with the Uniform Standards of Professional
23 Appraisal Practice (USPAP).

24 (F) In addition to the transaction documentation required by
25 subdivision (i), the documentation shall include a detailed
26 description of actions that may be taken in the event of a failure
27 to complete the project, whether that failure is due to default,
28 insufficiency of funds, or other causes.

29 (G) The entire amount of the loan does not exceed two million
30 five hundred thousand dollars (\$2,500,000).

31 (5) If a note or an interest will be secured by more than one
32 parcel of real property, for the purpose of determining the
33 maximum amount of the note or interest, each security property
34 shall be assigned a portion of the note or interest that shall not
35 exceed the percentage of current market value determined by, and
36 in accordance with, the provisions of paragraphs (1) and (2).

37 (i) The documentation of the transaction shall require that (1)
38 a default upon any note or interest is a default upon all notes or
39 interests and (2) the holders of more than 50 percent of the recorded
40 beneficial interests of the notes or interests may govern the actions

1 to be taken on behalf of all holders in accordance with Section
2 2941.9 of the Civil Code in the event of default or foreclosure for
3 matters that require direction or approval of the holders, including
4 designation of the broker, servicing agent, or other person acting
5 on their behalf, and the sale, encumbrance, or lease of real property
6 owned by the holders resulting from foreclosure or receipt of a
7 deed in lieu of foreclosure. The terms called for by this subdivision
8 may be included in the deed of trust, in the assignment of interests,
9 or in any other documentation as is necessary or appropriate to
10 make them binding on the parties.

11 (j) (1) The broker shall not accept any purchase or loan funds
12 or other consideration from a prospective lender or purchaser, or
13 directly or indirectly cause the funds or other consideration to be
14 deposited in an escrow or trust account, except as to a specific loan
15 or note secured by a deed of trust that the broker owns, is
16 authorized to negotiate, or is unconditionally obligated to buy.

17 (2) All funds received by the broker from the purchasers or
18 lenders shall be handled in accordance with Section 10145 for
19 disbursement to the persons thereto entitled upon recordation of
20 the interests of the purchasers or lenders in the note and deed of
21 trust. No provision of this article shall be construed as modifying
22 or superseding applicable law regulating the escrow holder in any
23 transaction or the handling of the escrow account.

24 (3) The books and records of the broker or servicing agent, or
25 both, shall be maintained in a manner that readily identifies
26 transactions under this article and the receipt and disbursement of
27 funds in connection with these transactions.

28 (4) If required by paragraph (3) of subdivision (k), the review
29 by the independent certified public accountant shall include a
30 sample of transactions, as reflected in the records of the trust
31 account required pursuant to paragraph (1) of subdivision (k), and
32 the bank statements and supporting documents. These documents
33 shall be reviewed for compliance with this article with respect to
34 the handling and distribution of funds. The sample shall be selected
35 at random by the accountant from all these transactions and shall
36 consist of the following: (A) three sales made or 5 percent of the
37 sales made pursuant to this article during the period for which the
38 examination is conducted, whichever is greater, and (B) 10
39 payments processed or 2 percent of payments processed under this

1 article during the period for which the examination is conducted,
2 whichever is greater.

3 (5) For the purposes of this subdivision, the transaction that
4 constitutes a “sale” is the series of transactions by which a series
5 of notes of a maker, or the interests in the note of a maker, are sold
6 or issued to their various purchasers under this article, including
7 all receipts and disbursements in that process of funds received
8 from the purchasers or lenders. The transaction that constitutes a
9 “payment,” for the purposes of this subdivision, is the receipt of
10 a payment from the person obligated on the note or from some
11 other person on behalf of the person so obligated, including the
12 broker or servicing agent, and the distribution of that payment to
13 the persons entitled thereto. If a payment involves an advance paid
14 by the broker or servicing agent as the result of a dishonored check,
15 the inspection shall identify the source of funds from which the
16 payment was made or, in the alternative, the steps that are
17 reasonably necessary to determine that there was not a
18 disbursement of trust funds. The accountant shall inspect for
19 compliance with the following specific provisions of this section:
20 paragraphs (1), (2), and (3) of subdivision (j) and paragraphs (1)
21 and (2) of subdivision (k).

22 (6) Within 30 days of the close of the period for which the report
23 is made, or within any additional time as the commissioner may
24 in writing allow in a particular case, the accountant shall forward
25 to the broker or servicing agent, as the case may be, and to the
26 commissioner, the report of the accountant, stating that the
27 inspection was performed in accordance with this section, listing
28 the sales and the payments examined, specifying the nature of the
29 deficiencies, if any, noted by the accountant with respect to each
30 sale or payment, together with any further information as the
31 accountant may wish to include, such as corrective steps taken
32 with respect to any deficiency so noted, or stating that no
33 deficiencies were observed. If the broker meets the threshold
34 criteria of Section 10232, the report of the accountant shall be
35 submitted as part of the quarterly reports required under Section
36 10232.25.

37 (k) The notes or interests shall be sold subject to a written
38 agreement that obligates a licensed real estate broker, or a person
39 exempted from the licensing requirement for real estate brokers
40 under this chapter, to act as agent for the purchasers or lenders to

1 service the note or notes and deed of trust, including the receipt
2 and transmission of payments and the institution of foreclosure
3 proceedings in the event of a default. A copy of this servicing
4 agreement shall be delivered to each purchaser. The broker shall
5 offer to the lenders or purchasers the services of the broker or one
6 or more affiliates of the broker, or both, as servicing agent for each
7 transaction conducted pursuant to this article. The agreement shall
8 require all of the following:

9 (1) (A) That payments received on the note or notes be
10 deposited immediately to a trust account maintained in accordance
11 with this section and with the provisions for trust accounts of
12 licensed real estate brokers contained in Section 10145 and Article
13 15 (commencing with Section 2830.1) of Chapter 6 of Title 10 of
14 the California Code of Regulations.

15 (B) That payments deposited pursuant to subparagraph (A) shall
16 not be commingled with the assets of the servicing agent or used
17 for any transaction other than the transaction for which the funds
18 are received.

19 (2) That payments received on the note or notes shall be
20 transmitted to the purchasers or lenders pro rata according to their
21 respective interests within 25 days after receipt thereof by the
22 agent. If the source for the payment is not the maker of the note,
23 the agent shall inform the purchasers or lenders in writing of the
24 source for payment. A broker or servicing agent who transmits to
25 the purchaser or lenders the broker's or servicing agent's own
26 funds to cover payments due from the borrower but unpaid as a
27 result of a dishonored check may recover the amount of the
28 advances from the trust fund when the past due payment is
29 received. However, this article does not authorize the broker,
30 servicing agent, or any other person to issue, or to engage in any
31 practice constituting, any guarantee or to engage in the practice of
32 advancing payments on behalf of the borrower.

33 (3) If the broker or person who is or becomes the servicing agent
34 for notes or interests sold pursuant to this article upon which the
35 payments due during any period of three consecutive months in
36 the aggregate exceed one hundred twenty-five thousand dollars
37 (\$125,000) or the number of persons entitled to the payments
38 exceeds 120, the trust account or accounts of that broker or affiliate
39 shall be inspected by an independent certified public accountant
40 at no less than three-month intervals during the time the volume

1 is maintained. Within 30 days after the close of the period for
2 which the review is made, the report of the accountant shall be
3 forwarded as provided in paragraph (6) of subdivision (j). If the
4 broker is required to file an annual report pursuant to subdivision
5 (o) or pursuant to Section 10232.2, the quarterly report pursuant
6 to this subdivision need not be filed for the last quarter of the year
7 for which the annual report is made. For the purposes of this
8 subdivision, an affiliate of a broker is any person controlled by,
9 controlling, or under common control with the broker.

10 (4) Unless the servicing agent will receive notice pursuant to
11 Section 2924b of the Civil Code, the servicing agent shall file a
12 written request for notice of default upon any prior encumbrances
13 and promptly notify the purchasers or lenders of any default on
14 the prior encumbrances or on the note or notes subject to the
15 servicing agreement.

16 (5) The servicing agent shall promptly forward copies of the
17 following to each purchaser or lender:

18 (A) Any notice of trustee sale filed on behalf of the purchasers
19 or lenders.

20 (B) Any request for reconveyance of the deed of trust received
21 on behalf of the purchasers or lenders.

22 (l) The broker shall disclose in writing to each purchaser or
23 lender the material facts concerning the transaction on a disclosure
24 form adopted or approved by the commissioner pursuant to Section
25 10232.5, subject to the following:

26 (1) The disclosure form shall include a description of the terms
27 upon which the note and deed of trust are being sold, including
28 the terms of the undivided interests being offered therein, including
29 the following:

30 (A) In the case of the sale of an existing note:

31 (i) The aggregate sale price of the note.

32 (ii) The percent of the premium over or discount from the
33 principal balance plus accrued but unpaid interest.

34 (iii) The effective rate of return to the purchasers if the note is
35 paid according to its terms.

36 (iv) The name and address of the escrow holder for the
37 transaction.

38 (v) A description of, and the estimated amount of, each cost
39 payable by the seller in connection with the sale and a description

1 of, and the estimated amount of, each cost payable by the
2 purchasers in connection with the sale.

3 (B) In the case of the origination of a note:

4 (i) The name and address of the escrow holder for the
5 transaction.

6 (ii) The anticipated closing date.

7 (iii) A description of, and the estimated amount of, each cost
8 payable by the borrower in connection with the loan and a
9 description of, and the estimated amount of, each cost payable by
10 the lenders in connection with the loan.

11 (C) In the case of a transaction involving a note or interest
12 secured by more than one parcel of real property, in addition to
13 the requirements of subparagraphs (A) and (B):

14 (i) The address, description, and estimated fair market value of
15 each property securing the loan.

16 (ii) The amount of the available equity in each property securing
17 the loan after the loan amount to be apportioned to each property
18 is assigned.

19 (iii) The loan to value percentage for each property after the
20 loan amount to be apportioned to each property is assigned pursuant
21 to subdivision (h).

22 (2) A copy of the written statement or information contained
23 therein, as required by paragraph (2) of subdivision (h), shall be
24 included in the disclosure form.

25 (3) Any interest of the broker or affiliate in the transaction, as
26 described in subdivision (e), shall be included with the disclosure
27 form.

28 (4) When the particular circumstances of a transaction make
29 information not specified in the disclosure form material or
30 essential to keep the information provided in the form from being
31 misleading, and the other information is known to the broker, the
32 other information shall also be provided by the broker.

33 (5) If more than one parcel of real property secures the notes or
34 interests, the disclosure form shall also fully disclose any risks to
35 investors associated with securing the notes or interests with
36 multiple parcels of real property.

37 (m) The broker or servicing agent shall furnish any purchaser
38 of a note or interest, upon request, with the names and addresses
39 of the purchasers of the other notes or interests in the loan.

1 (n) No agreement in connection with a transaction covered by
2 this article shall grant to the real estate broker, the servicing agent,
3 or any affiliate of the broker or agent the option or election to
4 acquire the interests of the purchasers or lenders or to acquire the
5 real property securing the interests. This subdivision shall not
6 prohibit the broker or affiliate from acquiring the interests, with
7 the consent of the purchasers or lenders whose interests are being
8 purchased, or the property, with the written consent of the
9 purchasers or lenders, if the consent is given at the time of the
10 acquisition.

11 (o) Each broker who conducts transactions under this article,
12 or broker or person who becomes the servicing agent for notes or
13 interests sold pursuant to this article, who meets the criteria of
14 paragraph (3) of subdivision (k) shall file with the commissioner
15 an annual report of a review of its trust account. The report shall
16 be prepared and filed in accordance with subdivision (a) of Section
17 10232.2 and the rules and procedures thereunder of the
18 commissioner. That report shall cover the broker's transactions
19 under this article and, if the broker also meets the threshold criteria
20 set forth in Section 10232, the broker's transactions subject to that
21 section shall be included as well.

22 (p) Each broker conducting transactions pursuant to this article,
23 or broker or person who becomes the servicing agent for notes or
24 interests sold pursuant to this article, who meets the criteria of
25 paragraph (3) of subdivision (k) shall file with the commissioner
26 a report of the transactions that is prepared in accordance with
27 subdivision (c) of Section 10232.2. If the broker also meets the
28 threshold criteria of Section 10232, the report shall also include
29 the transactions subject to that section. This report shall be
30 confidential pursuant to subdivision (f) of Section 10232.2.

31 *(q) This section shall repeal on July 1, 2018.*

32 *SEC. 114. Section 10238 is added to the Business and*
33 *Professions Code, to read:*

34 *10238. (a) A notice in the following form and containing the*
35 *following information shall be filed with the commissioner within*
36 *30 days after the first transaction and within 30 days of any*
37 *material change in the information required in the notice:*

1 TO: Real Estate Commissioner
 2 Mortgage Loan Section
 3 1651 Exposition Boulevard
 4 Sacramento, CA 95815

5 This notice is filed pursuant to Sections 10237 and 10238 of the Business and
 6 Professions Code.

7 () Original Notice () Amended Notice

8 1. Name of Responsible Broker conducting transaction under Section 10237:
 9 _____

10
 11 2. Broker license identification number: _____
 12

13 3. List the month the fiscal year ends: _____
 14

15 4. Broker's telephone number: _____
 16

17 5. Firm name (if different from "1"):
 18 _____
 19

20 6. Street address (main location):
 21 _____

22 # and Street City State ZIP Code
 23

24 7. Mailing address (if different from "6"):
 25 _____
 26

27 8. Servicing agent: Identify by name, address, and telephone number the
 28 person or entity who will act as the servicing agent in transactions
 29 pursuant to Section 10237 (including the undersigned Broker if that is
 30 the case):
 31 _____
 32 _____
 33

34 9. Total number of multilender notes arranged: _____
 35

36 10. Total number of interests sold to investors on the
 37 multilender's notes: _____
 38

39 11. Inspection of trust account (before answering this question, review the
 40 provisions of paragraph (3) of subdivision (k) of Section 10238).

1 CHECK ONLY ONE OF THE FOLLOWING:

2 () The undersigned Broker is (or expects to be) required to file reports of
3 inspection of its trust account(s) with the Real Estate Commissioner
4 pursuant to paragraph (3) of subdivision (k) of Section 10238.

5 Amount of Multilender Payments Collected Last Fiscal Quarter: _____

6

7 Total Number of Investors Due Payments Last Fiscal Quarter: _____

8

9 () The undersigned Broker is NOT (or does NOT expect to be) required to
10 file reports of inspection of its trust account(s) with the Real Estate
11 Commissioner pursuant to paragraph (3) of subdivision (k) of Section
12 10238.

13

14 12. Signature. The contents of this notice are true and correct.

15 _____

16 Date Type Name of Broker

17 _____

18 Signature of Responsible Broker

19 _____

20 Type Name of Person(s) Signing This Notice

21

22 NOTE: AN AMENDED NOTICE MUST BE FILED BY THE
23 BROKER WITHIN 30 DAYS OF ANY MATERIAL CHANGE IN
24 THE INFORMATION REQUIRED TO BE SET FORTH HEREIN.

25

26 (b) A broker or person who becomes the servicing agent for
27 notes or interests sold pursuant to this article, upon which
28 payments due during any period of three consecutive months in
29 the aggregate exceed one hundred twenty-five thousand dollars
30 (\$125,000) or the number of persons entitled to the payments
31 exceeds 120, shall file the notice required by subdivision (a) with
32 the commissioner within 30 days after becoming the servicing
33 agent.

34 (c) All advertising used for transactions under this article shall
35 show the name of the broker and comply with Section 10235 of
36 this code and Sections 260.302 and 2848 of Title 10 of the
37 California Code of Regulations. Brokers and their agents are
38 cautioned that a reference to a prospective investor that a
39 transaction is conducted under this article may be deemed

1 *misleading or deceptive if this representation may reasonably be*
2 *construed by the investor as an implication of merit or approval*
3 *of the transaction.*

4 *(d) Each parcel of real property directly securing the notes or*
5 *interests shall be located in this state, the note or notes shall not*
6 *by their terms be subject to subordination to any subsequently*
7 *created deed of trust upon the real property, and the note or notes*
8 *shall not be promotional notes secured by liens on separate parcels*
9 *of real property in one subdivision or in contiguous subdivisions.*
10 *For purposes of this subdivision, a promotional note means a*
11 *promissory note secured by a trust deed, executed on unimproved*
12 *real property or executed after construction of an improvement of*
13 *the property but before the first purchase of the property as so*
14 *improved, or executed as a means of financing the first purchase*
15 *of the property as so improved, that is subordinate, or by its terms*
16 *may become subordinate, to any other trust deed on the property.*
17 *However, the term “promotional note” does not include either of*
18 *the following:*

19 *(1) A note that was executed in excess of three years prior to*
20 *being offered for sale.*

21 *(2) A note secured by a first trust deed on real property in a*
22 *subdivision that evidences a bona fide loan made in connection*
23 *with the financing of the usual cost of the development in a*
24 *residential, commercial, or industrial building or buildings on the*
25 *property under a written agreement providing for the disbursement*
26 *of the loan funds as costs are incurred or in relation to the progress*
27 *of the work and providing for title insurance insuring the priority*
28 *of the security as against mechanic’s and materialmen’s liens or*
29 *for the final disbursement of at least 10 percent of the loan funds*
30 *after the expiration of the period for the filing of mechanic’s and*
31 *materialmen’s liens.*

32 *(e) The notes or interests shall be sold by or through a real*
33 *estate broker, as principal or agent. At the time the notes or*
34 *interests are originally sold or assigned, neither the broker nor*
35 *an affiliate of the broker shall have an interest as owner, lessor,*
36 *or developer of the property securing the loan or any contractual*
37 *right to acquire, lease, or develop the property securing the loan.*
38 *This provision does not prohibit a broker from conducting the*
39 *following transactions if, in either case, the disclosure statement*
40 *furnished by the broker pursuant to subdivision (l) discloses the*

1 interest of the broker or affiliate in the transaction and the
2 circumstances under which the broker or affiliate acquired the
3 interest:

4 (1) A transaction in which the broker or an affiliate of the broker
5 is acquiring the property pursuant to a foreclosure under, or sale
6 pursuant to, a deed of trust securing a note for which the broker
7 is the servicing agent or that the broker sold to the holder or
8 holders.

9 (2) A transaction in which the broker or an affiliate of the broker
10 is reselling from inventory property acquired by the broker
11 pursuant to a foreclosure under, or sale pursuant to, a deed of
12 trust securing a note for which the broker is the servicing agent
13 or that the broker sold to the holder or holders.

14 (f) (1) The notes or interests shall not be sold to more than 10
15 persons, each of whom meets one or both of the qualifications of
16 income or net worth set forth below and signs a statement, which
17 shall be retained by the broker for four years, conforming to the
18 following:

19
20 Transaction Identifier: _____

21 Name of Purchaser: _____ Date: _____

22 Check either one of the following, if true:

23 () My investment in the transaction does not exceed 10% of my net worth,
24 exclusive of home, furnishings, and automobiles.

25
26 () My investment in the transaction does not exceed 10% of my adjusted
27 gross income for federal income tax purposes for my last tax year or, in
28 the alternative, as estimated for the current year.

29 _____
30 Signature

31
32 (2) The number of offerees shall not be considered for the
33 purposes of this section.

34 (3) Spouses and their dependents, and an individual and his or
35 her dependents, shall be counted as one person.

36 (4) A retirement plan, trust, business trust, corporation, or other
37 entity that is wholly owned by an individual and the individual's
38 spouse or the individual's dependents, or any combination thereof,
39 shall not be counted separately from the individual, but the
40 investments of these entities shall be aggregated with those of the

1 individual for the purposes of the statement required by paragraph
2 (1). If the investments of any entities are required to be aggregated
3 under this subdivision, the adjusted gross income or net worth of
4 these entities may also be aggregated with the net worth, income,
5 or both, of the individual.

6 (5) The “institutional investors” enumerated in subdivision (i)
7 of Section 25102 or subdivision (c) of Section 25104 of the
8 Corporations Code, or in a rule adopted pursuant thereto, shall
9 not be counted.

10 (6) A partnership, limited liability company, corporation, or
11 other organization that was not specifically formed for the purpose
12 of purchasing the security offered in reliance upon this exemption
13 from securities qualification is counted as one person.

14 (g) The notes or interests of the purchasers shall be identical
15 in their underlying terms, including the right to direct or require
16 foreclosure, rights to and rate of interest, and other incidents of
17 being a lender, and the sale to each purchaser pursuant to this
18 section shall be upon the same terms, subject to adjustment for the
19 face or principal amount or percentage interest purchased and
20 for interest earned or accrued. This subdivision does not preclude
21 different selling prices for interests to the extent that these
22 differences are reasonably related to changes in the market value
23 of the loan occurring between the sales of these interests. The
24 interest of each purchaser shall be recorded pursuant to
25 subdivisions (a) to (c), inclusive, of Section 10234.

26 (h) (1) Except as provided in paragraph (2), the aggregate
27 principal amount of the notes or interests sold, together with the
28 unpaid principal amount of any encumbrances upon the real
29 property senior thereto, shall not exceed the following percentages
30 of the current market value of each parcel of the real property, as
31 determined in writing by the broker or appraiser pursuant to
32 Section 10232.6, plus the amount for which the payment of
33 principal and interest in excess of the percentage of current market
34 value is insured for the benefit of the holders of the notes or
35 interests by an insurer admitted to do business in this state by the
36 Insurance Commissioner:

- 37
- 38 (A) Single-family residence, owner occupied 80%
- 39 (B) Single-family residence, not owner occupied 75%

- 1 (C) Commercial properties and income-producing properties not
- 2 described in (B) or (E)..... 65%
- 3 (D) Single-family residentially zoned lot or parcel that has installed
- 4 offsite improvements, including drainage, curbs, gutters,
- 5 sidewalks, paved roads, and utilities as mandated by the political
- 6 subdivision having jurisdiction over the lot or parcel 65%
- 7 (E) Land that produces income from crops, timber, or minerals..... 60%
- 8 (F) Land that is not income producing but has been zoned for (and,
- 9 if required, approved for subdivision as) commercial or
- 10 residential development 50%
- 11 (G) Other real property 35%

12

13 (2) The percentage amounts specified in paragraph (1) may be

14 exceeded when and to the extent that the broker determines that

15 the encumbrance of the property in excess of these percentages is

16 reasonable and prudent considering all relevant factors pertaining

17 to the real property. However, in no event shall the aggregate

18 principal amount of the notes or interests sold, together with the

19 unpaid principal amount of any encumbrances upon the property

20 senior thereto, exceed 80 percent of the current fair market value

21 of improved real property or 50 percent of the current fair market

22 value of unimproved real property, except in the case of a

23 single-family zoned lot or parcel as defined in paragraph (1),

24 which shall not exceed 65 percent of the current fair market value

25 of that lot or parcel, plus the amount insured as specified in

26 paragraph (1). A written statement shall be prepared by the broker

27 that sets forth the material considerations and facts that the broker

28 relies upon for his or her determination, which shall be retained

29 as part of the broker’s record of the transaction. Either a copy of

30 the statement or the information contained therein shall be included

31 in the disclosures required pursuant to subdivision (1).

32 (3) A copy of the appraisal or the broker’s evaluation, for each

33 parcel of real property securing the notes or interests, shall be

34 delivered to each purchaser. For purposes of this paragraph,

35 “appraisal” means a written estimate of value based upon the

36 assembling, analyzing, and reconciling of facts and value

37 indicators for the real property in question. A broker shall not

38 purport to make an appraisal unless he or she is qualified on the

39 basis of special training, preparation, or experience.

1 (4) For construction or rehabilitation loans, the term “current
2 market value” may be deemed to be the value of the completed
3 project if the following safeguards are met:

4 (A) An independent neutral third-party escrow holder is used
5 for all deposits and disbursements.

6 (B) The loan is fully funded, with the entire loan amount to be
7 deposited in escrow prior to the recording of the deed or deeds of
8 trust.

9 (C) A comprehensive, detailed draw schedule is used to ensure
10 proper and timely disbursements to allow for completion of the
11 project.

12 (D) The disbursement draws from the escrow account are based
13 on verification from an independent qualified person who certifies
14 that the work completed to date meets the related codes and
15 standards and that the draws were made in accordance with the
16 construction contract and draw schedule. For purposes of this
17 subparagraph, “independent qualified person” means a person
18 who is not an employee, agent, or affiliate of the broker and who
19 is a licensed architect, general contractor, structural engineer, or
20 active local government building inspector acting in his or her
21 official capacity.

22 (E) An appraisal is completed by a qualified and licensed
23 appraiser in accordance with the Uniform Standards of
24 Professional Appraisal Practice (USPAP).

25 (F) In addition to the transaction documentation required by
26 subdivision (i), the documentation shall include a detailed
27 description of actions that may be taken in the event of a failure
28 to complete the project, whether that failure is due to default,
29 insufficiency of funds, or other causes.

30 (G) The entire amount of the loan does not exceed two million
31 five hundred thousand dollars (\$2,500,000).

32 (5) If a note or an interest will be secured by more than one
33 parcel of real property, for the purpose of determining the
34 maximum amount of the note or interest, each security property
35 shall be assigned a portion of the note or interest that shall not
36 exceed the percentage of current market value determined by, and
37 in accordance with, the provisions of paragraphs (1) and (2).

38 (i) The documentation of the transaction shall require both of
39 the following:

1 (1) A default upon any note or interest is a default upon all notes
2 or interests.

3 (2) The holders of more than 50 percent of the recorded
4 beneficial interests of the notes or interests may govern the actions
5 to be taken on behalf of all holders in accordance with Section
6 2941.9 of the Civil Code in the event of default or foreclosure for
7 matters that require direction or approval of the holders, including
8 designation of the broker, servicing agent, or other person acting
9 on their behalf, and the sale, encumbrance, or lease of real
10 property owned by the holders resulting from foreclosure or receipt
11 of a deed in lieu of foreclosure. The terms called for by this
12 subdivision may be included in the deed of trust, in the assignment
13 of interests, or in any other documentation as is necessary or
14 appropriate to make them binding on the parties.

15 (j) (1) The broker shall not accept any purchase or loan funds
16 or other consideration from a prospective lender or purchaser, or
17 directly or indirectly cause the funds or other consideration to be
18 deposited in an escrow or trust account, except as to a specific
19 loan or note secured by a deed of trust that the broker owns, is
20 authorized to negotiate, or is unconditionally obligated to buy.

21 (2) All funds received by the broker from the purchasers or
22 lenders shall be handled in accordance with Section 10145 for
23 disbursement to the persons thereto entitled upon recordation of
24 the interests of the purchasers or lenders in the note and deed of
25 trust. No provision of this article shall be construed as modifying
26 or superseding applicable law regulating the escrow holder in any
27 transaction or the handling of the escrow account.

28 (3) The books and records of the broker or servicing agent, or
29 both, shall be maintained in a manner that readily identifies
30 transactions under this article and the receipt and disbursement
31 of funds in connection with these transactions.

32 (4) If required by paragraph (3) of subdivision (k), the review
33 by the independent certified public accountant shall include a
34 sample of transactions, as reflected in the records of the trust
35 account required pursuant to paragraph (1) of subdivision (k),
36 and the bank statements and supporting documents. These
37 documents shall be reviewed for compliance with this article with
38 respect to the handling and distribution of funds. The sample shall
39 be selected at random by the accountant from all these transactions
40 and shall consist of both of the following:

1 (A) Three sales made or 5 percent of the sales made pursuant
2 to this article during the period for which the examination is
3 conducted, whichever is greater.

4 (B) Ten payments processed or 2 percent of payments processed
5 under this article during the period for which the examination is
6 conducted, whichever is greater.

7 (5) For the purposes of this subdivision, the transaction that
8 constitutes a “sale” is the series of transactions by which a series
9 of notes of a maker, or the interests in the note of a maker, are
10 sold or issued to their various purchasers under this article,
11 including all receipts and disbursements in that process of funds
12 received from the purchasers or lenders. The transaction that
13 constitutes a “payment,” for the purposes of this subdivision, is
14 the receipt of a payment from the person obligated on the note or
15 from some other person on behalf of the person so obligated,
16 including the broker or servicing agent, and the distribution of
17 that payment to the persons entitled thereto. If a payment involves
18 an advance paid by the broker or servicing agent as the result of
19 a dishonored check, the inspection shall identify the source of
20 funds from which the payment was made or, in the alternative, the
21 steps that are reasonably necessary to determine that there was
22 not a disbursement of trust funds. The accountant shall inspect for
23 compliance with the following specific provisions of this section:
24 paragraphs (1), (2), and (3) of this subdivision and paragraphs
25 (1) and (2) of subdivision (k).

26 (6) Within 30 days of the close of the period for which the report
27 is made, or within any additional time as the commissioner may
28 in writing allow in a particular case, the accountant shall forward
29 to the broker or servicing agent, as the case may be, and to the
30 commissioner, the report of the accountant, stating that the
31 inspection was performed in accordance with this section, listing
32 the sales and the payments examined, specifying the nature of the
33 deficiencies, if any, noted by the accountant with respect to each
34 sale or payment, together with any further information as the
35 accountant may wish to include, such as corrective steps taken
36 with respect to any deficiency so noted, or stating that no
37 deficiencies were observed. If the broker meets the threshold
38 criteria of Section 10232, the report of the accountant shall be
39 submitted as part of the quarterly reports required under Section
40 10232.25.

1 (k) *The notes or interests shall be sold subject to a written*
2 *agreement that obligates a licensed real estate broker, or a person*
3 *exempted from the licensing requirement for real estate brokers*
4 *under this chapter, to act as agent for the purchasers or lenders*
5 *to service the note or notes and deed of trust, including the receipt*
6 *and transmission of payments and the institution of foreclosure*
7 *proceedings in the event of a default. A copy of this servicing*
8 *agreement shall be delivered to each purchaser. The broker shall*
9 *offer to the lenders or purchasers the services of the broker or one*
10 *or more affiliates of the broker, or both, as servicing agent for*
11 *each transaction conducted pursuant to this article. The agreement*
12 *shall require all of the following:*

13 (1) (A) *That payments received on the note or notes be deposited*
14 *immediately to a trust account maintained in accordance with this*
15 *section and with the provisions for trust accounts of licensed real*
16 *estate brokers contained in Section 10145 and Article 15*
17 *(commencing with Section 2830.1) of Chapter 6 of Title 10 of the*
18 *California Code of Regulations.*

19 (B) *That payments deposited pursuant to subparagraph (A)*
20 *shall not be commingled with the assets of the servicing agent or*
21 *used for any transaction other than the transaction for which the*
22 *funds are received.*

23 (2) *That payments received on the note or notes shall be*
24 *transmitted to the purchasers or lenders pro rata according to*
25 *their respective interests within 25 days after receipt thereof by*
26 *the agent. If the source for the payment is not the maker of the*
27 *note, the agent shall inform the purchasers or lenders in writing*
28 *of the source for payment. A broker or servicing agent who*
29 *transmits to the purchaser or lenders the broker's or servicing*
30 *agent's own funds to cover payments due from the borrower but*
31 *unpaid as a result of a dishonored check may recover the amount*
32 *of the advances from the trust fund when the past due payment is*
33 *received. However, this article does not authorize the broker,*
34 *servicing agent, or any other person to issue, or to engage in any*
35 *practice constituting, any guarantee or to engage in the practice*
36 *of advancing payments on behalf of the borrower.*

37 (3) *If the broker or person who is or becomes the servicing*
38 *agent for notes or interests sold pursuant to this article upon which*
39 *the payments due during any period of three consecutive months*
40 *in the aggregate exceed one hundred twenty-five thousand dollars*

1 (\$125,000) or the number of persons entitled to the payments
2 exceeds 120, the trust account or accounts of that broker or affiliate
3 shall be inspected by an independent certified public accountant
4 at no less than three-month intervals during the time the volume
5 is maintained. Within 30 days after the close of the period for
6 which the review is made, the report of the accountant shall be
7 forwarded as provided in paragraph (6) of subdivision (j). If the
8 broker is required to file an annual report pursuant to subdivision
9 (o) or pursuant to Section 10232.2, the quarterly report pursuant
10 to this subdivision need not be filed for the last quarter of the year
11 for which the annual report is made. For the purposes of this
12 subdivision, an affiliate of a broker is any person controlled by,
13 controlling, or under common control with the broker.

14 (4) Unless the servicing agent will receive notice pursuant to
15 Section 2924b of the Civil Code, the servicing agent shall file a
16 written request for notice of default upon any prior encumbrances
17 and promptly notify the purchasers or lenders of any default on
18 the prior encumbrances or on the note or notes subject to the
19 servicing agreement.

20 (5) The servicing agent shall promptly forward copies of both
21 of the following to each purchaser or lender:

22 (A) Any notice of trustee sale filed on behalf of the purchasers
23 or lenders.

24 (B) Any request for reconveyance of the deed of trust received
25 on behalf of the purchasers or lenders.

26 (l) The broker shall disclose in writing to each purchaser or
27 lender the material facts concerning the transaction on a disclosure
28 form adopted or approved by the commissioner pursuant to Section
29 10232.5, subject to the following:

30 (1) The disclosure form shall include a description of the terms
31 upon which the note and deed of trust are being sold, including
32 the terms of the undivided interests being offered therein, including
33 the following:

34 (A) In the case of the sale of an existing note:

35 (i) The aggregate sale price of the note.

36 (ii) The percent of the premium over or discount from the
37 principal balance plus accrued but unpaid interest.

38 (iii) The effective rate of return to the purchasers if the note is
39 paid according to its terms.

- 1 (iv) *The name and address of the escrow holder for the*
2 *transaction.*
- 3 (v) *A description of, and the estimated amount of, each cost*
4 *payable by the seller in connection with the sale and a description*
5 *of, and the estimated amount of, each cost payable by the*
6 *purchasers in connection with the sale.*
- 7 (B) *In the case of the origination of a note:*
- 8 (i) *The name and address of the escrow holder for the*
9 *transaction.*
- 10 (ii) *The anticipated closing date.*
- 11 (iii) *A description of, and the estimated amount of, each cost*
12 *payable by the borrower in connection with the loan and a*
13 *description of, and the estimated amount of, each cost payable by*
14 *the lenders in connection with the loan.*
- 15 (C) *In the case of a transaction involving a note or interest*
16 *secured by more than one parcel of real property, in addition to*
17 *the requirements of subparagraphs (A) and (B):*
- 18 (i) *The address, description, and estimated fair market value of*
19 *each property securing the loan.*
- 20 (ii) *The amount of the available equity in each property securing*
21 *the loan after the loan amount to be apportioned to each property*
22 *is assigned.*
- 23 (iii) *The loan to value percentage for each property after the*
24 *loan amount to be apportioned to each property is assigned*
25 *pursuant to subdivision (h).*
- 26 (2) *A copy of the written statement or information contained*
27 *therein, as required by paragraph (2) of subdivision (h), shall be*
28 *included in the disclosure form.*
- 29 (3) *Any interest of the broker or affiliate in the transaction, as*
30 *described in subdivision (e), shall be included with the disclosure*
31 *form.*
- 32 (4) *When the particular circumstances of a transaction make*
33 *information not specified in the disclosure form material or*
34 *essential to keep the information provided in the form from being*
35 *misleading, and the other information is known to the broker, the*
36 *other information shall also be provided by the broker.*
- 37 (5) *If more than one parcel of real property secures the notes*
38 *or interests, the disclosure form shall also fully disclose any risks*
39 *to investors associated with securing the notes or interests with*
40 *multiple parcels of real property.*

1 (m) *The broker or servicing agent shall furnish any purchaser*
2 *of a note or interest, upon request, with the names and addresses*
3 *of the purchasers of the other notes or interests in the loan.*

4 (n) *No agreement in connection with a transaction covered by*
5 *this article shall grant to the real estate broker, the servicing agent,*
6 *or any affiliate of the broker or agent the option or election to*
7 *acquire the interests of the purchasers or lenders or to acquire*
8 *the real property securing the interests. This subdivision shall not*
9 *prohibit the broker or affiliate from acquiring the interests, with*
10 *the consent of the purchasers or lenders whose interests are being*
11 *purchased, or the property, with the written consent of the*
12 *purchasers or lenders if the consent is given at the time of the*
13 *acquisition.*

14 (o) *Each broker who conducts transactions under this article,*
15 *or broker or person who becomes the servicing agent for notes or*
16 *interests sold pursuant to this article, who meets the criteria of*
17 *paragraph (3) of subdivision (k), shall file with the commissioner*
18 *an annual report of a review of its trust account. The report shall*
19 *be prepared and filed in accordance with subdivision (a) of Section*
20 *10232.2 and the rules and procedures thereunder of the*
21 *commissioner. That report shall cover the broker's transactions*
22 *under this article and, if the broker also meets the threshold criteria*
23 *set forth in Section 10232, the broker's transactions subject to that*
24 *section shall be included as well.*

25 (p) *Each broker conducting transactions pursuant to this article,*
26 *or broker or person who becomes the servicing agent for notes or*
27 *interests sold pursuant to this article, who meets the criteria of*
28 *paragraph (3) of subdivision (k), shall file with the commissioner*
29 *a report of the transactions that is prepared in accordance with*
30 *subdivision (c) of Section 10232.2. If the broker also meets the*
31 *threshold criteria of Section 10232, the report shall also include*
32 *the transactions subject to that section. This report shall be*
33 *confidential pursuant to subdivision (f) of Section 10232.2.*

34 (q) *This section shall become operative on July 1, 2018.*

35 *SEC. 115. Section 10243 of the Business and Professions Code*
36 *is amended to read:*

37 10243. If the loan is not consummated due to the failure of the
38 borrower to disclose the outstanding liens of record or the correct
39 current vested title which is material to the loan upon the real
40 property as provided by subdivision (c) of Section 10241, the

1 borrower shall be liable for the costs and expenses provided in
2 subdivision (a) of Section 10241 which have been paid or incurred,
3 and shall be liable for the payment of one-half of the charges
4 provided in subdivision (b) of Section 10241. An exclusive
5 agreement authorizing or employing a licensee to negotiate a loan
6 secured directly or collaterally by a lien on real property shall be
7 limited to a term of not more than 45 days.

8 If the loan is not consummated and the broker is entitled to any
9 charges, costs or expenses authorized by this article, he or she may
10 not record a lien or encumbrance against the borrower's property
11 except subsequent to the filing of a legal action pursuant to the
12 Code of Civil Procedure to recover said charges, costs or expenses.
13 However, nothing contained herein shall prohibit a broker from
14 recording a lien pursuant to a voluntary lien agreement in
15 conjunction with a stipulation to dismiss an actual or proposed
16 complaint for damages entitling the broker to such charges, costs
17 or expenses after written notice to the borrower that the broker
18 proposes or has initiated a complaint for damages pursuant to the
19 Code of Civil Procedure.

20 *This section shall repeal on July 1, 2018.*

21 *SEC. 116. Section 10243 is added to the Business and*
22 *Professions Code, to read:*

23 *10243. If the loan is not consummated due to the failure of the*
24 *borrower to disclose the outstanding liens of record or the correct*
25 *current vested title which is material to the loan upon the real*
26 *property as provided by subdivision (c) of Section 10241, the*
27 *borrower shall be liable for the costs and expenses provided in*
28 *subdivision (a) of Section 10241 that have been paid or incurred*
29 *and shall be liable for the payment of one-half of the charges*
30 *provided in subdivision (b) of Section 10241. An exclusive*
31 *agreement authorizing or retaining a licensee to negotiate a loan*
32 *secured directly or collaterally by a lien on real property shall be*
33 *limited to a term of not more than 45 days.*

34 *If the loan is not consummated and the broker is entitled to any*
35 *charges, costs, or expenses authorized by this article, he or she*
36 *may not record a lien or encumbrance against the borrower's*
37 *property except subsequent to the filing of a legal action pursuant*
38 *to the Code of Civil Procedure to recover said charges, costs, or*
39 *expenses. However, nothing contained herein shall prohibit a*
40 *broker from recording a lien pursuant to a voluntary lien*

1 *agreement in conjunction with a stipulation to dismiss an actual*
2 *or proposed complaint for damages entitling the broker to such*
3 *charges, costs, or expenses after written notice to the borrower*
4 *that the broker proposes or has initiated a complaint for damages*
5 *pursuant to the Code of Civil Procedure.*

6 *This section shall become operative on July 1, 2018.*

7 *SEC. 117. Section 10509 of the Business and Professions Code*
8 *is amended to read:*

9 10509. (a) It is unlawful for a mineral, oil, and gas broker or
10 a real estate broker to employ or compensate, directly or indirectly,
11 any person who is not a mineral, oil, and gas broker or a licensed
12 real estate salesperson in the employ of the real estate broker for
13 performing any acts for which a mineral, oil, and gas broker license
14 is required.

15 (b) It is a misdemeanor, punishable by a fine of not exceeding
16 one hundred dollars (\$100) for each offense, for any person,
17 whether obligor, escrow holder or otherwise, to pay or deliver
18 compensation to a person for performing any acts for which a
19 mineral, oil, and gas broker license is required unless that person
20 is known by the payer to be or has presented evidence to the payer
21 that he or she was a licensed mineral, oil, and gas broker at the
22 time the compensation was earned.

23 (c) *This section shall repeal on July 1, 2018.*

24 *SEC. 118. Section 10509 is added to the Business and*
25 *Professions Code, to read:*

26 10509. (a) *It is unlawful for a mineral, oil, and gas broker or*
27 *a real estate broker to compensate, directly or indirectly, any*
28 *person who is not a mineral, oil, and gas broker or a licensed real*
29 *estate salesperson retained by the real estate broker for performing*
30 *any acts for which a mineral, oil, and gas broker license is*
31 *required.*

32 (b) *It is a misdemeanor, punishable by a fine of not exceeding*
33 *one hundred dollars (\$100) for each offense, for any person,*
34 *whether obligor, escrow holder or otherwise, to pay or deliver*
35 *compensation to a person for performing any acts for which a*
36 *mineral, oil, and gas broker license is required unless that person*
37 *is known by the payer to be or has presented evidence to the payer*
38 *that he or she was a licensed mineral, oil, and gas broker at the*
39 *time the compensation was earned.*

40 (c) *This section shall become operative on July 1, 2018.*

1 *SEC. 119. Section 10561 of the Business and Professions Code*
2 *is amended to read:*

3 10561. (a) The commissioner may, upon his own motion, and
4 shall, upon the verified complaint in writing of any person,
5 investigate the actions of any person engaged in the business or
6 acting in the capacity of a mineral, oil and gas licensee, within this
7 state, and he may temporarily suspend or permanently revoke a
8 mineral, oil and gas license at any time if the licensee, while a
9 mineral, oil and gas licensee, in performing or attempting to
10 perform any of the acts within the scope of this chapter, has been
11 guilty of any of the following:

12 ~~(a)~~

13 (1) Making any substantial misrepresentation.

14 ~~(b)~~

15 (2) Making any false promises of a character likely to influence,
16 persuade or induce.

17 ~~(c)~~

18 (3) Acting for more than one party in a transaction without the
19 knowledge or consent of all parties thereto.

20 ~~(d)~~

21 (4) Commingling with his own money or property the money
22 or property of others which is received and held by him.

23 ~~(e)~~

24 (5) Claiming or demanding a fee, compensation or commission
25 under any exclusive agreement authorizing or employing a licensee
26 to sell, buy or exchange mineral, oil or gas property for
27 compensation, or commission where such agreement does not
28 contain a definite, specified date of final and complete termination.

29 ~~(f)~~

30 (6) The claiming or taking by a licensee of any secret or
31 undisclosed amount of compensation, commission or profit or the
32 failure of a licensee to reveal to the employer of such licensee the
33 full amount of such licensee's compensation, commission, or profit
34 under any agreement authorizing or employing such licensee to
35 do any acts for which a license is required under this chapter for
36 compensation or commission prior to or coincident with the signing
37 of an agreement evidencing the meeting of the minds of the
38 contracting parties, regardless of the form of such agreement,
39 whether evidenced by documents in an escrow or by any other or
40 different procedure.

1 ~~(g)~~

2 (7) The use by a licensee of any provision allowing the licensee
3 an option to purchase in an agreement authorizing or employing
4 such licensee to sell, buy or exchange mineral, oil or gas property
5 for compensation or commission, except when such licensee prior
6 to or coincident with election to exercise such option to purchase
7 reveals in writing to the employer the full amount of licensee's
8 profit and obtains the written consent of the employer approving
9 the amount of such profit.

10 ~~(h)~~

11 (8) Any other conduct, whether of the same or a different
12 character than specified in this section, which constitutes fraud or
13 dishonest dealing.

14 *(b) This section shall repeal on July 1, 2018.*

15 *SEC. 120. Section 10561 is added to the Business and*
16 *Professions Code, to read:*

17 *10561. (a) The commissioner may, upon his own motion, and*
18 *shall, upon the verified complaint in writing of any person,*
19 *investigate the actions of any person engaged in the business or*
20 *acting in the capacity of a mineral, oil, and gas licensee within*
21 *this state, and he may temporarily suspend or permanently revoke*
22 *a mineral, oil, and gas license at any time if the licensee, while a*
23 *mineral, oil, and gas licensee, in performing or attempting to*
24 *perform any of the acts within the scope of this chapter has been*
25 *guilty of any of the following:*

26 *(1) Making any substantial misrepresentation.*

27 *(2) Making any false promises of a character likely to influence,*
28 *persuade, or induce.*

29 *(3) Acting for more than one party in a transaction without the*
30 *knowledge or consent of all parties thereto.*

31 *(4) Commingling with his or her own money or property or the*
32 *money or property of others that is received and held by him or*
33 *her.*

34 *(5) Claiming or demanding a fee, compensation, or commission*
35 *under any exclusive agreement authorizing or retaining a licensee*
36 *to sell, buy, or exchange mineral, oil, or gas property for*
37 *compensation, or commission where that agreement does not*
38 *contain a definite, specified date of final and complete termination.*

39 *(6) Claiming or taking by a licensee of any secret or undisclosed*
40 *amount of compensation, commission, or profit or the failure of a*

1 licensee to reveal to the principal retaining the licensee the full
 2 amount of the licensee’s compensation, commission, or profit under
 3 any agreement retaining the licensee to do any acts for which a
 4 license is required under this chapter for compensation or
 5 commission prior to or coincident with the signing of an agreement
 6 evidencing the meeting of the minds of the contracting parties,
 7 regardless of the form of such agreement, whether evidenced by
 8 documents in an escrow or by any other or different procedure.

9 (7) The use by a licensee of any provision allowing the licensee
 10 an option to purchase in an agreement authorizing or retaining
 11 the licensee to sell, buy, or exchange mineral, oil, or gas property
 12 for compensation or commission, except when the licensee prior
 13 to or coincident with election to exercise the option to purchase
 14 reveals in writing to the responsible broker the full amount of the
 15 licensee’s profit and obtains the written consent of the responsible
 16 broker approving the amount of that profit.

17 (8) Any other conduct, whether of the same or a different
 18 character than specified in this section, that constitutes fraud or
 19 dishonest dealing.

20 (b) This section shall become operative on July 1, 2018.

21 SEC. 121. Section 11212 of the Business and Professions Code
 22 is amended to read:

23 11212. As used in this chapter, the following definitions apply:

24 (a) “Accommodation” means any apartment, condominium or
 25 cooperative unit, cabin, lodge, hotel or motel room, or other private
 26 or commercial structure containing toilet facilities therein that is
 27 designed and available, pursuant to applicable law, for use and
 28 occupancy as a residence by one or more individuals, or any unit
 29 or berth on a commercial passenger ship, which is included in the
 30 offering of a time-share plan.

31 (b) “Advertisement” means any written, oral, or electronic
 32 communication that is directed to or targeted to persons within the
 33 state or such a communication made from this state or relating to
 34 a time-share plan located in this state and contains a promotion,
 35 inducement, or offer to sell a time-share plan, including, but not
 36 limited to, brochures, pamphlets, radio and television scripts,
 37 electronic media, telephone and direct mail solicitations, and other
 38 means of promotion.

39 (c) “Association” means the organized body consisting of the
 40 purchasers of time-share interests in a time-share plan.

- 1 (d) "Assessment" means the share of funds required for the
2 payment of common expenses which is assessed from time to time
3 against each purchaser by the managing entity.
- 4 (e) "Commissioner" means the Real Estate Commissioner.
- 5 (f) "Component site" means a specific geographic location
6 where accommodations that are part of a multisite time-share plan
7 are located. Separate phases of a time-share property in a specific
8 geographic location and under common management shall not be
9 deemed a component site.
- 10 (g) "Conspicuous type" means either of the following:
- 11 (1) Type in upper and lower case letters two point sizes larger
12 than the nearest nonconspicuous type, exclusive of headings, on
13 the page on which it appears but in at least 10-point type.
- 14 (2) Conspicuous type may be utilized in contracts for purchase
15 or public permits only where required by law or as authorized by
16 the commissioner.
- 17 (h) "Department" means the Department of Real Estate.
- 18 (i) "Developer" means and includes any person who creates a
19 time-share plan or is in the business of selling time-share interests,
20 other than those employees or agents of the developer who sell
21 time-share interests on the developer's behalf, or employs agents
22 to do the same, or any person who succeeds to the interest of a
23 developer by sale, lease, assignment, mortgage, or other transfer,
24 but the term includes only those persons who offer time-share
25 interests for disposition in the ordinary course of business.
- 26 (j) "Dispose" or "disposition" means a voluntary transfer or
27 assignment of any legal or equitable interest in a time-share plan,
28 other than the transfer, assignment, or release of a security interest.
- 29 (k) "Exchange company" means any person owning or
30 operating, or both owning and operating, an exchange program.
- 31 (l) "Exchange program" means any method, arrangement, or
32 procedure for the voluntary exchange of time-share interests or
33 other property interests. The term does not include the assignment
34 of the right to use and occupy accommodations to owners of
35 time-share interests within a single site time-share plan. Any
36 method, arrangement, or procedure that otherwise meets this
37 definition in which the purchaser's total contractual financial
38 obligation exceeds three thousand dollars (\$3,000) per any
39 individual, recurring time-share period, shall be regulated as a
40 time-share plan in accordance with this chapter. For purposes of

1 determining the purchaser's total contractual financial obligation,
2 amounts to be paid as a result of renewals and options to renew
3 shall be included in the term except for the following: (1) amounts
4 to be paid as a result of any optional renewal that a purchaser, in
5 his or her sole discretion may elect to exercise, (2) amounts to be
6 paid as a result of any automatic renewal in which the purchaser
7 has a right to terminate during the renewal period at any time and
8 receive a pro rata refund for the remaining unexpired renewal term,
9 or (3) amounts to be paid as a result of an automatic renewal in
10 which the purchaser receives a written notice no less than 30 nor
11 more than 90 days prior to the date of renewal informing the
12 purchaser of the right to terminate prior to the date of renewal.
13 Notwithstanding these exceptions, if the contractual financial
14 obligation exceeds three thousand dollars (\$3,000) for any
15 three-year period of any renewal term, amounts to be paid as a
16 result of that renewal shall be included in determining the
17 purchaser's total contractual financial obligation.

18 (m) "Incidental benefit" is an accommodation, product, service,
19 discount, or other benefit, other than an exchange program, that
20 is offered to a prospective purchaser of a time-share interest prior
21 to the end of the rescission period set forth in Section 11238, the
22 continuing availability of which for the use and enjoyment of
23 owners of time-share interests in the time-share plan is limited to
24 a term of not more than three years, subject to renewal or extension.
25 The term shall not include an offer of the use of the
26 accommodation, product, service, discount, or other benefit on a
27 free or discounted one-time basis.

28 (n) "Managing entity" means the person who undertakes the
29 duties, responsibilities, and obligations of the management of a
30 time-share plan.

31 (o) "Offer" means any inducement, solicitation, or other attempt,
32 whether by marketing, advertisement, oral or written presentation,
33 or any other means, to encourage a person to acquire a time-share
34 interest in a time-share plan, other than as security for an
35 obligation.

36 (p) "Person" means a natural person, corporation, limited
37 liability company, partnership, joint venture, association, estate,
38 trust, government, governmental subdivision or agency, or other
39 legal entity, or any combination thereof.

1 (q) “Promotion” means a plan or device, including one involving
2 the possibility of a prospective purchaser receiving a vacation,
3 discount vacation, gift, or prize, used by a developer, or an agent,
4 independent contractor, or employee of any of the same on behalf
5 of the developer, in connection with the offering and sale of
6 time-share interests in a time-share plan.

7 (r) “Public report” means a preliminary public report, conditional
8 public report, final public report, or other such disclosure document
9 authorized for use in connection with the offering of time-share
10 interests pursuant to this chapter.

11 (s) “Purchaser” means any person, other than a developer, who
12 by means of a voluntary transfer for consideration acquires a legal
13 or equitable interest in a time-share plan other than as security for
14 an obligation.

15 (t) “Purchase contract” means a document pursuant to which a
16 developer becomes legally obligated to sell, and a purchaser
17 becomes legally obligated to buy, a time-share interest.

18 (u) “Reservation system” means the method, arrangement, or
19 procedure by which a purchaser, in order to reserve the use or
20 occupancy of any accommodation of a multisite time-share plan
21 for one or more time-share periods, is required to compete with
22 other purchasers in the same multisite time-share plan, regardless
23 of whether the reservation system is operated and maintained by
24 the multisite time-share plan managing entity, an exchange
25 company, or any other person. If a purchaser is required to use an
26 exchange program as the purchaser’s principal means of obtaining
27 the right to use and occupy accommodations in a multisite
28 time-share plan, that arrangement shall be deemed a reservation
29 system. When an exchange company utilizes a mechanism for the
30 exchange of use of time-share periods among members of an
31 exchange program, that utilization is not a reservation system of
32 a multisite time-share plan.

33 (v) “Short-term product” means the right to use accommodations
34 on a one-time or recurring basis for a period or periods not to
35 exceed 30 days per stay and for a term of three years or less, and
36 that includes an agreement that all or a portion of the consideration
37 paid by a person for the short-term product will be applied to or
38 credited against the price of a future purchase of a time-share
39 interest or that the cost of a future purchase of a time-share interest
40 will be fixed or locked-in at a specified price.

1 (w) “Time-share instrument” means one or more documents,
2 by whatever name denominated, creating or governing the
3 operation of a time-share plan and includes the declaration
4 dedicating accommodations to the time-share plan.

5 (x) “Time-share interest” means and includes either of the
6 following:

7 (1) A “time-share estate,” which is the right to occupy a
8 time-share property, coupled with a freehold estate or an estate for
9 years with a future interest in a time-share property or a specified
10 portion thereof.

11 (2) A “time-share use,” which is the right to occupy a time-share
12 property, which right is neither coupled with a freehold interest,
13 nor coupled with an estate for years with a future interest, in a
14 time-share property.

15 (y) “Time-share period” means the period or periods of time
16 when the purchaser of a time-share plan is afforded the opportunity
17 to use the accommodations of a time-share plan.

18 (z) “Time-share plan” means any arrangement, plan, scheme,
19 or similar device, other than an exchange program, whether by
20 membership agreement, sale, lease, deed, license, right to use
21 agreement, or by any other means, whereby a purchaser, in
22 exchange for consideration, receives ownership rights in or the
23 right to use accommodations for a period of time less than a full
24 year during any given year, on a recurring basis for more than one
25 year, but not necessarily for consecutive years. A time-share plan
26 may be either of the following:

27 (1) A “single site time-share plan,” which is the right to use
28 accommodations at a single time-share property.

29 (2) A “multisite time-share plan,” which includes either of the
30 following:

31 (A) A “specific time-share interest,” which is the right to use
32 accommodations at a specific time-share property, together with
33 use rights in accommodations at one or more other component
34 sites created by or acquired through the time-share plan’s
35 reservation system.

36 (B) A “nonspecific time-share interest,” which is the right to
37 use accommodations at more than one component site created by
38 or acquired through the time-share plan’s reservation system, but
39 including no specific right to use any particular accommodations.

1 (aa) “Time-share property” means one or more accommodations
2 subject to the same time-share instrument, together with any other
3 property or rights to property appurtenant to those
4 accommodations.

5 *This section shall repeal on July 1, 2018.*

6 SEC. 122. Section 11212 is added to the Business and
7 Professions Code, to read:

8 11212. As used in this chapter, the following definitions apply:

9 (a) “Accommodation” means any apartment, condominium, or
10 cooperative unit, cabin, lodge, hotel or motel room, or other private
11 or commercial structure containing toilet facilities therein that is
12 designed and available, pursuant to applicable law, for use and
13 occupancy as a residence by one or more individuals, or any unit
14 or berth on a commercial passenger ship that is included in the
15 offering of a time-share plan.

16 (b) “Advertisement” means any written, oral, or electronic
17 communication that is directed to or targeted to persons within
18 the state or such a communication made from this state or relating
19 to a time-share plan located in this state and contains a promotion,
20 inducement, or offer to sell a time-share plan, including, but not
21 limited to, brochures, pamphlets, radio and television scripts,
22 electronic media, telephone and direct mail solicitations, and other
23 means of promotion.

24 (c) “Association” means the organized body consisting of the
25 purchasers of time-share interests in a time-share plan.

26 (d) “Assessment” means the share of funds required for the
27 payment of common expenses that is assessed from time to time
28 against each purchaser by the managing entity.

29 (e) “Bureau” means the Bureau of Real Estate.

30 (f) “Commissioner” means the Real Estate Commissioner.

31 (g) “Component site” means a specific geographic location
32 where accommodations that are part of a multisite time-share plan
33 are located. Separate phases of a time-share property in a specific
34 geographic location and under common management shall not be
35 deemed a component site.

36 (h) “Conspicuous type” means either of the following:

37 (1) Type in uppercase and lowercase letters two point sizes
38 larger than the nearest nonconspicuous type, exclusive of headings,
39 on the page on which it appears but in at least 10-point type.

1 (2) *Conspicuous type may be utilized in contracts for purchase*
2 *or public permits only where required by law or as authorized by*
3 *the commissioner.*

4 (i) *“Developer” means and includes any person who creates a*
5 *time-share plan or is in the business of selling time-share interests,*
6 *other than those employees or agents of the developer who sell*
7 *time-share interests on the developer’s behalf, or retains agents*
8 *to do the same, or any person who succeeds to the interest of a*
9 *developer by sale, lease, assignment, mortgage, or other transfer,*
10 *but the term includes only those persons who offer time-share*
11 *interests for disposition in the ordinary course of business.*

12 (j) *“Dispose” or “disposition” means a voluntary transfer or*
13 *assignment of any legal or equitable interest in a time-share plan,*
14 *other than the transfer, assignment, or release of a security interest.*

15 (k) *“Exchange company” means any person owning or*
16 *operating, or both owning and operating, an exchange program.*

17 (l) *“Exchange program” means any method, arrangement, or*
18 *procedure for the voluntary exchange of time-share interests or*
19 *other property interests. The term does not include the assignment*
20 *of the right to use and occupy accommodations to owners of*
21 *time-share interests within a single-site time-share plan. Any*
22 *method, arrangement, or procedure that otherwise meets this*
23 *definition in which the purchaser’s total contractual financial*
24 *obligation exceeds three thousand dollars (\$3,000) per any*
25 *individual, recurring time-share period, shall be regulated as a*
26 *time-share plan in accordance with this chapter. For purposes of*
27 *determining the purchaser’s total contractual financial obligation,*
28 *amounts to be paid as a result of renewals and options to renew*
29 *shall be included in the term except for the following: (1) amounts*
30 *to be paid as a result of any optional renewal that a purchaser, in*
31 *his or her sole discretion may elect to exercise, (2) amounts to be*
32 *paid as a result of any automatic renewal in which the purchaser*
33 *has a right to terminate during the renewal period at any time and*
34 *receive a pro rata refund for the remaining unexpired renewal*
35 *term, or (3) amounts to be paid as a result of an automatic renewal*
36 *in which the purchaser receives a written notice no less than 30*
37 *nor more than 90 days prior to the date of renewal informing the*
38 *purchaser of the right to terminate prior to the date of renewal.*
39 *Notwithstanding these exceptions, if the contractual financial*
40 *obligation exceeds three thousand dollars (\$3,000) for any*

1 *three-year period of any renewal term, amounts to be paid as a*
2 *result of that renewal shall be included in determining the*
3 *purchaser’s total contractual financial obligation.*

4 (m) *“Incidental benefit” is an accommodation, product, service,*
5 *discount, or other benefit, other than an exchange program, that*
6 *is offered to a prospective purchaser of a time-share interest prior*
7 *to the end of the rescission period set forth in Section 11238, the*
8 *continuing availability of which for the use and enjoyment of*
9 *owners of time-share interests in the time-share plan is limited to*
10 *a term of not more than three years, subject to renewal or*
11 *extension. The term shall not include an offer of the use of the*
12 *accommodation, product, service, discount, or other benefit on a*
13 *free or discounted one-time basis.*

14 (n) *“Managing entity” means the person who undertakes the*
15 *duties, responsibilities, and obligations of the management of a*
16 *time-share plan.*

17 (o) *“Offer” means any inducement, solicitation, or other*
18 *attempt, whether by marketing, advertisement, oral or written*
19 *presentation, or any other means, to encourage a person to acquire*
20 *a time-share interest in a time-share plan, other than as security*
21 *for an obligation.*

22 (p) *“Person” means a natural person, corporation, limited*
23 *liability company, partnership, joint venture, association, estate,*
24 *trust, government, governmental subdivision or agency, or other*
25 *legal entity, or any combination thereof.*

26 (q) *“Promotion” means a plan or device, including one*
27 *involving the possibility of a prospective purchaser receiving a*
28 *vacation, discount vacation, gift, or prize, used by a developer, or*
29 *an agent, independent contractor, or employee of any of the same*
30 *on behalf of the developer, in connection with the offering and*
31 *sale of time-share interests in a time-share plan.*

32 (r) *“Public report” means a preliminary public report,*
33 *conditional public report, final public report, or other such*
34 *disclosure document authorized for use in connection with the*
35 *offering of time-share interests pursuant to this chapter.*

36 (s) *“Purchaser” means any person, other than a developer,*
37 *who by means of a voluntary transfer for consideration acquires*
38 *a legal or equitable interest in a time-share plan other than as*
39 *security for an obligation.*

1 (t) “Purchase contract” means a document pursuant to which
2 a developer becomes legally obligated to sell, and a purchaser
3 becomes legally obligated to buy, a time-share interest.

4 (u) “Reservation system” means the method, arrangement, or
5 procedure by which a purchaser, in order to reserve the use or
6 occupancy of any accommodation of a multisite time-share plan
7 for one or more time-share periods, is required to compete with
8 other purchasers in the same multisite time-share plan regardless
9 of whether the reservation system is operated and maintained by
10 the multisite time-share plan managing entity, an exchange
11 company, or any other person. If a purchaser is required to use
12 an exchange program as the purchaser’s principal means of
13 obtaining the right to use and occupy accommodations in a
14 multisite time-share plan, that arrangement shall be deemed a
15 reservation system. When an exchange company utilizes a
16 mechanism for the exchange of use of time-share periods among
17 members of an exchange program, that utilization is not a
18 reservation system of a multisite time-share plan.

19 (v) “Short-term product” means the right to use
20 accommodations on a one-time or recurring basis for a period or
21 periods not to exceed 30 days per stay and for a term of three years
22 or less, and that includes an agreement that all or a portion of the
23 consideration paid by a person for the short-term product will be
24 applied to or credited against the price of a future purchase of a
25 time-share interest or that the cost of a future purchase of a
26 time-share interest will be fixed or locked-in at a specified price.

27 (w) “Time-share instrument” means one or more documents,
28 by whatever name denominated, creating or governing the
29 operation of a time-share plan and includes the declaration
30 dedicating accommodations to the time-share plan.

31 (x) “Time-share interest” means and includes either of the
32 following:

33 (1) A “time-share estate,” which is the right to occupy a
34 time-share property, coupled with a freehold estate or an estate
35 for years with a future interest in a time-share property or a
36 specified portion thereof.

37 (2) A “time-share use,” which is the right to occupy a time-share
38 property, which right is neither coupled with a freehold interest,
39 nor coupled with an estate for years with a future interest, in a
40 time-share property.

1 (y) “Time-share period” means the period or periods of time
2 when the purchaser of a time-share plan is afforded the opportunity
3 to use the accommodations of a time-share plan.

4 (z) “Time-share plan” means any arrangement, plan, scheme,
5 or similar device, other than an exchange program, whether by
6 membership agreement, sale, lease, deed, license, right to use
7 agreement, or by any other means, whereby a purchaser, in
8 exchange for consideration, receives ownership rights in or the
9 right to use accommodations for a period of time less than a full
10 year during any given year, on a recurring basis for more than
11 one year, but not necessarily for consecutive years. A time-share
12 plan may be either of the following:

13 (1) A “single-site time-share plan” that is the right to use
14 accommodations at a single time-share property.

15 (2) A “multisite time-share plan” that includes either of the
16 following:

17 (A) A “specific time-share interest” that is the right to use
18 accommodations at a specific time-share property, together with
19 use rights in accommodations at one or more other component
20 sites created by or acquired through the time-share plan’s
21 reservation system.

22 (B) A “nonspecific time-share interest” that is the right to use
23 accommodations at more than one component site created by or
24 acquired through the time-share plan’s reservation system, but
25 including no specific right to use any particular accommodations.

26 (aa) “Time-share property” means one or more
27 accommodations subject to the same time-share instrument,
28 together with any other property or rights to property appurtenant
29 to those accommodations.

30 *This section shall become operative on July 1, 2018.*

31 *SEC. 123. Section 11267 of the Business and Professions Code*
32 *is amended to read:*

33 11267. (a) The time-share instruments shall require the
34 employment of a managing entity for the time-share plan or
35 component site pursuant to a written management agreement that
36 shall include all of the following provisions:

37 (1) Delegation of authority to the managing entity to carry out
38 the duties and obligations of the association or the developer to
39 the time-share interest owners.

1 (2) Authority of the managing entity to employ subagents, if
2 applicable.

3 (3) A term of not more than five years with automatic renewals
4 for successive three-year periods after expiration of the first term
5 unless the association by the vote or written assent of a majority
6 of the voting power residing in members other than the developer
7 determines not to renew the contract and gives appropriate notice
8 of that determination. However, in those time-share plans where
9 the association is controlled by owners other than the developer,
10 the management agreement shall not be subject to the term
11 limitations set forth in this section, and any longer term shall not
12 be grounds for denial of a public report, unless the longer term of
13 the management contract is the result of the developer exercising
14 control.

15 (4) Termination for cause at any time by the governing body of
16 the association. If the single site time-share plan or the component
17 site of a multisite time-share plan is located within the state, then
18 that termination provision shall include a provision for arbitration
19 in accordance with the Commercial Arbitration Rules of the
20 American Arbitration Association if requested by or on behalf of
21 the managing entity.

22 (5) Not less than 90 days' written notice to the association of
23 the intention of the managing entity to resign.

24 (6) Enumeration of the powers and duties of the managing entity
25 in the operation of time-share plan and the maintenance of the
26 accommodations comprising the time-share plan.

27 (7) Compensation to be paid to the managing entity.

28 (8) Records to be maintained by the managing entity.

29 (9) A requirement that the managing entity provide a policy for
30 fidelity insurance or bond for the activities of the managing entity,
31 payable to the association, which shall be in an amount no less
32 than the sum of the largest amount of funds expected to be held
33 or controlled by the managing entity at any time during the year,
34 pursuant to the budget. The commissioner may provide a reduction
35 in the insurance policy or bond amounts required by this paragraph.

36 (10) Errors and omissions insurance coverage for the managing
37 entity, if available.

38 (11) Delineation of the authority of the managing entity and
39 persons authorized by the managing entity to enter into
40 accommodations of the time-share plan for the purpose of cleaning,

1 maid service, maintenance and repair including emergency repairs,
2 and for the purpose of abating a nuisance or dangerous, unlawful,
3 or prohibited activity being conducted in the accommodation.

4 (12) Description of the duties of the managing entity, including,
5 but not limited to, the following:

6 (A) Collection of all assessments as provided in the time-share
7 instruments.

8 (B) Maintenance of all books and records concerning the
9 time-share plan.

10 (C) Scheduling occupancy of accommodations, when purchasers
11 are not entitled to use specific time-share periods, so that all
12 purchasers will be provided the opportunity for use and possession
13 of the accommodations of the time-share plan, that they have
14 purchased.

15 (D) Providing for the annual meeting of the association of
16 owners.

17 (E) Performing any other functions and duties related to the
18 maintenance of the accommodations or that are required by the
19 time-share instrument.

20 (b) Any written management agreement in existence as of the
21 effective date of this chapter shall not be subject to the term
22 limitations set forth above.

23 (c) For single site time-share plans and component sites of a
24 multisite time-share plan located outside of the state, the time-share
25 instruments shall include the subject matter set forth in subdivision
26 (a). The time-share instruments shall be in compliance with the
27 applicable laws of the state or jurisdiction in which the time-share
28 property or component site is located, and if a conflict exists
29 between laws of the situs state and the requirements set forth in
30 this section, the law of the situs state shall control. If the time-share
31 instruments provide for the matters contained in subdivision (a),
32 the time-share instruments shall be deemed to be in compliance
33 with the requirements of subdivision (a) and the developer shall
34 not be required to make revisions in order to comply with
35 subdivision (a) and this subdivision.

36 (d) *This section shall repeal on July 1, 2018.*

37 *SEC. 124. Section 11267 is added to the Business and*
38 *Professions Code, to read:*

39 *11267. (a) The time-share instruments shall require the use*
40 *of a managing entity for the time-share plan or component site*

1 pursuant to a written management agreement that shall include
2 all of the following provisions:

3 (1) Delegation of authority to the managing entity to carry out
4 the duties and obligations of the association or the developer to
5 the time-share interest owners.

6 (2) Authority of the managing entity to use subagents, if
7 applicable.

8 (3) A term of not more than five years with automatic renewals
9 for successive three-year periods after expiration of the first term
10 unless the association by the vote or written assent of a majority
11 of the voting power residing in members other than the developer
12 determines not to renew the contract and gives appropriate notice
13 of that determination. However, in those time-share plans where
14 the association is controlled by owners other than the developer,
15 the management agreement shall not be subject to the term
16 limitations set forth in this section, and any longer term shall not
17 be grounds for denial of a public report, unless the longer term of
18 the management contract is the result of the developer exercising
19 control.

20 (4) Termination for cause at any time by the governing body of
21 the association. If the single-site time-share plan or the component
22 site of a multisite time-share plan is located within the state, then
23 that termination provision shall include a provision for arbitration
24 in accordance with the Commercial Arbitration Rules of the
25 American Arbitration Association if requested by or on behalf of
26 the managing entity.

27 (5) Not less than 90 days' written notice to the association of
28 the intention of the managing entity to resign.

29 (6) Enumeration of the powers and duties of the managing entity
30 in the operation of the time-share plan and the maintenance of the
31 accommodations comprising the time-share plan.

32 (7) Compensation to be paid to the managing entity.

33 (8) Records to be maintained by the managing entity.

34 (9) A requirement that the managing entity provide a policy for
35 fidelity insurance or bond for the activities of the managing entity,
36 payable to the association, that shall be in an amount no less than
37 the sum of the largest amount of funds expected to be held or
38 controlled by the managing entity at any time during the year,
39 pursuant to the budget. The commissioner may provide a reduction

1 *in the insurance policy or bond amounts required by this*
2 *paragraph.*

3 *(10) Errors and omissions of insurance coverage for the*
4 *managing entity, if available.*

5 *(11) Delineation of the authority of the managing entity and*
6 *persons authorized by the managing entity to enter into*
7 *accommodations of the time-share plan for the purpose of cleaning,*
8 *maid service, maintenance, and repair, including emergency*
9 *repairs, and for the purpose of abating a nuisance or dangerous,*
10 *unlawful, or prohibited activity being conducted in the*
11 *accommodation.*

12 *(12) Description of the duties of the managing entity, including,*
13 *but not limited to, the following:*

14 *(A) Collection of all assessments as provided in the time-share*
15 *instruments.*

16 *(B) Maintenance of all books and records concerning the*
17 *time-share plan.*

18 *(C) Scheduling occupancy of accommodations, when purchasers*
19 *are not entitled to use specific time-share periods, so that all*
20 *purchasers will be provided the opportunity for use and possession*
21 *of the accommodations of the time-share plan, that they have*
22 *purchased.*

23 *(D) Providing for the annual meeting of the association of*
24 *owners.*

25 *(E) Performing any other functions and duties related to the*
26 *maintenance of the accommodations or that are required by the*
27 *time-share instrument.*

28 *(b) Any written management agreement in existence as of the*
29 *effective date of this chapter shall not be subject to the term*
30 *limitations set forth above.*

31 *(c) For single-site time-share plans and component sites of a*
32 *multisite time-share plan located outside of the state, the time-share*
33 *instruments shall include the subject matter set forth in subdivision*

34 *(a). The time-share instruments shall be in compliance with the*
35 *applicable laws of the state or jurisdiction in which the time-share*
36 *property or component site is located, and if a conflict exists*
37 *between laws of the situs state and the requirements set forth in*
38 *this section, the law of the situs state shall control. If the time-share*
39 *instruments provide for the matters contained in subdivision (a),*
40 *the time-share instruments shall be deemed to be in compliance*

1 *with the requirements of subdivision (a), and the developer shall*
2 *not be required to make revisions in order to comply with*
3 *subdivision (a) and this subdivision.*

4 *(d) This section shall become operative on July 1, 2018.*

5 *SEC. 125. Article 6 (commencing with Section 1086) is added*
6 *to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code,*
7 *to read:*

8

9 *Article 6. Real Estate License Listings for the Transfer of*
10 *Certain Property*

11

12 *1086. (a) For the purposes of this article, the definitions in*
13 *Chapter 1 (commencing with Section 10000) of Part 1 of Division*
14 *4 of the Business and Professions Code shall apply.*

15 *1087. (a) A multiple listing service (MLS) is a facility of*
16 *cooperation of real estate brokers and appraisers, operating*
17 *through an intermediary that does not itself act as a real estate*
18 *licensee or appraiser, through which real estate brokers establish*
19 *express or implied contracts for compensation between real estate*
20 *brokers that are MLS participants in accordance with its MLS*
21 *rules with respect to listed properties, or that may be used by real*
22 *estate licensees and appraisers, pursuant to the rules of the service,*
23 *to prepare market evaluations and appraisals of real property.*

24 *1088. A listing may not be placed in a multiple listing service*
25 *unless authorized or directed by the owner in the listing.*

26 *If a real estate licensee or appraiser places a listing or other*
27 *information in the multiple listing service, that real estate licensee*
28 *or appraiser shall be responsible for the truth of all representations*
29 *and statements made by the real estate licensee or appraiser of*
30 *which that real estate licensee or appraiser had knowledge or*
31 *reasonably should have had knowledge to anyone injured by their*
32 *falseness or inaccuracy.*

33 *1089.5. Subject to the limitations, conditions, and requirements*
34 *of Chapter 18 (commencing with Section 10000) of Part 5 of*
35 *Division 7 of the Probate Code, this article applies to real property*
36 *defined in Section 1086 that is covered by a contract described in*
37 *Section 10150 of the Probate Code.*

38 *1090. Nothing in this article shall preclude a listing licensee*
39 *from also being the buyer's licensee.*

40 *1090.2. This article shall become operative on July 1, 2018.*

1 *SEC. 126. Section 1090.2 is added to the Civil Code, to read:*
2 *1090.2. This article shall repeal on July 1, 2018.*

3 *SEC. 127. Section 1102 of the Civil Code is amended to read:*

4 1102. (a) Except as provided in Section 1102.2, this article
5 applies to any transfer by sale, exchange, installment land sale
6 contract, as defined in Section 2985, lease with an option to
7 purchase, any other option to purchase, or ground lease coupled
8 with improvements, of real property or residential stock
9 cooperative, improved with or consisting of not less than one nor
10 more than four dwelling units.

11 (b) Except as provided in Section 1102.2, this article shall apply
12 to a resale transaction entered into on or after January 1, 2000, for
13 a manufactured home, as defined in Section 18007 of the Health
14 and Safety Code, or a mobilehome, as defined in Section 18008
15 of the Health and Safety Code, which manufactured home or
16 mobilehome is classified as personal property and intended for
17 use as a residence.

18 (c) Any waiver of the requirements of this article is void as
19 against public policy.

20 *(d) This section shall repeal on July 1, 2018.*

21 *SEC. 128. Section 1102 is added to the Civil Code, to read:*

22 1102. (a) Except as provided in Section 1102.2, this article
23 applies to any sales of residential property.

24 (b) For the purposes of this article, the definitions in Chapter
25 1 (commencing with Section 10000) of Part 1 of Division 4 of the
26 Business and Professions Code shall apply.

27 (c) Any waiver of the requirements of this article is void as
28 against public policy.

29 *(d) This section shall become operative on July 1, 2018.*

30 *SEC. 129. Section 1102.1 of the Civil Code is amended to read:*

31 1102.1. (a) In enacting Chapter 817 of the Statutes of 1994,
32 it was the intent of the Legislature to clarify and facilitate the use
33 of the real estate disclosure statement, as specified in Section
34 1102.6. The Legislature intended the statement to be used by
35 transferors making disclosures required under this article and by
36 agents making disclosures required by Section 2079 on the agent's
37 portion of the real estate disclosure statement, in transfers subject
38 to this article. In transfers not subject to this article, agents may
39 make required disclosures in a separate writing. The Legislature
40 did not intend to affect the existing obligations of the parties to a

1 real estate contract, or their agents, to disclose any fact materially
2 affecting the value and desirability of the property, including, but
3 not limited to, the physical conditions of the property and
4 previously received reports of physical inspections noted on the
5 disclosure form set forth in Section 1102.6 or 1102.6a, and that
6 nothing in this article shall be construed to change the duty of a
7 real estate broker or salesperson pursuant to Section 2079.

8 It is also the intent of the Legislature that the delivery of a real
9 estate transfer disclosure statement may not be waived in an “as
10 is” sale, as held in *Loughrin v. Superior Court* (1993) 15 Cal. App.
11 4th 1188.

12 (b) In enacting Chapter 677 of the Statutes of 1996, it was the
13 intent of the Legislature to clarify and facilitate the use of the
14 manufactured home and mobilehome transfer disclosure statement
15 applicable to the resale of a manufactured home or mobilehome
16 pursuant to subdivision (b) of Section 1102. The Legislature
17 intended the statements to be used by transferors making
18 disclosures required under this article and by agents making
19 disclosures required by Section 2079 on the agent’s portion of the
20 disclosure statement and as required by Section 18046 of the Health
21 and Safety Code on the dealer’s portion of the manufactured home
22 and mobilehome transfer disclosure statement, in transfers subject
23 to this article. In transfers not subject to this article, agents may
24 make required disclosures in a separate writing. The Legislature
25 did not intend to affect the existing obligations of the parties to a
26 real estate contract, or their agents, to disclose any fact materially
27 affecting the value and desirability of the property, including, but
28 not limited to, the physical conditions of the property and
29 previously received reports of physical inspections noted on the
30 disclosure form set forth in Section 1102.6 or 1102.6a or to affect
31 the existing obligations of the parties to a manufactured home or
32 mobilehome purchase contract, and nothing in this article shall be
33 construed to change the duty of a real estate broker or salesperson
34 pursuant to Section 2079 or the duty of a manufactured home or
35 mobilehome dealer or salesperson pursuant to Section 18046 of
36 the Health and Safety Code.

37 It is also the intent of the Legislature that the delivery of a
38 mobilehome transfer disclosure statement may not be waived in
39 an “as is” sale.

1 (c) It is the intent of the Legislature that manufactured home
2 and mobilehome dealers and salespersons and real estate brokers
3 and salespersons use the form provided pursuant to Section
4 1102.6d. It is also the intent of the Legislature for sellers of
5 manufactured homes or mobilehomes who are neither manufactured
6 home dealers or salespersons nor real estate brokers or salespersons
7 to use the Manufactured Home/Mobilehome Transfer Disclosure
8 Statement contained in Section 1102.6d.

9 (d) *This section shall repeal on July 1, 2018.*

10 *SEC. 130. Section 1102.1 is added to the Civil Code, to read:*

11 *1102.1. (a) In enacting Chapter 817 of the Statutes of 1994,*
12 *it was the intent of the Legislature to clarify and facilitate the use*
13 *of the real estate disclosure statement, as specified in Section*
14 *1102.6. The Legislature intended the statement to be used by sellers*
15 *making disclosures required under this article and by real estate*
16 *licensees making disclosures required by Section 2079 on the real*
17 *estate licensee's portion of the real estate disclosure statement, in*
18 *transfers subject to this article. In transfers not subject to this*
19 *article, real estate licensees may make required disclosures in a*
20 *separate writing. The Legislature did not intend to affect the*
21 *existing obligations of the parties to a real estate contract, or their*
22 *retained real estate licensees, to disclose any known fact materially*
23 *affecting the value and desirability of the property, including, but*
24 *not limited to, the physical conditions of the property and*
25 *previously received reports of physical inspections noted on the*
26 *disclosure form set forth in Section 1102.6 or 1102.6a, and that*
27 *nothing in this article shall be construed to change the duty of a*
28 *real estate broker or salesperson pursuant to Section 2079.*

29 *It is also the intent of the Legislature that the delivery of a real*
30 *estate transfer disclosure statement may not be waived in an "as*
31 *is" sale, as held in Loughrin v. Superior Court (1993) 15*
32 *Cal.App.4th 1188.*

33 (b) *In enacting Chapter 677 of the Statutes of 1996, it was the*
34 *intent of the Legislature to clarify and facilitate the use of the*
35 *manufactured home and mobilehome transfer disclosure statement*
36 *applicable to the resale of a manufactured home or mobilehome*
37 *pursuant to subdivision (b) of Section 1102. The Legislature*
38 *intended the statements to be used by sellers making disclosures*
39 *required under this article and by real estate licensees making*
40 *disclosures required by Section 2079 on the real estate licensee's*

1 portion of the disclosure statement and as required by Section
2 18046 of the Health and Safety Code on the dealer's portion of
3 the manufactured home and mobilehome transfer disclosure
4 statement, in transfers subject to this article. In transfers not
5 subject to this article, real estate licensees may make required
6 disclosures in a separate writing. The Legislature did not intend
7 to affect the existing obligations of the parties to a real estate
8 contract, or their real estate licensees, to disclose any fact
9 materially affecting the value and desirability of the property,
10 including, but not limited to, the physical conditions of the property
11 and previously received reports of physical inspections noted on
12 the disclosure form set forth in Section 1102.6 or 1102.6a or to
13 affect the existing obligations of the parties to a manufactured
14 home or mobilehome purchase contract, and nothing in this article
15 shall be construed to change the duty of a real estate broker or
16 salesperson pursuant to Section 2079 or the duty of a manufactured
17 home or mobilehome dealer or salesperson pursuant to Section
18 18046 of the Health and Safety Code.

19 It is also the intent of the Legislature that the delivery of a
20 mobilehome transfer disclosure statement may not be waived in
21 an "as is" sale.

22 (c) It is the intent of the Legislature that manufactured home
23 and mobilehome dealers and salespersons and real estate brokers
24 and salespersons use the form provided pursuant to Section
25 1102.6d. It is also the intent of the Legislature for sellers of
26 manufactured homes or mobilehomes who are neither
27 manufactured home dealers or salespersons nor real estate brokers
28 or salespersons to use the Manufactured Home/Mobilehome
29 Transfer Disclosure Statement contained in Section 1102.6d.

30 (d) This section shall become operative on July 1, 2018.

31 SEC. 131. Section 1102.2 of the Civil Code is amended to read:

32 1102.2. This article does not apply to the following:

33 (a) Transfers which are required to be preceded by the furnishing
34 to a prospective transferee of a copy of a public report pursuant to
35 Section 11018.1 of the Business and Professions Code and transfers
36 which can be made without a public report pursuant to Section
37 11010.4 of the Business and Professions Code.

38 (b) Transfers pursuant to court order, including, but not limited
39 to, transfers ordered by a probate court in the administration of an
40 estate, transfers pursuant to a writ of execution, transfers by any

1 foreclosure sale, transfers by a trustee in bankruptcy, transfers by
2 eminent domain, and transfers resulting from a decree for specific
3 performance.

4 (c) Transfers to a mortgagee by a mortgagor or successor in
5 interest who is in default, transfers to a beneficiary of a deed of
6 trust by a trustor or successor in interest who is in default, transfers
7 by any foreclosure sale after default, transfers by any foreclosure
8 sale after default in an obligation secured by a mortgage, transfers
9 by a sale under a power of sale or any foreclosure sale under a
10 decree of foreclosure after default in an obligation secured by a
11 deed of trust or secured by any other instrument containing a power
12 of sale, transfers by a mortgagee or a beneficiary under a deed of
13 trust who has acquired the real property at a sale conducted
14 pursuant to a power of sale under a mortgage or deed of trust or a
15 sale pursuant to a decree of foreclosure or has acquired the real
16 property by a deed in lieu of foreclosure, transfers to the legal
17 owner or lienholder of a manufactured home or mobilehome by a
18 registered owner or successor in interest who is in default, or
19 transfers by reason of any foreclosure of a security interest in a
20 manufactured home or mobilehome.

21 (d) Transfers by a fiduciary in the course of the administration
22 of a decedent's estate, guardianship, conservatorship, or trust. This
23 exemption shall not apply to a transfer if the trustee is a natural
24 person who is sole trustee of a revocable trust and he or she is a
25 former owner of the property or an occupant in possession of the
26 property within the preceding year.

27 (e) Transfers from one coowner to one or more other coowners.

28 (f) Transfers made to a spouse, or to a person or persons in the
29 lineal line of consanguinity of one or more of the transferors.

30 (g) Transfers between spouses resulting from a judgment of
31 dissolution of marriage or of legal separation or from a property
32 settlement agreement incidental to that judgment.

33 (h) Transfers by the Controller in the course of administering
34 Chapter 7 (commencing with Section 1500) of Title 10 of Part 3
35 of the Code of Civil Procedure.

36 (i) Transfers under Chapter 7 (commencing with Section 3691)
37 or Chapter 8 (commencing with Section 3771) of Part 6 of Division
38 1 of the Revenue and Taxation Code.

39 (j) Transfers or exchanges to or from any governmental entity.

40 *This section shall repeal on July 1, 2018.*

1 *SEC. 132. Section 1102.2 is added to the Civil Code, to read:*

2 *1102.2. This article does not apply to the following:*

3 *(a) Sales which are required to be preceded by the furnishing*
4 *to a prospective buyer of a copy of a public report pursuant to*
5 *Section 11018.1 of the Business and Professions Code and transfers*
6 *that can be made without a public report pursuant to Section*
7 *11010.4 of the Business and Professions Code.*

8 *(b) Sales pursuant to court order, including, but not limited to,*
9 *sales ordered by a probate court in the administration of an estate,*
10 *sales pursuant to a writ of execution, transfers by any foreclosure*
11 *sale, sales by a trustee in bankruptcy, sales by eminent domain,*
12 *and sales resulting from a decree for specific performance.*

13 *(c) Sales to a mortgagee by a mortgagor or successor in interest*
14 *who is in default, sales to a beneficiary of a deed of trust by a*
15 *trustor or successor in interest who is in default, sales by any*
16 *foreclosure sale after default, sales by any foreclosure sale after*
17 *default in an obligation secured by a mortgage, a sale under a*
18 *power of sale or any foreclosure sale under a decree of foreclosure*
19 *after default in an obligation secured by a deed of trust or secured*
20 *by any other instrument containing a power of sale, sales by a*
21 *mortgagee or a beneficiary under a deed of trust who has acquired*
22 *the real property at a sale conducted pursuant to a power of sale*
23 *under a mortgage or deed of trust or a sale pursuant to a decree*
24 *of foreclosure or has acquired the real property by a deed in lieu*
25 *of foreclosure, sales to the legal owner or lienholder of a*
26 *manufactured home or mobilehome by a registered owner or*
27 *successor in interest who is in default, or sales by reason of any*
28 *foreclosure of a security interest in a manufactured home or*
29 *mobilehome.*

30 *(d) Sales by a fiduciary in the course of the administration of a*
31 *trust, guardianship, conservatorship, or decedent's estate. This*
32 *exemption shall not apply to a transfer if the trustee is a natural*
33 *person who is sole trustee of a revocable trust and he or she is a*
34 *former owner of the property or an occupant in possession of the*
35 *property within the preceding year.*

36 *(e) Sales from one coowner to one or more other coowners.*

37 *(f) Sales made to a spouse, or to a person or persons in the*
38 *lineal line of consanguinity of one or more of the sellers.*

1 (g) Sales between spouses resulting from a judgment of
2 dissolution of marriage or of legal separation or from a property
3 settlement agreement incidental to that judgment.

4 (h) Sales by the Controller in the course of administering
5 Chapter 7 (commencing with Section 1500) of Title 10 of Part 3
6 of the Code of Civil Procedure.

7 (i) Sales under Chapter 7 (commencing with Section 3691) or
8 Chapter 8 (commencing with Section 3771) of Part 6 of Division
9 1 of the Revenue and Taxation Code.

10 (j) Transfers or exchanges to or from any governmental entity.

11 (k) With regard to transfers of multiuse properties, the transfer
12 of any portion of the property not constituting residential property
13 with one-to-four dwelling units.

14 This section shall become operative on July 1, 2018.

15 SEC. 133. Section 1102.3 of the Civil Code is amended to read:

16 1102.3. The transferor of any real property subject to this article
17 shall deliver to the prospective transferee the written statement
18 required by this article, as follows:

19 (a) In the case of a sale, as soon as practicable before transfer
20 of title.

21 (b) In the case of transfer by a real property sales contract, as
22 defined in Section 2985, or by a lease together with an option to
23 purchase, or a ground lease coupled with improvements, as soon
24 as practicable before execution of the contract. For the purpose of
25 this subdivision, “execution” means the making or acceptance of
26 an offer.

27 With respect to any transfer subject to subdivision (a) or (b), the
28 transferor shall indicate compliance with this article either on the
29 receipt for deposit, the real property sales contract, the lease, or
30 any addendum attached thereto or on a separate document.

31 If any disclosure, or any material amendment of any disclosure,
32 required to be made by this article, is delivered after the execution
33 of an offer to purchase, the transferee shall have three days after
34 delivery in person or five days after delivery by deposit in the mail,
35 to terminate his or her offer by delivery of a written notice of
36 termination to the transferor or the transferor’s agent.

37 This section shall repeal on July 1, 2018.

38 SEC. 134. Section 1102.3 is added to the Civil Code, to read:

1 1102.3. *The seller of any real property subject to this article*
2 *shall deliver to the prospective buyer the written statement required*
3 *by this article, as follows:*

4 (a) *In the case of a sale, as soon as practicable before transfer*
5 *of title.*

6 (b) *In the case of sale by a real property sales contract, as*
7 *defined in Section 2985, or by a lease together with an option to*
8 *purchase, or a ground lease coupled with improvements, as soon*
9 *as practicable before execution of the contract. For the purpose*
10 *of this subdivision, “execution” means the making or acceptance*
11 *of an offer.*

12 (c) *With respect to any sale subject to subdivision (a) or (b),*
13 *the seller shall indicate compliance with this article on the real*
14 *property sales contract, the lease, or any addendum attached*
15 *thereto or on a separate document.*

16 *If any disclosure, or any material amendment of any disclosure,*
17 *required to be made by this article, is delivered after the execution*
18 *of an offer to purchase, the prospective buyer shall have three*
19 *days after delivery in person or five days after delivery by deposit*
20 *in the mail, to terminate his or her offer by delivery of a written*
21 *notice of termination to the seller or the seller’s licensee. The*
22 *disclosure is complete when sections I, II, and III in the form*
23 *described in Section 1102.6 are completed and delivered. A real*
24 *estate licensee may complete his or her portion of the required*
25 *disclosure by using a comparable form that includes all of the*
26 *information on the licensee’s inspection disclosure set forth in*
27 *Section 1102.6.*

28 *This section shall become operative on July 1, 2018.*

29 SEC. 135. *Section 1102.4 of the Civil Code is amended to read:*

30 1102.4. (a) *Neither the transferor nor any listing or selling*
31 *agent shall be liable for any error, inaccuracy, or omission of any*
32 *information delivered pursuant to this article if the error,*
33 *inaccuracy, or omission was not within the personal knowledge*
34 *of the transferor or that listing or selling agent, was based on*
35 *information timely provided by public agencies or by other persons*
36 *providing information as specified in subdivision (c) that is*
37 *required to be disclosed pursuant to this article, and ordinary care*
38 *was exercised in obtaining and transmitting it.*

39 (b) *The delivery of any information required to be disclosed by*
40 *this article to a prospective transferee by a public agency or other*

1 person providing information required to be disclosed pursuant to
2 this article shall be deemed to comply with the requirements of
3 this article and shall relieve the transferor or any listing or selling
4 agent of any further duty under this article with respect to that item
5 of information.

6 (c) The delivery of a report or opinion prepared by a licensed
7 engineer, land surveyor, geologist, structural pest control operator,
8 contractor, or other expert, dealing with matters within the scope
9 of the professional's license or expertise, shall be sufficient
10 compliance for application of the exemption provided by
11 subdivision (a) if the information is provided to the prospective
12 transferee pursuant to a request therefor, whether written or oral.
13 In responding to such a request, an expert may indicate, in writing,
14 an understanding that the information provided will be used in
15 fulfilling the requirements of Section 1102.6 and, if so, shall
16 indicate the required disclosures, or parts thereof, to which the
17 information being furnished is applicable. Where such a statement
18 is furnished, the expert shall not be responsible for any items of
19 information, or parts thereof, other than those expressly set forth
20 in the statement.

21 (d) *This section shall repeal on July 1, 2018.*

22 *SEC. 136. Section 1102.4 is added to the Civil Code, to read:*

23 *1102.4. (a) Neither the seller nor any listing or buyer's*
24 *licensee shall be liable for any error, inaccuracy, or omission of*
25 *any information delivered pursuant to this article if the error,*
26 *inaccuracy, or omission was not within the personal knowledge*
27 *of the seller or that listing or buyer's licensee, was based on*
28 *information timely provided by public agencies or by other persons*
29 *providing information as specified in subdivision (c) that is*
30 *required to be disclosed pursuant to this article, and ordinary care*
31 *was exercised in obtaining and transmitting it.*

32 *(b) The delivery of any information required to be disclosed by*
33 *this article to a prospective buyer by a public agency or other*
34 *person providing information required to be disclosed pursuant*
35 *to this article shall be deemed to comply with the requirements of*
36 *this article and shall relieve the seller or any listing or buyer's*
37 *licensee of any further duty under this article with respect to that*
38 *item of information.*

39 *(c) The delivery of a report or opinion prepared by a licensed*
40 *engineer, land surveyor, geologist, structural pest control operator,*

1 contractor, or other expert, dealing with matters within the scope
 2 of the professional’s license or expertise, shall be sufficient
 3 compliance for application of the exemption provided by
 4 subdivision (a) if the information is provided to the prospective
 5 buyer pursuant to a request therefor, whether written or oral.

6 (d) This section shall become operative on July 1, 2018.

7 SEC. 137. Section 1102.5 of the Civil Code is amended to read:

8 1102.5. (a) If information disclosed in accordance with this
 9 article is subsequently rendered inaccurate as a result of any act,
 10 occurrence, or agreement subsequent to the delivery of the required
 11 disclosures, the inaccuracy resulting therefrom does not constitute
 12 a violation of this article. If at the time the disclosures are required
 13 to be made, an item of information required to be disclosed is
 14 unknown or not available to the transferor, and the transferor or
 15 his or her agent has made a reasonable effort to ascertain it, the
 16 transferor may use an approximation of the information, provided
 17 the approximation is clearly identified as such, is reasonable, is
 18 based on the best information available to the transferor or his or
 19 her agent, and is not used for the purpose of circumventing or
 20 evading this article.

21 (b) This section shall repeal on July 1, 2018.

22 SEC. 138. Section 1102.5 is added to the Civil Code, to read:

23 1102.5. (a) If information disclosed in accordance with this
 24 article is subsequently rendered inaccurate as a result of any act,
 25 occurrence, or agreement subsequent to the delivery of the required
 26 disclosures, any inaccuracy resulting therefrom does not constitute
 27 a violation of this article. If at the time the disclosures are required
 28 to be made, an item of information required to be disclosed is
 29 unknown or not available to the seller, and the seller or his or her
 30 real estate licensee has made a reasonable effort to ascertain it,
 31 the seller may use an approximation of the information, provided
 32 the approximation is clearly identified as such, is reasonable, is
 33 based on the best information reasonably available to the seller
 34 or his or her real estate licensee, and is not used for the purpose
 35 of circumventing or evading this article.

36 (b) This section shall become operative on July 1, 2018.

37 SEC. 139. Section 1102.6a of the Civil Code is amended to
 38 read:

39 1102.6a. (a) On and after July 1, 1990, any city or county may
 40 elect to require disclosures on the form set forth in subdivision (b)

1 in addition to those disclosures required by Section 1102.6.
2 However, this section does not affect or limit the authority of a
3 city or county to require disclosures on a different disclosure form
4 in connection with transactions subject to this article pursuant to
5 an ordinance adopted prior to July 1, 1990. An ordinance like this
6 adopted prior to July 1, 1990, may be amended thereafter to revise
7 the disclosure requirements of the ordinance, in the discretion of
8 the city council or county board of supervisors.

9 (b) Disclosures required pursuant to this section pertaining to
10 the property proposed to be transferred, shall be set forth in, and
11 shall be made on a copy of, the following disclosure form:

LOCAL OPTION
REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE-DESCRIBED PROPERTY IN COMPLIANCE WITH ORDINANCE NO. _____ OF THE _____ CITY OR COUNTY CODE AS OF _____, 20____. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REAL ESTATE LICENSEE(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) real estate licensee(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AS REQUIRED BY THE CITY OR COUNTY OF _____ AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

- 1. _____

- 2. _____

(Example: Adjacent land is zoned for timber production which may be subject to harvest.)
Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller _____ Date _____
Seller _____ Date _____

II

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ Date _____ Buyer _____ Date _____
Seller _____ Date _____ Buyer _____ Date _____

Agent Real Estate Licensee (Broker
Representing Seller-Name) _____ By _____ Date _____
(Associate Real Estate Licensee
or Broker-Signature)

Agent Real Estate Licensee (Broker
Representing Seller-Name) _____ By _____ Date _____
(Associate Real Estate Licensee
or Broker-Signature)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

1 (c) This section does not preclude the use of addenda to the
2 form specified in subdivision (b) to facilitate the required
3 disclosures. This section does not preclude a city or county from
4 using the disclosure form specified in subdivision (b) for a purpose
5 other than that specified in this section.

6 (d) (1) On and after January 1, 2005, if a city or county adopts
7 a different or additional disclosure form pursuant to this section
8 regarding the proximity or effects of an airport, the statement in
9 that form shall contain, at a minimum, the information in the
10 statement “Notice of Airport in Vicinity” found in Section 11010
11 of the Business and Professions Code, or Section 1103.4 or 4255.

12 (2) On and after January 1, 2006, if a city or county does not
13 adopt a different or additional disclosure form pursuant to this
14 section, then the provision of an “airport influence area” disclosure
15 pursuant to Section 11010 of the Business and Professions Code,
16 or Section 1103.4 or 4255, or if there is not a current airport
17 influence map, a written disclosure of an airport within two statute
18 miles, shall be deemed to satisfy any city or county requirements
19 for the disclosure of airports in connection with transfers of real
20 property.

21 (e) *This section shall repeal on July 1, 2018.*

22 *SEC. 140. Section 1102.6a is added to the Civil Code, to read:*

23 *1102.6a. (a) Any city or county may elect to require disclosures*
24 *on the form set forth in subdivision (b) in addition to those*
25 *disclosures required by Section 1102.6. However, this section does*
26 *not affect or limit the authority of a city or county to require*
27 *disclosures on a different disclosure form in connection with*
28 *transactions subject to this article pursuant to an ordinance*
29 *adopted prior to July 1, 1990.*

30 *(b) Disclosures required pursuant to this section pertaining to*
31 *the property proposed to be sold, shall be set forth in, and shall*
32 *be made on a copy of, the following disclosure form:*

LOCAL OPTION

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE-DESCRIBED PROPERTY IN COMPLIANCE WITH ORDINANCE NO. _____ OF THE _____ CITY OR COUNTY CODE AS OF _____, 20____. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY REAL ESTATE LICENSEE(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any real estate licensee(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AS REQUIRED BY THE CITY OR COUNTY OF _____ AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

- 1. _____

2. _____

(Example: Adjacent land is zoned for timber production which may be subject to harvest.)
Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller _____ Date _____
Seller _____ Date _____

II

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ Date _____ Buyer _____ Date _____
Seller _____ Date _____ Buyer _____ Date _____

Real Estate Licensee (Broker
Representing Seller-Name) _____ By _____ Date _____
(Associate Real Estate Licensee
or Broker-Signature)

Real Estate Licensee (Broker
Representing Seller-Name) _____ By _____ Date _____
(Associate Real Estate Licensee
or Broker-Signature)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

1 (c) *This section does not preclude the use of addenda to the*
2 *form specified in subdivision (b) to facilitate the required*
3 *disclosures. This section does not preclude a city or county from*
4 *using the disclosure form specified in subdivision (b) for a purpose*
5 *other than that specified in this section.*

6 (d) (1) *On and after January 1, 2005, if a city or county adopts*
7 *a different or additional disclosure form pursuant to this section*
8 *regarding the proximity or effects of an airport, the statement in*
9 *that form shall contain, at a minimum, the information in the*
10 *statement “Notice of Airport in Vicinity” found in Section 11010*
11 *of the Business and Professions Code, or Section 1103.4 or 4255.*

12 (2) *On and after January 1, 2006, if a city or county does not*
13 *adopt a different or additional disclosure form pursuant to this*
14 *section, then the provision of an “airport influence area”*
15 *disclosure pursuant to Section 11010 of the Business and*
16 *Professions Code, or Section 1103.4 or 4255, or if there is not a*
17 *current airport influence map, a written disclosure of an airport*
18 *within two statute miles, shall be deemed to satisfy any city or*
19 *county requirements for the disclosure of airports in connection*
20 *with sales of real property.*

21 (e) *This section shall become operative on July 1, 2018.*

22 *SEC. 141. Section 1102.6b of the Civil Code is amended to*
23 *read:*

24 1102.6b. (a) *This section applies to all transfers of real property*
25 *for which all of the following apply:*

26 (1) *The transfer is subject to this article.*

27 (2) *The property being transferred is subject to a continuing lien*
28 *securing the levy of special taxes pursuant to the Mello-Roos*
29 *Community Facilities Act (Chapter 2.5 (commencing with Section*
30 *53311) of Part 1 of Division 2 of Title 5 of the Government Code),*
31 *to a fixed lien assessment collected in installments to secure bonds*
32 *issued pursuant to the Improvement Bond Act of 1915 (Division*
33 *10 (commencing with Section 8500) of the Streets and Highways*
34 *Code), or to a contractual assessment program authorized pursuant*
35 *to Chapter 29 (commencing with Section 5898.10) of Part 3 of*
36 *Division 7 of the Streets and Highway Code.*

37 (3) *A notice is not required pursuant to Section 53341.5 of the*
38 *Government Code.*

39 (b) *In addition to any other disclosure required pursuant to this*
40 *article, the seller of any real property subject to this section shall*

1 make a good faith effort to obtain a disclosure notice concerning
2 the special tax as provided for in Section 53340.2 of the
3 Government Code, or a disclosure notice concerning an assessment
4 installment as provided in Section 53754 of the Government Code,
5 from each local agency that levies a special tax pursuant to the
6 Mello-Roos Community Facilities Act, or that collects assessment
7 installments to secure bonds issued pursuant to the Improvement
8 Bond Act of 1915 (Division 10 (commencing with Section 8500)
9 of the Streets and Highways Code), or a disclosure notice
10 concerning the contractual assessment as provided in Section
11 5898.24 of the Streets and Highways Code, on the property being
12 transferred, and shall deliver that notice or those notices to the
13 prospective purchaser, as long as the notices are made available
14 by the local agency.

15 (c) (1) The seller of real property subject to this section may
16 satisfy the disclosure notice requirements in regard to the bonds
17 issued pursuant to the Improvement Bond Act of 1915 (Division
18 10 (commencing with Section 8500) of the Streets and Highways
19 Code) by delivering a disclosure notice that is substantially
20 equivalent and obtained from another source, until December 31,
21 2004.

22 (2) The seller of real property subject to this section may satisfy
23 the disclosure notice requirements in regard to the assessments
24 collected under the contractual assessment program authorized
25 pursuant to Chapter 29 (commencing with Section 5898.10) of
26 Part 3 of Division 7 of the Streets and Highway Code by delivering
27 a disclosure notice that is substantially equivalent and obtained
28 from another source.

29 (3) For the purposes of this section, a substantially equivalent
30 disclosure notice includes, but is not limited to, a copy of the most
31 recent year's property tax bill or an itemization of current
32 assessment amounts applicable to the property.

33 (d) (1) Notwithstanding subdivision (c), at any time after the
34 effective date of this section, the seller of real property subject to
35 this section may satisfy the disclosure notice requirements of this
36 section by delivering a disclosure notice obtained from a
37 nongovernmental source that satisfies the requirements of
38 paragraph (2).

39 (2) A notice provided by a private entity other than a designated
40 office, department, or bureau of the levying entity may be modified

1 as needed to clearly and accurately describe a special tax pursuant
2 to the Mello-Roos Community Facilities Act levied against the
3 property or to clearly and accurately consolidate information about
4 two or more districts that levy or are authorized to levy a special
5 tax pursuant to the Mello-Roos Community Facilities Act against
6 the property, and shall include the name of the Mello-Roos entity
7 levying taxes against the property, the annual tax due for the
8 Mello-Roos entity for the current tax year, the maximum tax that
9 may be levied against the property in any year, the percentage by
10 which the maximum tax for the Mello-Roos entity may increase
11 per year, and the date until the tax may be levied against the
12 property for the Mello-Roos entity and a contact telephone number,
13 if available, for further information about the Mello-Roos entity.
14 A notice provided by a private entity other than a designated office,
15 department, or bureau of the levying entity may be modified as
16 needed to clearly and accurately describe special assessments and
17 bonds pursuant to the Improvement Bond Act of 1915 levied
18 against the property, or to clearly and accurately consolidate
19 information about two or more districts that levy or are authorized
20 to levy special assessments and bonds pursuant to the Improvement
21 Bond Act of 1915 against the property, and shall include the name
22 of the special assessments and bonds issued pursuant to the
23 Improvement Bond Act of 1915, the current annual tax on the
24 property for the special assessments and bonds issued pursuant to
25 the Improvement Bond Act of 1915 and a contact telephone
26 number, if available, for further information about the special
27 assessments and bonds issued pursuant to the Improvement Bond
28 Act of 1915.

29 (3) This section does not change the ability to make disclosures
30 pursuant to Section 1102.4 of the Civil Code.

31 (e) If a disclosure received pursuant to subdivision (b), (c), or
32 (d) has been delivered to the transferee, a seller or his or her agent
33 is not required to provide additional information concerning, and
34 information in the disclosure shall be deemed to satisfy the
35 responsibility of the seller or his or her agent to inform the
36 transferee regarding the special tax or assessment installments and
37 the district. Notwithstanding subdivision (b), (c), or (d), nothing
38 in this section imposes a duty to discover a special tax or
39 assessment installments or the existence of any levying district not
40 actually known to the agents.

1 (f) *This section shall repeal on July 1, 2018.*

2 SEC. 142. *Section 1102.6b is added to the Civil Code, to read:*

3 1102.6b. (a) *This section applies to all sales of real property*
4 *for which all of the following apply:*

5 (1) *The sale is subject to this article.*

6 (2) *The property being sold is subject to a continuing lien*
7 *securing the levy of special taxes pursuant to the Mello-Roos*
8 *Community Facilities Act (Chapter 2.5 (commencing with Section*
9 *53311) of Part 1 of Division 2 of Title 5 of the Government Code),*
10 *to a fixed lien assessment collected in installments to secure bonds*
11 *issued pursuant to the Improvement Bond Act of 1915 (Division*
12 *10 (commencing with Section 8500) of the Streets and Highways*
13 *Code), or to a contractual assessment program authorized pursuant*
14 *to Chapter 29 (commencing with Section 5898.10) of Part 3 of*
15 *Division 7 of the Streets and Highway Code.*

16 (3) *A notice is not required pursuant to Section 53341.5 of the*
17 *Government Code.*

18 (b) *In addition to any other disclosure required pursuant to this*
19 *article, the seller of any real property subject to this section shall*
20 *make a good faith effort to obtain a disclosure notice concerning*
21 *the special tax as provided for in Section 53340.2 of the*
22 *Government Code, or a disclosure notice concerning an assessment*
23 *installment as provided in Section 53754 of the Government Code*
24 *from each local agency that levies a special tax pursuant to the*
25 *Mello-Roos Community Facilities Act, or that collects assessment*
26 *installments to secure bonds issued pursuant to the Improvement*
27 *Bond Act of 1915 (Division 10 (commencing with Section 8500)*
28 *of the Streets and Highways Code), or a disclosure notice*
29 *concerning the contractual assessment as provided in Section*
30 *5898.24 of the Streets and Highways Code on the property being*
31 *sold and shall deliver that notice or those notices to the prospective*
32 *buyer, as long as the notices are made available by the local*
33 *agency.*

34 (c) (1) *The seller of real property subject to this section may*
35 *satisfy the disclosure notice requirements in regard to the bonds*
36 *issued pursuant to the Improvement Bond Act of 1915 (Division*
37 *10 (commencing with Section 8500) of the Streets and Highways*
38 *Code) by delivering a disclosure notice that is substantially*
39 *equivalent and obtained from another source.*

1 (2) *The seller of real property subject to this section may satisfy*
2 *the disclosure notice requirements in regard to the assessments*
3 *collected under the contractual assessment program authorized*
4 *pursuant to Chapter 29 (commencing with Section 5898.10) of*
5 *Part 3 of Division 7 of the Streets and Highway Code by delivering*
6 *a disclosure notice that is substantially equivalent and obtained*
7 *from another source.*

8 (3) *For the purposes of this section, a substantially equivalent*
9 *disclosure notice includes, but is not limited to, a copy of the most*
10 *recent year's property tax bill or an itemization of current*
11 *assessment amounts applicable to the property.*

12 (d) (1) *Notwithstanding subdivision (c), the seller of real*
13 *property subject to this section may satisfy the disclosure notice*
14 *requirements of this section by delivering a disclosure notice*
15 *obtained from a nongovernmental source that satisfies the*
16 *requirements of paragraph (2).*

17 (2) *A notice provided by a private entity other than a designated*
18 *office, department, or bureau of the levying entity may be modified*
19 *as needed to clearly and accurately describe a special tax pursuant*
20 *to the Mello-Roos Community Facilities Act levied against the*
21 *property or to clearly and accurately consolidate information*
22 *about two or more districts that levy or are authorized to levy a*
23 *special tax pursuant to the Mello-Roos Community Facilities Act*
24 *against the property, and shall include the name of the Mello-Roos*
25 *entity levying taxes against the property, the annual tax due for*
26 *the Mello-Roos entity for the current tax year, the maximum tax*
27 *that may be levied against the property in any year, the percentage*
28 *by which the maximum tax for the Mello-Roos entity may increase*
29 *per year, and the date until the tax may be levied against the*
30 *property for the Mello-Roos entity and a contact telephone number,*
31 *if available, for further information about the Mello-Roos entity.*

32 *A notice provided by a private entity other than a designated office,*
33 *department, or bureau of the levying entity may be modified as*
34 *needed to clearly and accurately describe special assessments and*
35 *bonds pursuant to the Improvement Bond Act of 1915 levied against*
36 *the property, or to clearly and accurately consolidate information*
37 *about two or more districts that levy or are authorized to levy*
38 *special assessments and bonds pursuant to the Improvement Bond*
39 *Act of 1915 against the property, and shall include the name of*
40 *the special assessments and bonds issued pursuant to the*

1 *Improvement Bond Act of 1915, the current annual tax on the*
2 *property for the special assessments and bonds issued pursuant*
3 *to the Improvement Bond Act of 1915, and a contact telephone*
4 *number, if available, for further information about the special*
5 *assessments and bonds issued pursuant to the Improvement Bond*
6 *Act of 1915.*

7 *(3) This section does not change the ability to make disclosures*
8 *pursuant to Section 1102.4 of the Civil Code.*

9 *(e) If a disclosure received pursuant to subdivision (b), (c), or*
10 *(d) has been delivered to the buyer, a seller or his or her real estate*
11 *licensee is not required to provide additional information*
12 *concerning, and information in the disclosure shall be deemed to*
13 *satisfy the responsibility of the seller or his or her real estate*
14 *licensee to inform the buyer regarding the special tax or assessment*
15 *installments and the district. Notwithstanding subdivision (b), (c),*
16 *or (d), nothing in this section imposes a duty to discover a special*
17 *tax or assessment installments or the existence of any levying*
18 *district not actually known to the real estate licensees.*

19 *(f) This section shall become operative on July 1, 2018.*

20 *SEC. 143. Section 1102.6c of the Civil Code is amended to*
21 *read:*

22 1102.6c. (a) In addition to any other disclosure required
23 pursuant to this article, it shall be the sole responsibility of the
24 seller of any real property subject to this article, or his or her agent,
25 to deliver to the prospective purchaser a disclosure notice that
26 includes both of the following:

27 (1) A notice, in at least 12-point type or a contrasting color, as
28 follows:

29 “California property tax law requires the Assessor to revalue
30 real property at the time the ownership of the property changes.
31 Because of this law, you may receive one or two supplemental tax
32 bills, depending on when your loan closes.

33 The supplemental tax bills are not mailed to your lender. If you
34 have arranged for your property tax payments to be paid through
35 an impound account, the supplemental tax bills will not be paid
36 by your lender. It is your responsibility to pay these supplemental
37 bills directly to the Tax Collector.

38 If you have any question concerning this matter, please call your
39 local Tax Collector’s Office.”

1 (2) A title, in at least 14-point type or a contrasting color, that
2 reads as follows: “Notice of Your ~~Supplemental~~ *‘Supplemental’*
3 *Property Tax Bill.*”

4 (b) The disclosure notice requirements of this section may be
5 satisfied by delivering a disclosure notice pursuant to Section
6 1102.6b that satisfies the requirements of subdivision (a).

7 (c) *This section shall repeal on July 1, 2018.*

8 *SEC. 144. Section 1102.6c is added to the Civil Code, to read:*

9 *1102.6c. (a) In addition to any other disclosure required*
10 *pursuant to this article, it shall be the sole responsibility of the*
11 *seller of any real property subject to this article, or his or her real*
12 *estate licensee, to deliver to the prospective buyer a disclosure*
13 *notice that includes both of the following:*

14 (1) *A notice, in at least 12-point type or a contrasting color, as*
15 *follows:*

16 *“California property tax law requires the Assessor to revalue*
17 *real property at the time the ownership of the property changes.*
18 *Because of this law, you may receive one or two supplemental tax*
19 *bills, depending on when your loan closes.*

20 *The supplemental tax bills are not mailed to your lender. If you*
21 *have arranged for your property tax payments to be paid through*
22 *an impound account, the supplemental tax bills will not be paid*
23 *by your lender. It is your responsibility to pay these supplemental*
24 *bills directly to the tax collector.*

25 *If you have any question concerning this matter, please call your*
26 *local tax collector’s office.”*

27 (2) *A title, in at least 14-point type or a contrasting color, that*
28 *reads as follows: “Notice of Your *‘Supplemental’* Property Tax*
29 *Bill.”*

30 (b) *The disclosure notice requirements of this section may be*
31 *satisfied by delivering a disclosure notice pursuant to Section*
32 *1102.6b that satisfies the requirements of subdivision (a).*

33 (c) *This section shall become operative on July 1, 2018.*

34 *SEC. 145. Section 1102.9 of the Civil Code is amended to read:*

35 *1102.9. (a) Any disclosure made pursuant to this article may*
36 *be amended in writing by the transferor or his or her agent, but the*
37 *amendment shall be subject to Section 1102.3 or 1102.3a.*

38 (b) *This section shall repeal on July 1, 2018.*

39 *SEC. 146. Section 1102.9 is added to the Civil Code, to read:*

1 1102.9. (a) Any disclosure made pursuant to this article may
2 be amended in writing by the seller or his or her real estate
3 licensee, but the amendment shall be subject to Section 1102.3 or
4 1102.3a.

5 (b) This section shall become operative on July 1, 2018.

6 SEC. 147. Section 1102.12 of the Civil Code is amended to
7 read:

8 1102.12. (a) If more than one licensed real estate broker is
9 acting as an agent in a transaction subject to this article, the broker
10 who has obtained the offer made by the transferee shall, except as
11 otherwise provided in this article, deliver the disclosure required
12 by this article to the transferee, unless the transferor has given
13 other written instructions for delivery.

14 (b) If a licensed real estate broker responsible for delivering the
15 disclosures under this section cannot obtain the disclosure
16 document required and does not have written assurance from the
17 transferee that the disclosure has been received, the broker shall
18 advise the transferee in writing of his or her rights to the disclosure.
19 A licensed real estate broker responsible for delivering disclosures
20 under this section shall maintain a record of the action taken to
21 effect compliance in accordance with Section 10148 of the
22 Business and Professions Code.

23 (c) This section shall repeal on July 1, 2018.

24 SEC. 148. Section 1102.12 is added to the Civil Code, to read:

25 1102.12. (a) If more than one licensed real estate broker is
26 acting as a real estate licensee in a transaction subject to this
27 article, the buyer's licensee shall, except as otherwise provided
28 in this article, deliver the disclosure required by this article to the
29 buyer unless the seller has given other written instructions for
30 delivery. If there is only one real estate licensee in a transaction
31 subject to this article, that real estate licensee shall deliver the
32 disclosure required by this article to the buyer. If there is no real
33 estate licensee in a transaction, the seller shall deliver the
34 disclosure required by this article to the buyer.

35 (b) If a real estate licensee responsible for delivering the
36 disclosures under this section cannot obtain the disclosure
37 document required and does not have written assurance from the
38 buyer that the disclosure has been received, the real estate licensee
39 shall advise the buyer in writing of his or her rights to the
40 disclosure. A real estate licensee responsible for delivering

1 *disclosures under this section shall maintain a record of the action*
2 *taken to effect compliance in accordance with Section 10148 of*
3 *the Business and Professions Code.*

4 *(c) This section shall become operative on July 1, 2018.*

5 *SEC. 149. Section 1102.14 of the Civil Code is amended to*
6 *read:*

7 1102.14. (a) As used in this article, “listing agent” means
8 listing agent as defined in subdivision (f) of Section 1086.

9 (b) As used in this article, “selling agent” means selling agent
10 as defined in subdivision (g) of Section 1086, exclusive of the
11 requirement that the agent be a participant in a multiple listing
12 service as defined in Section 1087.

13 *(c) This section shall repeal on July 1, 2018.*

14 *SEC. 150. Section 1102.155 of the Civil Code is amended to*
15 *read:*

16 1102.155. (a) (1) The seller of residential real property subject
17 to this article shall disclose, in writing, that Section 1101.4 of the
18 Civil Code requires that California single-family residences be
19 equipped with water-conserving plumbing fixtures on or before
20 January 1, 2017, and shall disclose whether the property includes
21 any noncompliant plumbing fixtures.

22 (2) The seller shall affirm that this representation is that of the
23 seller and not a representation of any agent, and that this disclosure
24 is not intended to be part of any contract between the buyer and
25 the seller. The seller shall further affirm that this disclosure is not
26 a warranty of any kind by the seller or any agent representing any
27 principal in the transaction and is not a substitute for any
28 inspections that or warranties any principal may wish to obtain.

29 (b) This section shall become operative on January 1, 2017.

30 *(c) This section shall repeal on July 1, 2018.*

31 *SEC. 151. Section 1102.155 is added to the Civil Code, to read:*

32 1102.155. (a) (1) *The seller of residential property subject to*
33 *this article shall disclose, in writing, that Section 1101.4 requires*
34 *that California single-family residences be equipped with*
35 *water-conserving plumbing fixtures on or before January 1, 2017,*
36 *and shall disclose whether the property includes any noncompliant*
37 *plumbing fixtures as defined in subdivision (c) of Section 1101.3.*

38 (2) *The seller shall affirm that this representation is that of the*
39 *seller and not a representation of any real estate licensee and that*
40 *this disclosure is not intended to be part of any contract between*

1 *the buyer and the seller. The seller shall further affirm that this*
2 *disclosure is not a warranty of any kind by the seller or any real*
3 *estate licensee representing any principal in the transaction and*
4 *is not a substitute for any inspections or warranties that any*
5 *principal may wish to obtain.*

6 *(b) This section shall become operative on July 1, 2018.*

7 *SEC. 152. Section 1103 of the Civil Code is amended to read:*

8 1103. (a) Except as provided in Section 1103.1, this article
9 applies to the transfer by sale, exchange, installment land sale
10 contract, as defined in Section 2985, lease with an option to
11 purchase, any other option to purchase, or ground lease coupled
12 with improvements, of any real property described in subdivision
13 (c), or residential stock cooperative, improved with or consisting
14 of not less than one nor more than four dwelling units.

15 (b) Except as provided in Section 1103.1, this article shall apply
16 to a resale transaction entered into on or after January 1, 2000, for
17 a manufactured home, as defined in Section 18007 of the Health
18 and Safety Code, that is classified as personal property intended
19 for use as a residence, or a mobilehome, as defined in Section
20 18008 of the Health and Safety Code, that is classified as personal
21 property intended for use as a residence, if the real property on
22 which the manufactured home or mobilehome is located is real
23 property described in subdivision (c).

24 (c) This article shall apply to the transactions described in
25 subdivisions (a) and (b) only if the transferor or his or her agent
26 is required by one or more of the following to disclose the
27 property's location within a hazard zone:

28 (1) A person who is acting as an agent for a transferor of real
29 property that is located within a special flood hazard area (any
30 type Zone "A" or "V") designated by the Federal Emergency
31 Management Agency, or the transferor if he or she is acting without
32 an agent, shall disclose to any prospective transferee the fact that
33 the property is located within a special flood hazard area if either:

34 (A) The transferor, or the transferor's agent, has actual
35 knowledge that the property is within a special flood hazard area.

36 (B) The local jurisdiction has compiled a list, by parcel, of
37 properties that are within the special flood hazard area and a notice
38 has been posted at the offices of the county recorder, county
39 assessor, and county planning agency that identifies the location
40 of the parcel list.

1 (2) A person who is acting as an agent for a transferor of real
2 property that is located within an area of potential flooding
3 designated pursuant to Section 8589.5 of the Government Code,
4 or the transferor if he or she is acting without an agent, shall
5 disclose to any prospective transferee the fact that the property is
6 located within an area of potential flooding if either:

7 (A) The transferor, or the transferor's agent, has actual
8 knowledge that the property is within an inundation area.

9 (B) The local jurisdiction has compiled a list, by parcel, of
10 properties that are within the inundation area and a notice has been
11 posted at the offices of the county recorder, county assessor, and
12 county planning agency that identifies the location of the parcel
13 list.

14 (3) A transferor of real property that is located within a very
15 high fire hazard severity zone, designated pursuant to Section
16 51178 of the Government Code, shall disclose to any prospective
17 transferee the fact that the property is located within a very high
18 fire hazard severity zone and is subject to the requirements of
19 Section 51182 of the Government Code if either:

20 (A) The transferor, or the transferor's agent, has actual
21 knowledge that the property is within a very high fire hazard
22 severity zone.

23 (B) A map that includes the property has been provided to the
24 local agency pursuant to Section 51178 of the Government Code
25 and a notice has been posted at the offices of the county recorder,
26 county assessor, and county planning agency that identifies the
27 location of the map and any information regarding changes to the
28 map received by the local agency.

29 (4) A person who is acting as an agent for a transferor of real
30 property that is located within an earthquake fault zone, designated
31 pursuant to Section 2622 of the Public Resources Code, or the
32 transferor if he or she is acting without an agent, shall disclose to
33 any prospective transferee the fact that the property is located
34 within a delineated earthquake fault zone if either:

35 (A) The transferor, or the transferor's agent, has actual
36 knowledge that the property is within a delineated earthquake fault
37 zone.

38 (B) A map that includes the property has been provided to the
39 city or county pursuant to Section 2622 of the Public Resources
40 Code and a notice has been posted at the offices of the county

1 recorder, county assessor, and county planning agency that
2 identifies the location of the map and any information regarding
3 changes to the map received by the county.

4 (5) A person who is acting as an agent for a transferor of real
5 property that is located within a seismic hazard zone, designated
6 pursuant to Section 2696 of the Public Resources Code, or the
7 transferor if he or she is acting without an agent, shall disclose to
8 any prospective transferee the fact that the property is located
9 within a seismic hazard zone if either:

10 (A) The transferor, or the transferor's agent, has actual
11 knowledge that the property is within a seismic hazard zone.

12 (B) A map that includes the property has been provided to the
13 city or county pursuant to Section 2696 of the Public Resources
14 Code and a notice has been posted at the offices of the county
15 recorder, county assessor, and county planning agency that
16 identifies the location of the map and any information regarding
17 changes to the map received by the county.

18 (6) A transferor of real property that is located within a state
19 responsibility area determined by the board, pursuant to Section
20 4125 of the Public Resources Code, shall disclose to any
21 prospective transferee the fact that the property is located within
22 a wildland area that may contain substantial forest fire risks and
23 hazards and is subject to the requirements of Section 4291 if either:

24 (A) The transferor, or the transferor's agent, has actual
25 knowledge that the property is within a wildland fire zone.

26 (B) A map that includes the property has been provided to the
27 city or county pursuant to Section 4125 of the Public Resources
28 Code and a notice has been posted at the offices of the county
29 recorder, county assessor, and county planning agency that
30 identifies the location of the map and any information regarding
31 changes to the map received by the county.

32 (d) Any waiver of the requirements of this article is void as
33 against public policy.

34 (e) *This section shall repeal on July 1, 2018.*

35 *SEC. 153. Section 1103 is added to the Civil Code, to read:*

36 *1103. (a) Except as provided in Section 1103.1, this article*
37 *applies to a sale, exchange, installment land sale contract, as*
38 *defined in Section 2985, lease with an option to purchase, any*
39 *other option to purchase, or ground lease coupled with*
40 *improvements, of any real property described in subdivision (c),*

1 *or residential stock cooperative, improved with or consisting of*
2 *not less than one nor more than four dwelling units.*

3 *(b) Except as provided in Section 1103.1, this article applies to*
4 *a resale transaction entered into for a manufactured home, as*
5 *defined in Section 18007 of the Health and Safety Code, that is*
6 *classified as personal property intended for use as a residence, or*
7 *a mobilehome, as defined in Section 18008 of the Health and Safety*
8 *Code, that is classified as personal property intended for use as*
9 *a residence, if the real property on which the manufactured home*
10 *or mobilehome is located is real property described in subdivision*
11 *(c).*

12 *(c) This article shall apply to the transactions described in*
13 *subdivisions (a) and (b) only if the seller or his or her real estate*
14 *licensee is required by one or more of the following to disclose*
15 *the property's location within a hazard zone:*

16 *(1) A person who is acting as a real estate licensee for a seller*
17 *of real property that is located within a special flood hazard area*
18 *(any type Zone "A" or "V") designated by the Federal Emergency*
19 *Management Agency, or the seller if he or she is acting without a*
20 *real estate licensee, shall disclose to any prospective buyer the*
21 *fact that the property is located within a special flood hazard area*
22 *if either:*

23 *(A) The seller, or the seller's real estate licensee, has actual*
24 *knowledge that the property is within a special flood hazard area.*

25 *(B) The local jurisdiction has compiled a list, by parcel, of*
26 *properties that are within the special flood hazard area and a*
27 *notice has been posted at the offices of the county recorder, county*
28 *assessor, and county planning agency that identifies the location*
29 *of the parcel list.*

30 *(2) A person who is acting as a real estate licensee for a seller*
31 *of real property that is located within an area of potential flooding*
32 *designated pursuant to Section 8589.5 of the Government Code,*
33 *or the seller if he or she is acting without a real estate licensee,*
34 *shall disclose to any prospective buyer the fact that the property*
35 *is located within an area of potential flooding if either:*

36 *(A) The seller, or the seller's real estate licensee, has actual*
37 *knowledge that the property is within an inundation area.*

38 *(B) The local jurisdiction has compiled a list, by parcel, of*
39 *properties that are within the inundation area and a notice has*
40 *been posted at the offices of the county recorder, county assessor,*

1 and county planning agency that identifies the location of the
2 parcel list.

3 (3) A seller of real property that is located within a very high
4 fire hazard severity zone, designated pursuant to Section 51178
5 of the Government Code, shall disclose to any prospective buyer
6 the fact that the property is located within a very high fire hazard
7 severity zone and is subject to the requirements of Section 51182
8 of the Government Code if either:

9 (A) The seller, or the seller's real estate licensee, has actual
10 knowledge that the property is within a very high fire hazard
11 severity zone.

12 (B) A map that includes the property has been provided to the
13 local agency pursuant to Section 51178 of the Government Code
14 and a notice has been posted at the offices of the county recorder,
15 county assessor, and county planning agency that identifies the
16 location of the map and any information regarding changes to the
17 map received by the local agency.

18 (4) A person who is acting as a real estate licensee for a seller
19 of real property that is located within an earthquake fault zone,
20 designated pursuant to Section 2622 of the Public Resources Code,
21 or the seller if he or she is acting without a real estate licensee,
22 shall disclose to any prospective buyer the fact that the property
23 is located within a delineated earthquake fault zone if either:

24 (A) The seller, or the seller's real estate licensee, has actual
25 knowledge that the property is within a delineated earthquake fault
26 zone.

27 (B) A map that includes the property has been provided to the
28 city or county pursuant to Section 2622 of the Public Resources
29 Code and a notice has been posted at the offices of the county
30 recorder, county assessor, and county planning agency that
31 identifies the location of the map and any information regarding
32 changes to the map received by the county.

33 (5) A person who is acting as a real estate licensee for a seller
34 of real property that is located within a seismic hazard zone,
35 designated pursuant to Section 2696 of the Public Resources Code,
36 or the seller if he or she is acting without a real estate licensee,
37 shall disclose to any prospective buyer the fact that the property
38 is located within a seismic hazard zone if either:

39 (A) The seller, or the seller's real estate licensee, has actual
40 knowledge that the property is within a seismic hazard zone.

1 (B) A map that includes the property has been provided to the
2 city or county pursuant to Section 2696 of the Public Resources
3 Code and a notice has been posted at the offices of the county
4 recorder, county assessor, and county planning agency that
5 identifies the location of the map and any information regarding
6 changes to the map received by the county.

7 (6) A seller of real property that is located within a state
8 responsibility area determined by the board, pursuant to Section
9 4125 of the Public Resources Code, shall disclose to any
10 prospective buyer the fact that the property is located within a
11 wildland area that may contain substantial forest fire risks and
12 hazards and is subject to the requirements of Section 4291 of the
13 Public Resources Code if either:

14 (A) The seller, or the seller's real estate licensee, has actual
15 knowledge that the property is within a wildland fire zone.

16 (B) A map that includes the property has been provided to the
17 city or county pursuant to Section 4125 of the Public Resources
18 Code and a notice has been posted at the offices of the county
19 recorder, county assessor, and county planning agency that
20 identifies the location of the map and any information regarding
21 changes to the map received by the county.

22 (d) Any waiver of the requirements of this article is void as
23 against public policy.

24 (e) This section shall become operative on July 1, 2018.

25 SEC. 154. Section 1103.1 of the Civil Code is amended to read:

26 1103.1. (a) This article does not apply to the following
27 transfers:

28 (1) Transfers pursuant to court order, including, but not limited
29 to, transfers ordered by a probate court in administration of an
30 estate, transfers pursuant to a writ of execution, transfers by any
31 foreclosure sale, transfers by a trustee in bankruptcy, transfers by
32 eminent domain, and transfers resulting from a decree for specific
33 performance.

34 (2) Transfers to a mortgagee by a mortgagor or successor in
35 interest who is in default, transfers to a beneficiary of a deed of
36 trust by a trustor or successor in interest who is in default, transfers
37 by any foreclosure sale after default, transfers by any foreclosure
38 sale after default in an obligation secured by a mortgage, transfers
39 by a sale under a power of sale or any foreclosure sale under a
40 decree of foreclosure after default in an obligation secured by a

1 deed of trust or secured by any other instrument containing a power
2 of sale, or transfers by a mortgagee or a beneficiary under a deed
3 of trust who has acquired the real property at a sale conducted
4 pursuant to a power of sale under a mortgage or deed of trust or a
5 sale pursuant to a decree of foreclosure or has acquired the real
6 property by a deed in lieu of foreclosure.

7 (3) Transfers by a fiduciary in the course of the administration
8 of a decedent's estate, guardianship, conservatorship, or trust.

9 (4) Transfers from one coowner to one or more other coowners.

10 (5) Transfers made to a spouse, or to a person or persons in the
11 lineal line of consanguinity of one or more of the transferors.

12 (6) Transfers between spouses resulting from a judgment of
13 dissolution of marriage or of legal separation of the parties or from
14 a property settlement agreement incidental to that judgment.

15 (7) Transfers by the Controller in the course of administering
16 Chapter 7 (commencing with Section 1500) of Title 10 of Part 3
17 of the Code of Civil Procedure.

18 (8) Transfers under Chapter 7 (commencing with Section 3691)
19 or Chapter 8 (commencing with Section 3771) of Part 6 of Division
20 1 of the Revenue and Taxation Code.

21 (9) Transfers or exchanges to or from any governmental entity.

22 (b) Transfers not subject to this article may be subject to other
23 disclosure requirements, including those under Sections 8589.3,
24 8589.4, and 51183.5 of the Government Code and Sections 2621.9,
25 2694, and 4136 of the Public Resources Code. In transfers not
26 subject to this article, agents may make required disclosures in a
27 separate writing.

28 (c) *This section shall repeal on July 1, 2018.*

29 *SEC. 155. Section 1103.1 is added to the Civil Code, to read:*

30 *1103.1. (a) This article does not apply to the following sales:*

31 *(1) Sales pursuant to court order, including, but not limited to,*
32 *sales ordered by a probate court in administration of an estate,*
33 *sales pursuant to a writ of execution, sales by any foreclosure sale,*
34 *sales by a trustee in bankruptcy, sales by eminent domain, and*
35 *sales resulting from a decree for specific performance.*

36 *(2) Sales to a mortgagee by a mortgagor or successor in interest*
37 *who is in default, sales to a beneficiary of a deed of trust by a*
38 *trustor or successor in interest who is in default, sales by any*
39 *foreclosure sale after default, sales by any foreclosure sale after*
40 *default in an obligation secured by a mortgage, sale under a power*

1 of sale or any foreclosure sale under a decree of foreclosure after
2 default in an obligation secured by a deed of trust or secured by
3 any other instrument containing a power of sale, or sales by a
4 mortgagee or a beneficiary under a deed of trust who has acquired
5 the real property at a sale conducted pursuant to a power of sale
6 under a mortgage or deed of trust or a sale pursuant to a decree
7 of foreclosure or has acquired the real property by a deed in lieu
8 of foreclosure.

9 (3) Sales by a fiduciary in the course of the administration of a
10 trust, guardianship, conservatorship, or the decedent's estate. This
11 exemption shall not apply to a sale if the trustee is a natural person
12 who is a trustee of a revocable trust and he or she is a former
13 owner of the property or an occupant in possession of the property
14 within the preceding year.

15 (4) Sales from one coowner to one or more other coowners.

16 (5) Sales made to a spouse, or to a person or persons in the
17 lineal line of consanguinity of one or more of the sellers.

18 (6) Sales between spouses resulting from a judgment of
19 dissolution of marriage or of legal separation of the parties or
20 from a property settlement agreement incidental to that judgment.

21 (7) Sales by the Controller in the course of administering
22 Chapter 7 (commencing with Section 1500) of Title 10 of Part 3
23 of the Code of Civil Procedure.

24 (8) Sales under Chapter 7 (commencing with Section 3691) or
25 Chapter 8 (commencing with Section 3771) of Part 6 of Division
26 1 of the Revenue and Taxation Code.

27 (9) Sales or exchanges to or from any governmental entity.

28 (b) Sales not subject to this article may be subject to other
29 disclosure requirements, including those under Sections 8589.3,
30 8589.4, and 51183.5 of the Government Code and Sections 2621.9,
31 2694, and 4136 of the Public Resources Code. In sales not subject
32 to this article, real estate licensees may make required disclosures
33 in a separate writing.

34 (c) This section shall become operative on July 1, 2018.

35 SEC. 156. Section 1103.1.5 is added to the Civil Code, to read:

36 1103.1.5. (a) For the purposes of this article, the definitions
37 in Chapter 1 (commencing with Section 10000) of Part 1 of
38 Division 4 of the Business and Professions Code shall apply.

39 (b) This section shall become operative on July 1, 2018.

40 SEC. 157. Section 1103.2 of the Civil Code is amended to read:

1 1103.2. (a) The disclosures required by this article are set forth
2 in, and shall be made on a copy of, the following Natural Hazard
3 Disclosure Statement:

4

5 NATURAL HAZARD DISCLOSURE STATEMENT

6

7 This statement applies to the following property: _____

8

9 The transferor and his or her agent(s) or a third-party consultant disclose the
10 following information with the knowledge that even though this is not a
11 warranty, prospective transferees may rely on this information in deciding
12 whether and on what terms to purchase the subject property. Transferor hereby
13 authorizes any agent(s) representing any principal(s) in this action to provide
14 a copy of this statement to any person or entity in connection with any actual
15 or anticipated sale of the property.

16 The following are representations made by the transferor and his or her agent(s)
17 based on their knowledge and maps drawn by the state and federal governments.
18 This information is a disclosure and is not intended to be part of any contract
19 between the transferee and transferor.

20

21 THIS REAL PROPERTY LIES WITHIN THE FOLLOWING
22 HAZARDOUS AREA(S):

23

24 A SPECIAL FLOOD HAZARD AREA (Any type Zone "A" or "V")
25 designated by the Federal Emergency Management Agency.

26

27 Yes ____ No ____ Do not know and
28 information not
29 available from local
30 jurisdiction ____

31

32 AN AREA OF POTENTIAL FLOODING shown on a dam failure
33 inundation map pursuant to Section 8589.5 of the Government Code.

34

35 Yes ____ No ____ Do not know and
36 information not
37 available from local
38 jurisdiction ____

39

1 A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to
 2 Section 51178 or 51179 of the Government Code. The owner of this
 3 property is subject to the maintenance requirements of Section 51182
 4 of the Government Code.

5
 6 Yes ____ No ____

7
 8 A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL
 9 FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of
 10 the Public Resources Code. The owner of this property is subject to
 11 the maintenance requirements of Section 4291 of the Public Resources
 12 Code. Additionally, it is not the state’s responsibility to provide fire
 13 protection services to any building or structure located within the
 14 wildlands unless the Department of Forestry and Fire Protection has
 15 entered into a cooperative agreement with a local agency for those
 16 purposes pursuant to Section 4142 of the Public Resources Code.

17
 18 Yes ____ No ____

19
 20 AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the
 21 Public Resources Code.

22
 23 Yes ____ No ____

24
 25 A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public
 26 Resources Code.

27
 28 Yes (Landslide Zone)_____ Yes (Liquefaction Zone) _____
 29 No ____ Map not yet released by
 30 state ____

31
 32 THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE
 33 REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE
 34 ASSISTANCE AFTER A DISASTER.

35
 36 THE MAPS ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE
 37 WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE
 38 INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE
 39 AFFECTED BY A NATURAL DISASTER. TRANSFEREE(S) AND
 40 TRANSFEROR(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE

1 REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY
2 AFFECT THE PROPERTY.

3
4 Signature of Transferor(s) _____ Date _____
5 Signature of Transferor(s) _____ Date _____

6
7 Agent(s) _____ Date _____
8 Agent(s) _____ Date _____

9
10 Check only one of the following:

11

12 Transferor(s) and their agent(s) represent that the information
13 herein is true and correct to the best of their knowledge as of the
14 date signed by the transferor(s) and agent(s).

15
16 Transferor(s) and their agent(s) acknowledge that they have
17 exercised good faith in the selection of a third-party report provider
18 as required in Civil Code Section 1103.7, and that the
19 representations made in this Natural Hazard Disclosure Statement
20 are based upon information provided by the independent third-party
21 disclosure provider as a substituted disclosure pursuant to Civil Code
22 Section 1103.4. Neither transferor(s) nor their agent(s) (1) has
23 independently verified the information contained in this statement
24 and report or (2) is personally aware of any errors or inaccuracies
25 in the information contained on the statement. This statement was
26 prepared by the provider below:

27
28 Third-Party
29 Disclosure Provider(s) _____ Date _____
30

31 Transferee represents that he or she has read and understands this
32 document. Pursuant to Civil Code Section 1103.8, the
33 representations made in this Natural Hazard Disclosure Statement
34 do not constitute all of the transferor’s or agent’s disclosure
35 obligations in this transaction.

36
37 Signature of Transferee(s) _____ Date _____

38 Signature of Transferee(s) _____ Date _____
39

1 (b) If an earthquake fault zone, seismic hazard zone, very high
2 fire hazard severity zone, or wildland fire area map or
3 accompanying information is not of sufficient accuracy or scale
4 that a reasonable person can determine if the subject real property
5 is included in a natural hazard area, the transferor or transferor's
6 agent shall mark "Yes" on the Natural Hazard Disclosure
7 Statement. The transferor or transferor's agent may mark "No" on
8 the Natural Hazard Disclosure Statement if he or she attaches a
9 report prepared pursuant to subdivision (c) of Section 1103.4 that
10 verifies the property is not in the hazard zone. Nothing in this
11 subdivision is intended to limit or abridge any existing duty of the
12 transferor or the transferor's agents to exercise reasonable care in
13 making a determination under this subdivision.

14 (c) If the Federal Emergency Management Agency has issued
15 a Letter of Map Revision confirming that a property is no longer
16 within a special flood hazard area, then the transferor or transferor's
17 agent may mark "No" on the Natural Hazard Disclosure Statement,
18 even if the map has not yet been updated. The transferor or
19 transferor's agent shall attach a copy of the Letter of Map Revision
20 to the disclosure statement.

21 (d) If the Federal Emergency Management Agency has issued
22 a Letter of Map Revision confirming that a property is within a
23 special flood hazard area and the location of the letter has been
24 posted pursuant to subdivision (g) of Section 8589.3 of the
25 Government Code, then the transferor or transferor's agent shall
26 mark "Yes" on the Natural Hazard Disclosure Statement, even if
27 the map has not yet been updated. The transferor or transferor's
28 agent shall attach a copy of the Letter of Map Revision to the
29 disclosure statement.

30 (e) The disclosure required pursuant to this article may be
31 provided by the transferor and the transferor's agent in the Local
32 Option Real Estate Disclosure Statement described in Section
33 1102.6a, provided that the Local Option Real Estate Disclosure
34 Statement includes substantially the same information and
35 substantially the same warnings that are required by this section.

36 (f) (1) The legal effect of a consultant's report delivered to
37 satisfy the exemption provided by Section 1103.4 is not changed
38 when it is accompanied by a Natural Hazard Disclosure Statement.

39 (2) A consultant's report shall always be accompanied by a
40 completed and signed Natural Hazard Disclosure Statement.

1 (3) In a disclosure statement required by this section, an agent
2 and third-party provider may cause his or her name to be preprinted
3 in lieu of an original signature in the portions of the form reserved
4 for signatures. The use of a preprinted name shall not change the
5 legal effect of the acknowledgment.

6 (g) The disclosure required by this article is only a disclosure
7 between the transferor, the transferor’s agents, and the transferee,
8 and shall not be used by any other party, including, but not limited
9 to, insurance companies, lenders, or governmental agencies, for
10 any purpose.

11 (h) In any transaction in which a transferor has accepted, prior
12 to June 1, 1998, an offer to purchase, the transferor, or his or her
13 agent, shall be deemed to have complied with the requirement of
14 subdivision (a) if the transferor or agent delivers to the prospective
15 transferee a statement that includes substantially the same
16 information and warning as the Natural Hazard Disclosure
17 Statement.

18 (i) *This section shall repeal on July 1, 2018.*

19 *SEC. 158. Section 1103.2 is added to the Civil Code, to read:*
20 *1103.2. (a) The disclosures required by this article are set*
21 *forth in, and shall be made on a copy of, the following Natural*
22 *Hazard Disclosure Statement:*

23
24 *NATURAL HAZARD DISCLOSURE STATEMENT*
25

26 *This statement applies to the following property: _____*
27

28 *The seller and his or her real estate licensee(s) or a third-party consultant*
29 *disclose the following information with the knowledge that even though this*
30 *is not a warranty, prospective buyers may rely on this information in deciding*
31 *whether and on what terms to purchase the subject property. Seller hereby*
32 *authorizes any real estate licensee(s) representing any principal(s) in this*
33 *action to provide a copy of this statement to any person or entity in connection*
34 *with any actual or anticipated sale of the property.*

35 *The following are representations made by the seller and his or her real estate*
36 *licensee(s) based on their knowledge and maps drawn by the state and federal*
37 *governments. This information is a disclosure and is not intended to be part*
38 *of any contract between the seller and buyer.*

39
40 *THIS REAL PROPERTY LIES WITHIN THE FOLLOWING*

1 HAZARDOUS AREA(S):

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A SPECIAL FLOOD HAZARD AREA (Any type Zone “A” or “V”) designated by the Federal Emergency Management Agency.

Yes No Do not know and information not available from local jurisdiction

AN AREA OF POTENTIAL FLOODING shown on a dam failure inundation map pursuant to Section 8589.5 of the Government Code.

Yes No Do not know and information not available from local jurisdiction

A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to Section 51178 or 51179 of the Government Code. The owner of this property is subject to the maintenance requirements of Section 51182 of the Government Code.

Yes No

A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of the Public Resources Code. The owner of this property is subject to the maintenance requirements of Section 4291 of the Public Resources Code. Additionally, it is not the state’s responsibility to provide fire protection services to any building or structure located within the wildlands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142 of the Public Resources Code.

Yes No

AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the Public Resources Code.

1 Yes ____ No ____

2

3 A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public
4 Resources Code.

5

6 Yes (Landslide Zone) _____ Yes (Liquefaction Zone) _____

7 No ____ Map not yet released by

8 state ____

9

10 THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL
11 PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE
12 AFTER A DISASTER.

13

14 THE MAPS ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE
15 WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE
16 INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED
17 BY A NATURAL DISASTER. SELLER(S) AND BUYER(S) MAY WISH TO
18 OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND
19 OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

20

21 Signature of Seller(s) _____ Date _____

22 Signature of Seller(s) _____ Date _____

23

24 Seller's Licensee(s) _____ Date _____

25 Seller's Licensee(s) _____ Date _____

26

27 Check only one of the following:

28

29 Seller(s) and their real estate licensee(s) represent that the information

30

31 herein is true and correct to the best of their knowledge as of the
32 date signed by the seller(s) and real estate licensee(s).

33

34 Seller(s) and their real estate licensee(s) acknowledge that they have

35

36 exercised good faith in the selection of a third-party report provider
37 as required in Civil Code Section 1103.7, and that the
38 representations made in this Natural Hazard Disclosure Statement
39 are based upon information provided by the independent third-party
40 disclosure provider as a substituted disclosure pursuant to Civil Code

1 Section 1103.4. Neither seller(s) nor their real estate licensee(s) (1) has
 2
 3 independently verified the information contained in this statement
 4 and report or (2) is personally aware of any errors or inaccuracies
 5 in the information contained on the statement. This statement was
 6 prepared by the provider below:

7
 8 *Third-Party*
 9 Disclosure Provider(s) _____ Date _____

10
 11 Buyer represents that he or she has read and understands this
 12 document. Pursuant to Civil Code Section 1103.8, the
 13 representations made in this Natural Hazard Disclosure Statement
 14 do not constitute all of the seller’s or real estate licensee’s disclosure
 15 obligations in this transaction.

16
 17 Signature of Buyer(s) _____ Date _____
 18 Signature of Buyer(s) _____ Date _____

19
 20 (b) If an earthquake fault zone, seismic hazard zone, very high
 21 fire hazard severity zone, or wildland fire area map or
 22 accompanying information is not of sufficient accuracy or scale
 23 that a reasonable person can determine if the subject real property
 24 is included in a natural hazard area, the seller or seller’s real
 25 estate licensee shall mark “Yes” on the Natural Hazard Disclosure
 26 Statement. The seller or seller’s real estate licensee may mark
 27 “No” on the Natural Hazard Disclosure Statement if he or she
 28 attaches a report prepared pursuant to subdivision (c) of Section
 29 1103.4 that verifies the property is not in the hazard zone. Nothing
 30 in this subdivision is intended to limit or abridge any existing duty
 31 of the seller or the seller’s real estate licensees to exercise
 32 reasonable care in making a determination under this subdivision.

33 (c) If the Federal Emergency Management Agency has issued
 34 a Letter of Map Revision confirming that a property is no longer
 35 within a special flood hazard area, then the seller or seller’s real
 36 estate licensee may mark “No” on the Natural Hazard Disclosure
 37 Statement, even if the map has not yet been updated. The seller or
 38 seller’s real estate licensee shall attach a copy of the Letter of
 39 Map Revision to the disclosure statement.

1 (d) If the Federal Emergency Management Agency has issued
2 a Letter of Map Revision confirming that a property is within a
3 special flood hazard area and the location of the letter has been
4 posted pursuant to subdivision (g) of Section 8589.3 of the
5 Government Code, then the seller or seller's real estate licensee
6 shall mark "Yes" on the Natural Hazard Disclosure Statement,
7 even if the map has not yet been updated. The seller or seller's
8 real estate licensee shall attach a copy of the Letter of Map
9 Revision to the disclosure statement.

10 (e) The disclosure required pursuant to this article may be
11 provided by the seller or seller's real estate licensee in the Local
12 Option Real Estate Disclosure Statement described in Section
13 1102.6a, provided that the Local Option Real Estate Disclosure
14 Statement includes substantially the same information and
15 substantially the same warnings that are required by this section.

16 (f) (1) The legal effect of a consultant's report delivered to
17 satisfy the exemption provided by Section 1103.4 is not changed
18 when it is accompanied by a Natural Hazard Disclosure Statement.

19 (2) A consultant's report shall always be accompanied by a
20 completed and signed Natural Hazard Disclosure Statement.

21 (3) In a disclosure statement required by this section, a real
22 estate licensee and third-party provider may cause his or her name
23 to be preprinted in lieu of an original signature in the portions of
24 the form reserved for signatures. The use of a preprinted name
25 shall not change the legal effect of the acknowledgment.

26 (g) The disclosure required by this article is only a disclosure
27 between the seller, the seller's real estate licensees, and the
28 prospective buyer, and shall not be used by any other party,
29 including, but not limited to, insurance companies, lenders, or
30 governmental agencies, for any purpose.

31 (h) In any transaction in which a seller has accepted, prior to
32 June 1, 1998, an offer to purchase, the seller, or his or her real
33 estate licensee, shall be deemed to have complied with the
34 requirement of subdivision (a) if the seller or real estate licensee
35 delivers to the prospective buyer a statement that includes
36 substantially the same information and warning as the Natural
37 Hazard Disclosure Statement.

38 (i) This section shall become operative on July 1, 2018.

39 SEC. 159. Section 1103.3 of the Civil Code is amended to read:

1 1103.3. (a) The transferor of any real property subject to this
2 article shall deliver to the prospective transferee the written
3 statement required by this article, as follows:

4 (1) In the case of a sale, as soon as practicable before transfer
5 of title.

6 (2) In the case of transfer by a real property sales contract, as
7 defined in Section 2985, or by a lease together with an option to
8 purchase, or a ground lease coupled with improvements, as soon
9 as practicable before execution of the contract. For the purpose of
10 this subdivision, “execution” means the making or acceptance of
11 an offer.

12 (b) The transferor shall indicate compliance with this article
13 either on the receipt for deposit, the real property sales contract,
14 the lease, any addendum attached thereto, or on a separate
15 document.

16 (c) If any disclosure, or any material amendment of any
17 disclosure, required to be made pursuant to this article is delivered
18 after the execution of an offer to purchase, the transferee shall have
19 three days after delivery in person or five days after delivery by
20 deposit in the mail to terminate his or her offer by delivery of a
21 written notice of termination to the transferor or the transferor’s
22 agent.

23 *(d) This section shall repeal on July 1, 2018.*

24 *SEC. 160. Section 1103.3 is added to the Civil Code, to read:*

25 *1103.3. (a) The seller of any real property subject to this*
26 *article shall deliver to the prospective buyer the written statement*
27 *required by this article, as follows:*

28 *(1) In the case of a sale, as soon as practicable before transfer*
29 *of title.*

30 *(2) In the case of sale by a real property sales contract, as*
31 *defined in Section 2985, or by a lease together with an option to*
32 *purchase, or a ground lease coupled with improvements, as soon*
33 *as practicable before the prospective buyer’s execution of the*
34 *contract. For the purpose of this subdivision, “execution” means*
35 *the making or acceptance of an offer.*

36 *(b) The seller shall indicate compliance with this article on the*
37 *real property sales contract, the lease, any addendum attached*
38 *thereto, or on a separate document.*

39 *(c) If any disclosure, or any material amendment of any*
40 *disclosure, required to be made pursuant to this article is delivered*

1 *after the execution of an offer to purchase, the prospective buyer*
 2 *shall have three days after delivery in person or five days after*
 3 *delivery by deposit in the mail to terminate his or her offer by*
 4 *delivery of a written notice of termination to the seller or the*
 5 *seller's real estate licensee.*

6 *(d) This section shall become operative on July 1, 2018.*

7 *SEC. 161. Section 1103.4 of the Civil Code is amended to read:*

8 1103.4. (a) Neither the transferor nor any listing or selling
 9 agent shall be liable for any error, inaccuracy, or omission of any
 10 information delivered pursuant to this article if the error,
 11 inaccuracy, or omission was not within the personal knowledge
 12 of the transferor or the listing or selling agent, and was based on
 13 information timely provided by public agencies or by other persons
 14 providing information as specified in subdivision (c) that is
 15 required to be disclosed pursuant to this article, and ordinary care
 16 was exercised in obtaining and transmitting the information.

17 (b) The delivery of any information required to be disclosed by
 18 this article to a prospective transferee by a public agency or other
 19 person providing information required to be disclosed pursuant to
 20 this article shall be deemed to comply with the requirements of
 21 this article and shall relieve the transferor or any listing or selling
 22 agent of any further duty under this article with respect to that item
 23 of information.

24 (c) The delivery of a report or opinion prepared by a licensed
 25 engineer, land surveyor, geologist, or expert in natural hazard
 26 discovery dealing with matters within the scope of the
 27 professional's license or expertise shall be sufficient compliance
 28 for application of the exemption provided by subdivision (a) if the
 29 information is provided to the prospective transferee pursuant to
 30 a request therefor, whether written or oral. In responding to that
 31 request, an expert may indicate, in writing, an understanding that
 32 the information provided will be used in fulfilling the requirements
 33 of Section 1103.2 and, if so, shall indicate the required disclosures,
 34 or parts thereof, to which the information being furnished is
 35 applicable. Where that statement is furnished, the expert shall not
 36 be responsible for any items of information, or parts thereof, other
 37 than those expressly set forth in the statement.

38 (1) In responding to the request, the expert shall determine
 39 whether the property is within an airport influence area as defined
 40 in subdivision (b) of Section 11010 of the Business and Professions

1 Code. If the property is within an airport influence area, the report
2 shall contain the following statement:

3
4 NOTICE OF AIRPORT IN VICINITY

5
6 This property is presently located in the vicinity of an
7 airport, within what is known as an airport influence area. For that
8 reason, the property may be subject to some of the annoyances or
9 inconveniences associated with proximity to airport operations
10 (for example: noise, vibration, or odors). Individual sensitivities
11 to those annoyances can vary from person to person. You may wish to
12 consider what airport annoyances, if any, are associated with the
13 property before you complete your purchase and determine whether they
14 are acceptable to you.
15

16 (2) In responding to the request, the expert shall determine
17 whether the property is within the jurisdiction of the San Francisco
18 Bay Conservation and Development Commission, as defined in
19 Section 66620 of the Government Code. If the property is within
20 the commission’s jurisdiction, the report shall contain the following
21 notice:

22 NOTICE OF SAN FRANCISCO BAY CONSERVATION AND
23 DEVELOPMENT COMMISSION JURISDICTION

24 This property is located within the jurisdiction of the San
25 Francisco Bay Conservation and Development Commission. Use
26 and development of property within the commission’s jurisdiction
27 may be subject to special regulations, restrictions, and permit
28 requirements. You may wish to investigate and determine whether
29 they are acceptable to you and your intended use of the property
30 before you complete your transaction.

31 (3) In responding to the request, the expert shall determine
32 whether the property is presently located within one mile of a
33 parcel of real property designated as “Prime Farmland,” “Farmland
34 of Statewide Importance,” “Unique Farmland,” “Farmland of Local
35 Importance,” or “Grazing Land” on the most current “Important
36 Farmland Map” issued by the California Department of
37 Conservation, Division of Land Resource Protection, utilizing
38 solely the county-level GIS map data, if any, available on the
39 Farmland Mapping and Monitoring Program Web site. If the

1 residential property is within one mile of a designated farmland
2 area, the report shall contain the following notice:

3

4 NOTICE OF RIGHT TO FARM

5 This property is located within one mile of a farm or ranch land
6 designated on the current county-level GIS “Important Farmland
7 Map,” issued by the California Department of Conservation,
8 Division of Land Resource Protection. Accordingly, the property
9 may be subject to inconveniences or discomforts resulting from
10 agricultural operations that are a normal and necessary aspect of
11 living in a community with a strong rural character and a healthy
12 agricultural sector. Customary agricultural practices in farm
13 operations may include, but are not limited to, noise, odors, dust,
14 light, insects, the operation of pumps and machinery, the storage
15 and disposal of manure, bee pollination, and the ground or aerial
16 application of fertilizers, pesticides, and herbicides. These
17 agricultural practices may occur at any time during the 24-hour
18 day. Individual sensitivities to those practices can vary from person
19 to person. You may wish to consider the impacts of such
20 agricultural practices before you complete your purchase. Please
21 be advised that you may be barred from obtaining legal remedies
22 against agricultural practices conducted in a manner consistent
23 with proper and accepted customs and standards pursuant to
24 Section 3482.5 of the Civil Code or any pertinent local ordinance.

25 (4) In responding to the request, the expert shall determine,
26 utilizing map coordinate data made available by the Office of Mine
27 Reclamation, whether the property is presently located within one
28 mile of a mine operation for which map coordinate data has been
29 reported to the director pursuant to Section 2207 of the Public
30 Resources Code. If the expert determines, from the available map
31 coordinate data, that the residential property is located within one
32 mile of a mine operation, the report shall contain the following
33 notice:

34

35 NOTICE OF MINING OPERATIONS:

36 This property is located within one mile of a mine operation for
37 which the mine owner or operator has reported mine location data
38 to the Department of Conservation pursuant to Section 2207 of
39 the Public Resources Code. Accordingly, the property may be
40 subject to inconveniences resulting from mining operations. You

1 may wish to consider the impacts of these practices before you
2 complete your transaction.

3 *(d) This section shall repeal on July 1, 2018.*

4 *SEC. 162. Section 1103.4 is added to the Civil Code, to read:*

5 *1103.4. (a) Neither the seller nor any listing licensee or*
6 *buyer's licensee shall be liable for any error, inaccuracy, or*
7 *omission of any information delivered pursuant to this article if*
8 *the error, inaccuracy, or omission was not within the personal*
9 *knowledge of the seller or the listing licensee or buyer's licensee,*
10 *and was based on information timely provided by public agencies*
11 *or by other persons providing information as specified in*
12 *subdivision (c) that is required to be disclosed pursuant to this*
13 *article, and ordinary care was exercised in obtaining and*
14 *transmitting the information.*

15 *(b) The delivery of any information required to be disclosed by*
16 *this article to a prospective buyer by a public agency or other*
17 *person providing information required to be disclosed pursuant*
18 *to this article shall be deemed to comply with the requirements of*
19 *this article and shall relieve the seller and buyer's licensee of any*
20 *further duty under this article with respect to that item of*
21 *information.*

22 *(c) The delivery of a report or opinion prepared by a licensed*
23 *engineer, land surveyor, geologist, or expert in natural hazard*
24 *discovery dealing with matters within the scope of the*
25 *professional's license or expertise shall be sufficient compliance*
26 *for application of the exemption provided by subdivision (a) if the*
27 *information is provided to the prospective buyer pursuant to a*
28 *request therefor, whether written or oral.*

29 *(1) In responding to the request, the expert shall determine*
30 *whether the property is within an airport influence area as defined*
31 *in subdivision (b) of Section 11010 of the Business and Professions*
32 *Code. If the property is within an airport influence area, the report*
33 *shall contain the following statement:*

34

35 *NOTICE OF AIRPORT IN VICINITY*

36

37 *This property is presently located in the vicinity of an*
38 *airport, within what is known as an airport influence area. For that*
39 *reason, the property may be subject to some of the annoyances or*
40 *inconveniences associated with proximity to airport operations*

1 (for example: noise, vibration, or odors). Individual sensitivities
2 to those annoyances can vary from person to person. You may wish to
3 consider what airport annoyances, if any, are associated with the
4 property before you complete your purchase and determine whether they
5 are acceptable to you.

6
7 (2) In responding to the request, the expert shall determine
8 whether the property is within the jurisdiction of the San Francisco
9 Bay Conservation and Development Commission, as defined in
10 Section 66620 of the Government Code. If the property is within
11 the commission's jurisdiction, the report shall contain the following
12 notice:

13 **NOTICE OF SAN FRANCISCO BAY CONSERVATION AND**
14 **DEVELOPMENT COMMISSION JURISDICTION**

15 This property is located within the jurisdiction of the San
16 Francisco Bay Conservation and Development Commission. Use
17 and development of property within the commission's jurisdiction
18 may be subject to special regulations, restrictions, and permit
19 requirements. You may wish to investigate and determine whether
20 they are acceptable to you and your intended use of the property
21 before you complete your transaction.

22 (3) In responding to the request, the expert shall determine
23 whether the property is presently located within one mile of a
24 parcel of real property designated as "Prime Farmland,"
25 "Farmland of Statewide Importance," "Unique Farmland,"
26 "Farmland of Local Importance," or "Grazing Land" on the most
27 current "Important Farmland Map" issued by the California
28 Department of Conservation, Division of Land Resource
29 Protection, utilizing solely the county-level GIS map data, if any,
30 available on the Farmland Mapping and Monitoring Program
31 Web site. If the residential property is within one mile of a
32 designated farmland area, the report shall contain the following
33 notice:

34
35 **NOTICE OF RIGHT TO FARM**

36 This property is located within one mile of a farm or ranch land
37 designated on the current county-level GIS "Important Farmland
38 Map," issued by the California Department of Conservation,
39 Division of Land Resource Protection. Accordingly, the property
40 may be subject to inconveniences or discomforts resulting from

1 *agricultural operations that are a normal and necessary aspect*
2 *of living in a community with a strong rural character and a*
3 *healthy agricultural sector. Customary agricultural practices in*
4 *farm operations may include, but are not limited to, noise, odors,*
5 *dust, light, insects, the operation of pumps and machinery, the*
6 *storage and disposal of manure, bee pollination, and the ground*
7 *or aerial application of fertilizers, pesticides, and herbicides. These*
8 *agricultural practices may occur at any time during the 24-hour*
9 *day. Individual sensitivities to those practices can vary from person*
10 *to person. You may wish to consider the impacts of such*
11 *agricultural practices before you complete your purchase. Please*
12 *be advised that you may be barred from obtaining legal remedies*
13 *against agricultural practices conducted in a manner consistent*
14 *with proper and accepted customs and standards pursuant to*
15 *Section 3482.5 of the Civil Code or any pertinent local ordinance.*

16 *(4) In responding to the request, the expert shall determine,*
17 *utilizing map coordinate data made available by the Office of Mine*
18 *Reclamation, whether the property is presently located within one*
19 *mile of a mine operation for which map coordinate data has been*
20 *reported to the director pursuant to Section 2207 of the Public*
21 *Resources Code. If the expert determines, from the available map*
22 *coordinate data, that the residential property is located within one*
23 *mile of a mine operation, the report shall contain the following*
24 *notice:*

25

26 *NOTICE OF MINING OPERATIONS:*

27 *This property is located within one mile of a mine operation for*
28 *which the mine owner or operator has reported mine location data*
29 *to the Department of Conservation pursuant to Section 2207 of*
30 *the Public Resources Code. Accordingly, the property may be*
31 *subject to inconveniences resulting from mining operations. You*
32 *may wish to consider the impacts of these practices before you*
33 *complete your transaction.*

34 *(d) This section shall become operative on July 1, 2018.*

35 *SEC. 163. Section 1103.5 of the Civil Code is amended to read:*

36 *1103.5. (a) After a transferor and his or her agent comply with*
37 *Section 1103.2, they shall be relieved of further duty under this*
38 *article with respect to those items of information. The transferor*
39 *and his or her agent shall not be required to provide notice to the*
40 *transferee if the information provided subsequently becomes*

1 inaccurate as a result of any governmental action, map revision,
2 changed information, or other act or occurrence, unless the
3 transferor or agent has actual knowledge that the information has
4 become inaccurate.

5 (b) If information disclosed in accordance with this article is
6 subsequently rendered inaccurate as a result of any governmental
7 action, map revision, changed information, or other act or
8 occurrence subsequent to the delivery of the required disclosures,
9 the inaccuracy resulting therefrom does not constitute a violation
10 of this article.

11 (c) *This section shall repeal on July 1, 2018.*

12 *SEC. 164. Section 1103.5 is added to the Civil Code, to read:*

13 *1103.5. (a) After a seller and his or her real estate licensee*
14 *comply with Section 1103.2, they shall be relieved of further duty*
15 *under this article with respect to those items of information. The*
16 *seller and his or her real estate licensee shall not be required to*
17 *provide notice to the prospective buyer if the information provided*
18 *subsequently becomes inaccurate as a result of any governmental*
19 *action, map revision, changed information, or other act or*
20 *occurrence, unless the seller or real estate licensee has actual*
21 *knowledge that the information has become inaccurate.*

22 (b) *If information disclosed in accordance with this article is*
23 *subsequently rendered inaccurate as a result of any governmental*
24 *action, map revision, changed information, or other act or*
25 *occurrence subsequent to the delivery of the required disclosures,*
26 *the inaccuracy resulting therefrom does not constitute a violation*
27 *of this article.*

28 (c) *This section shall become operative on July 1, 2018.*

29 *SEC. 165. Section 1103.8 of the Civil Code is amended to read:*

30 *1103.8. (a) The specification of items for disclosure in this*
31 *article does not limit or abridge any obligation for disclosure*
32 *created by any other provision of law or that may exist in order to*
33 *avoid fraud, misrepresentation, or deceit in the transfer transaction.*
34 *The legislature Legislature does not intend to affect the existing*
35 *obligations of the parties to a real estate contract, or their agents,*
36 *to disclose any fact materially affecting the value and desirability*
37 *of the property, including, but not limited to, the physical condition*
38 *of the property and previously received reports of physical*
39 *inspection noted on the disclosure form provided pursuant to*
40 *Section 1102.6 or 1102.6a.*

1 (b) Nothing in this article shall be construed to change the duty
2 of a real estate broker or salesperson pursuant to Section 2079.

3 (c) *This section shall repeal on July 1, 2018.*

4 *SEC. 166. Section 1103.8 is added to the Civil Code, to read:*

5 *1103.8. (a) The specification of items for disclosure in this*
6 *article does not limit or abridge any obligation for disclosure*
7 *created by any other provision of law or that may exist in order*
8 *to avoid fraud, misrepresentation, or deceit in the sale transaction.*
9 *The Legislature does not intend to affect the existing obligations*
10 *of the parties to a real estate contract, or their licensees, to disclose*
11 *any fact materially affecting the value and desirability of the*
12 *property, including, but not limited to, the physical condition of*
13 *the property and previously received reports of physical inspection*
14 *noted on the disclosure form provided pursuant to Section 1102.6*
15 *or 1102.6a.*

16 (b) *Nothing in this article shall be construed to change the duty*
17 *of a real estate licensee pursuant to Section 2079.*

18 (c) *This section shall become operative on July 1, 2018.*

19 *SEC. 167. Section 1103.9 of the Civil Code is amended to read:*

20 *1103.9. (a) Any disclosure made pursuant to this article may*
21 *be amended in writing by the transferor or his or her agent, but the*
22 *amendment shall be subject to Section 1103.3.*

23 (b) *This section shall repeal on July 1, 2018.*

24 *SEC. 168. Section 1103.9 is added to the Civil Code, to read:*

25 *1103.9. (a) Any disclosure made pursuant to this article may*
26 *be amended in writing by the seller or his or her real estate*
27 *licensee, but the amendment shall be subject to Section 1103.3.*

28 (b) *This section shall become operative on July 1, 2018.*

29 *SEC. 169. Section 1103.12 of the Civil Code is amended to*
30 *read:*

31 *1103.12. (a) If more than one licensed real estate broker is*
32 *acting as an agent in a transaction subject to this article, the broker*
33 *who has obtained the offer made by the transferee shall, except as*
34 *otherwise provided in this article, deliver the disclosure required*
35 *by this article to the transferee, unless the transferor has given*
36 *other written instructions for delivery.*

37 (b) *If a licensed real estate broker responsible for delivering the*
38 *disclosures under this section cannot obtain the disclosure*
39 *document required and does not have written assurance from the*
40 *transferee that the disclosure has been received, the broker shall*

1 advise the transferee in writing of his or her rights to the disclosure.
2 A licensed real estate broker responsible for delivering disclosures
3 under this section shall maintain a record of the action taken to
4 effect compliance in accordance with Section 10148 of the
5 Business and Professions Code.

6 *(c) This section shall repeal on July 1, 2018.*

7 *SEC. 170. Section 1103.12 is added to the Civil Code, to read:*

8 *1103.12. (a) If more than one real estate broker is acting in*
9 *a transaction subject to this article, the buyer's licensee shall,*
10 *except as otherwise provided in this article, deliver the disclosure*
11 *required by this article to the buyer, unless the seller has given*
12 *other written instructions for delivery.*

13 *(b) If a licensed real estate broker responsible for delivering*
14 *the disclosures under this section cannot obtain the disclosure*
15 *document required and does not have written assurance from the*
16 *buyer that the disclosure has been received, the broker shall advise*
17 *the buyer in writing of his or her rights to the disclosure. A licensed*
18 *real estate broker responsible for delivering disclosures under this*
19 *section shall maintain a record of the action taken to effect*
20 *compliance in accordance with Section 10148 of the Business and*
21 *Professions Code.*

22 *(c) This section shall become operative on July 1, 2018.*

23 *SEC. 171. Section 1103.14 of the Civil Code is amended to*
24 *read:*

25 *1103.14. (a) As used in this article, "listing agent" means*
26 *listing agent as defined in subdivision (f) of Section 1086.*

27 *(b) As used in this article, "selling agent" means selling agent*
28 *as defined in subdivision (g) of Section 1086, exclusive of the*
29 *requirement that the agent be a participant in a multiple listing*
30 *service as defined in Section 1087.*

31 *(c) This section shall repeal on July 1, 2018.*

32 *SEC. 172. Section 2079 of the Civil Code is amended to read:*

33 *2079. (a) It is the duty of a real estate broker or salesperson,*
34 *licensed under Division 4 (commencing with Section 10000) of*
35 *the Business and Professions Code, to a prospective purchaser of*
36 *residential real property comprising one to four dwelling units, or*
37 *a manufactured home as defined in Section 18007 of the Health*
38 *and Safety Code, to conduct a reasonably competent and diligent*
39 *visual inspection of the property offered for sale and to disclose*
40 *to that prospective purchaser all facts materially affecting the value*

1 or desirability of the property that an investigation would reveal,
2 if that broker has a written contract with the seller to find or obtain
3 a buyer or is a broker who acts in cooperation with that broker to
4 find and obtain a buyer.

5 (b) It is the duty of a real estate broker or salesperson licensed
6 under Division 4 (commencing with Section 10000) of the Business
7 and Professions Code to comply with this section and any
8 regulations imposing standards of professional conduct adopted
9 pursuant to Section 10080 of the Business and Professions Code
10 with reference to Sections 10176 and 10177 of the Business and
11 Professions Code.

12 (c) *This section shall repeal on July 1, 2018.*

13 *SEC. 173. Section 2079 is added to the Civil Code, to read:*

14 *2079. (a) It is the duty of a real estate licensee, licensed under*
15 *Division 4 (commencing with Section 10000) of the Business and*
16 *Professions Code, to a prospective buyer of residential real*
17 *property comprising one to four dwelling units, or a manufactured*
18 *home as defined in Section 18007 of the Health and Safety Code,*
19 *to conduct a reasonably competent and diligent visual inspection*
20 *of the property offered for sale and to disclose to that prospective*
21 *buyer all facts materially affecting the value or desirability of the*
22 *property that an investigation would reveal, if that broker has a*
23 *written contract with the seller to find or obtain a buyer or is a*
24 *broker who acts in cooperation with that broker to find and obtain*
25 *a buyer.*

26 *(b) It is the duty of a real estate licensee, licensed under Division*
27 *4 (commencing with Section 10000) of the Business and*
28 *Professions Code, to comply with this section and any regulations*
29 *imposing standards of professional conduct adopted pursuant to*
30 *Section 10080 of the Business and Professions Code with reference*
31 *to Sections 10176 and 10177 of the Business and Professions Code.*

32 *(c) This section shall become operative on July 1, 2018.*

33 *SEC. 174. Section 2079.6 of the Civil Code is amended to read:*

34 *2079.6. (a) This article does not apply to transfers which are*
35 *required to be preceded by the furnishing, to a prospective*
36 *transferee, of a copy of a public report pursuant to Section 11018.1*
37 *or Section 11234 of the Business and Professions Code and*
38 *transfers that can be made without a public report pursuant to*
39 *Section 11010.4 of the Business and Professions Code, unless the*
40 *property has been previously occupied.*

1 (b) *This section shall repeal on July 1, 2018.*

2 *SEC. 175. Section 2079.6 is added to the Civil Code, to read:*

3 2079.6. (a) *This article does not apply to sales which are*
4 *required to be preceded by the furnishing, to a prospective buyer,*
5 *of a copy of a public report pursuant to Section 11018.1 or Section*
6 *11234 of the Business and Professions Code and sales that can*
7 *be made without a public report pursuant to Section 11010.4 of*
8 *the Business and Professions Code, unless the property has been*
9 *previously occupied.*

10 (b) *This section shall become operative on July 1, 2018.*

11 *SEC. 176. Section 2079.7 of the Civil Code is amended to read:*

12 2079.7. (a) *If a consumer information booklet described in*
13 *Section 10084.1 of the Business and Professions Code is delivered*
14 *to a transferee in connection with the transfer of real property,*
15 *including property specified in Section 1102 of the Civil Code, or*
16 *manufactured housing, as defined in Section 18007 of the Health*
17 *and Safety Code, a seller or broker is not required to provide*
18 *additional information concerning, and the information shall be*
19 *deemed to be adequate to inform the transferee regarding, common*
20 *environmental hazards, as described in the booklet, that can affect*
21 *real property.*

22 (b) *Notwithstanding subdivision (a), nothing in this section*
23 *either increases or decreases the duties, if any, of sellers or brokers,*
24 ~~*including*~~ *including, but not limited to, the duties of a seller or*
25 *broker under this article, Article 1.5 (commencing with Section*
26 *1102) of Chapter 2 of Title 4 of Part 4 of Division 2, or Section*
27 *25359.7 of the Health and Safety Code, or alters the duty of a seller*
28 *or broker to disclose the existence of known environmental hazards*
29 *on or affecting the real property.*

30 (c) *This section shall repeal on July 1, 2018.*

31 *SEC. 177. Section 2079.7 is added to the Civil Code, to read:*

32 2079.7. (a) *If a consumer information booklet described in*
33 *Section 10084.1 of the Business and Professions Code is delivered*
34 *to a buyer in connection with the sale of real property, including*
35 *property specified in Section 1102 of the Civil Code, or*
36 *manufactured housing, as defined in Section 18007 of the Health*
37 *and Safety Code, a seller or broker is not required to provide*
38 *additional information concerning, and the information shall be*
39 *deemed to be adequate to inform the buyer regarding, common*

1 *environmental hazards, as described in the booklet, that can affect*
2 *real property.*

3 *(b) Notwithstanding subdivision (a), nothing in this section*
4 *either increases or decreases the duties, if any, of sellers or*
5 *brokers, including, but not limited to, the duties of a seller or*
6 *broker under this article, Article 1.5 (commencing with Section*
7 *1102) of Chapter 2 of Title 4 of Part 4 of Division 2, or Section*
8 *25359.7 of the Health and Safety Code, or alters the duty of a*
9 *seller or broker to disclose the existence of known environmental*
10 *hazards on or affecting the real property.*

11 *(c) This section shall become operative on July 1, 2018.*

12 *SEC. 178. Section 2079.8 of the Civil Code is amended to read:*

13 *2079.8. (a) If a Homeowner's Guide to Earthquake Safety*
14 *described in Section 10149 of the Business and Professions Code*
15 *is delivered to a transferee in connection with the transfer of real*
16 *property, including property specified in Section 1102 or under*
17 *Chapter 7.5 (commencing with Section 2621) of Division 2 of the*
18 *Public Resources Code, a seller or broker is not required to provide*
19 *additional information concerning, and the information shall be*
20 *deemed to be adequate to inform the transferee regarding, geologic*
21 *and seismic hazards, in general, as described in the guide, that may*
22 *affect real property and mitigating measures that the transferee or*
23 *seller might consider.*

24 *(b) Notwithstanding subdivision (a), nothing in this section*
25 *increases or decreases the duties, if any, of sellers or brokers,*
26 *including, but not limited to, the duties of a seller or broker under*
27 *this article, Article 1.5 (commencing with Section 1102) of Chapter*
28 *2 of Title 4 of Part 4 of Division 2, or under Chapter 7.5*
29 *(commencing with Section 2621) of Division 2 of the Public*
30 *Resources Code, or alters the duty of a seller or broker to disclose*
31 *the existence of known hazards on or affecting the real property.*

32 *(c) This section shall repeal on July 1, 2018.*

33 *SEC. 179. Section 2079.8 is added to the Civil Code, to read:*

34 *2079.8. (a) If a Homeowner's Guide to Earthquake Safety*
35 *described in Section 10149 of the Business and Professions Code*
36 *is delivered to a buyer in connection with the sale of real property,*
37 *including property specified in Section 1102 or under Chapter 7.5*
38 *(commencing with Section 2621) of Division 2 of the Public*
39 *Resources Code, a seller or broker is not required to provide*
40 *additional information concerning, and the information shall be*

1 *deemed to be adequate to inform the buyer regarding, geologic*
2 *and seismic hazards, in general, as described in the guide, that*
3 *may affect real property and mitigating measures that the buyer*
4 *or seller might consider.*

5 *(b) Notwithstanding subdivision (a), nothing in this section*
6 *increases or decreases the duties, if any, of sellers or brokers,*
7 *including, but not limited to, the duties of a seller or broker under*
8 *this article, Article 1.5 (commencing with Section 1102) of Chapter*
9 *2 of Title 4 of Part 4 of Division 2, or under Chapter 7.5*
10 *(commencing with Section 2621) of Division 2 of the Public*
11 *Resources Code, or alters the duty of a seller or broker to disclose*
12 *the existence of known hazards on or affecting the real property.*

13 *(c) This section shall become operative on July 1, 2018.*

14 *SEC. 180. Section 2079.9 of the Civil Code is amended to read:*

15 *2079.9. (a) If a Commercial Property Owner's Guide to*
16 *Earthquake Safety described in Section 10147 of the Business and*
17 *Professions Code is delivered to a transferee in connection with*
18 *the transfer of real property, including property specified in Section*
19 *1102 or under Chapter 7.5 (commencing with Section 2621) of*
20 *Division 2 of the Public Resources Code, a seller or broker is not*
21 *required to provide additional information concerning, and the*
22 *information shall be deemed to be adequate to inform the transferee*
23 *regarding, geologic and seismic hazards, in general, as described*
24 *in the guide, that may affect real property and mitigating measures*
25 *that the transferee or seller might consider.*

26 *(b) Notwithstanding subdivision (a), nothing in this section*
27 *increases or decreases the duties, if any, of sellers, their brokers*
28 *or agents under this article or under Chapter 7.5 (commencing*
29 *with Section 2621) or Chapter 7.8 (commencing with Section*
30 *2690) of Division 2 of the Public Resources Code, or alters the*
31 *duty of a seller, agent, or broker to disclose the existence of known*
32 *hazards on or affecting the real property.*

33 *(c) This section shall repeal on July 1, 2018.*

34 *SEC. 181. Section 2079.9 is added to the Civil Code, to read:*

35 *2079.9. (a) If a Commercial Property Owner's Guide to*
36 *Earthquake Safety described in Section 10147 of the Business and*
37 *Professions Code is delivered to a buyer in connection with the*
38 *sale of real property, including property specified in Section 1102*
39 *or under Chapter 7.5 (commencing with Section 2621) of Division*
40 *2 of the Public Resources Code, a seller or broker is not required*

1 *to provide additional information concerning, and the information*
2 *shall be deemed to be adequate to inform the buyer regarding,*
3 *geologic and seismic hazards, in general, as described in the guide,*
4 *that may affect real property and mitigating measures that the*
5 *buyer or seller might consider.*

6 *(b) Notwithstanding subdivision (a), nothing in this section*
7 *increases or decreases the duties, if any, of sellers, their real estate*
8 *licensees under this article or under Chapter 7.5 (commencing*
9 *with Section 2621) or Chapter 7.8 (commencing with Section 2690)*
10 *of Division 2 of the Public Resources Code, or alters the duty of*
11 *a seller or real estate licensee to disclose the existence of known*
12 *hazards on or affecting the real property.*

13 *(c) This section shall become operative on July 1, 2018.*

14 *SEC. 182. Section 2079.10 of the Civil Code is amended to*
15 *read:*

16 2079.10. (a) If the informational booklet published pursuant
17 to Section 25402.9 of the Public Resources Code, concerning the
18 statewide home energy rating program adopted pursuant to Section
19 25942 of the Public Resources Code, is delivered to a transferee
20 in connection with the transfer of real property, including, but not
21 limited to, property specified in Section 1102, manufactured homes
22 as defined in Section 18007 of the Health and Safety Code, and
23 property subject to Chapter 7.5 (commencing with Section 2621)
24 of Division 2 of the Public Resources Code, the seller or broker
25 is not required to provide information additional to that contained
26 in the booklet concerning home energy ratings, and the information
27 in the booklet shall be deemed to be adequate to inform the
28 transferee about the existence of a statewide home energy rating
29 program.

30 (b) Notwithstanding subdivision (a), nothing in this section
31 alters any existing duty of the seller or broker under any other law
32 including, but not limited to, the duties of a seller or broker under
33 this article, Article 1.5 (commencing with Section 1102) of Chapter
34 2 of Title 4 of Part 4 of Division 2 of the Civil Code, or Chapter
35 7.5 (commencing with Section 2621) of Division 2 of the Public
36 Resources Code, to disclose information concerning the existence
37 of a home energy rating program affecting the real property.

38 (c) If the informational booklet or materials described in Section
39 375.5 of the Water Code concerning water conservation and water
40 conservation programs are delivered to a transferee in connection

1 with the transfer of real property, including property described in
2 subdivision (a), the seller or broker is not required to provide
3 information concerning water conservation and water conservation
4 programs that is additional to that contained in the booklet or
5 materials, and the information in the booklet or materials shall be
6 deemed to be adequate to inform the transferee about water
7 conservation and water conservation programs.

8 *(d) This section shall repeal on July 1, 2018.*

9 *SEC. 183. Section 2079.10 is added to the Civil Code, to read:*
10 *2079.10. (a) If the informational booklet published pursuant*
11 *to Section 25402.9 of the Public Resources Code, concerning the*
12 *statewide home energy rating program adopted pursuant to Section*
13 *25942 of the Public Resources Code, is delivered to a buyer in*
14 *connection with the sale of real property, including, but not limited*
15 *to, property specified in Section 1102, manufactured homes as*
16 *defined in Section 18007 of the Health and Safety Code, and*
17 *property subject to Chapter 7.5 (commencing with Section 2621)*
18 *of Division 2 of the Public Resources Code, the seller or broker*
19 *is not required to provide information additional to that contained*
20 *in the booklet concerning home energy ratings, and the information*
21 *in the booklet shall be deemed to be adequate to inform the buyer*
22 *about the existence of a statewide home energy rating program.*

23 *(b) Notwithstanding subdivision (a), nothing in this section*
24 *alters any existing duty of the seller or broker under any other law*
25 *including, but not limited to, the duties of a seller or broker under*
26 *this article, Article 1.5 (commencing with Section 1102) of Chapter*
27 *2 of Title 4 of Part 4 of Division 2 of the Civil Code, or Chapter*
28 *7.5 (commencing with Section 2621) of Division 2 of the Public*
29 *Resources Code, to disclose information concerning the existence*
30 *of a home energy rating program affecting the real property.*

31 *(c) If the informational booklet or materials described in Section*
32 *375.5 of the Water Code concerning water conservation and water*
33 *conservation programs are delivered to a buyer in connection with*
34 *the sale of real property, including property described in*
35 *subdivision (a), the seller or broker is not required to provide*
36 *information concerning water conservation and water conservation*
37 *programs that is additional to that contained in the booklet or*
38 *materials, and the information in the booklet or materials shall*
39 *be deemed to be adequate to inform the buyer about water*
40 *conservation and water conservation programs.*

1 *(d) This section shall become operative on July 1, 2018.*

2 *SEC. 184. Section 2079.10.5 of the Civil Code is amended to*
3 *read:*

4 2079.10.5. (a) Every contract for the sale of residential real
5 property entered into on or after July 1, 2013, shall contain, in not
6 less than 8-point type, a notice as specified below:

7
8 NOTICE REGARDING GAS AND HAZARDOUS LIQUID
9 TRANSMISSION PIPELINES

10 This notice is being provided simply to inform you that
11 information about the general location of gas and hazardous liquid
12 transmission pipelines is available to the public via the National
13 Pipeline Mapping System (NPMS) Internet Web site maintained
14 by the United States Department of Transportation at
15 <http://www.npms.phmsa.dot.gov/>. To seek further information
16 about possible transmission pipelines near the property, you may
17 contact your local gas utility or other pipeline operators in the area.
18 Contact information for pipeline operators is searchable by ZIP
19 Code and county on the NPMS Internet Web site.

20
21 (b) Upon delivery of the notice to the transferee of the real
22 property, the seller or broker is not required to provide information
23 in addition to that contained in the notice regarding gas and
24 hazardous liquid transmission pipelines in subdivision (a). The
25 information in the notice shall be deemed to be adequate to inform
26 the transferee about the existence of a statewide database of the
27 locations of gas and hazardous liquid transmission pipelines and
28 information from the database regarding those locations.

29 (c) Nothing in this section shall alter any existing duty under
30 any other statute or decisional law imposed upon the seller or
31 broker, including, but not limited to, the duties of a seller or broker
32 under this article, or the duties of a seller or broker under Article
33 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of
34 Part 4 of Division 2.

35 *(d) This section shall repeal on July 1, 2018.*

36 *SEC. 185. Section 2079.10.5 is added to the Civil Code, to*
37 *read:*

38 2079.10.5. (a) Every contract for the sale of residential real
39 property entered into on or after July 1, 2013, shall contain, in
40 not less than 8-point type, a notice as specified below:

1
 2 NOTICE REGARDING GAS AND HAZARDOUS LIQUID
 3 TRANSMISSION PIPELINES

4 This notice is being provided simply to inform you that
 5 information about the general location of gas and hazardous liquid
 6 transmission pipelines is available to the public via the National
 7 Pipeline Mapping System (NPMS) Internet Web site maintained
 8 by the United States Department of Transportation at
 9 <http://www.npms.phmsa.dot.gov/>. To seek further information
 10 about possible transmission pipelines near the property, you may
 11 contact your local gas utility or other pipeline operators in the
 12 area. Contact information for pipeline operators is searchable by
 13 ZIP Code and county on the NPMS Internet Web site.

14
 15 (b) Upon delivery of the notice to the buyer of the real property,
 16 the seller or broker is not required to provide information in
 17 addition to that contained in the notice regarding gas and
 18 hazardous liquid transmission pipelines in subdivision (a). The
 19 information in the notice shall be deemed to be adequate to inform
 20 the buyer about the existence of a statewide database of the
 21 locations of gas and hazardous liquid transmission pipelines and
 22 information from the database regarding those locations.

23 (c) Nothing in this section shall alter any existing duty under
 24 any other statute or decisional law imposed upon the seller or
 25 broker, including, but not limited to, the duties of a seller or broker
 26 under this article, or the duties of a seller or broker under Article
 27 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part
 28 4 of Division 2.

29 (d) This section shall become operative on July 1, 2018.

30 SEC. 186. Section 2079.10a of the Civil Code is amended to
 31 read:

32 2079.10a. (a) Every lease or rental agreement for residential
 33 real property entered into on or after July 1, 1999, and every
 34 contract for the sale of residential real property comprised of one
 35 to four dwelling units entered into on or after that date, shall
 36 contain, in not less than 8-point type, a notice as specified in
 37 paragraph (1), (2), or (3).

38 (1) A contract entered into by the parties on or after July 1,
 39 1999, and before September 1, 2005, shall contain the following
 40 notice:

1 Notice: The California Department of Justice, sheriff's
2 departments, police departments serving jurisdictions of 200,000
3 or more, and many other local law enforcement authorities maintain
4 for public access a database of the locations of persons required
5 to register pursuant to paragraph (1) of subdivision (a) of Section
6 290.4 of the Penal Code. The database is updated on a quarterly
7 basis and is a source of information about the presence of these
8 individuals in any neighborhood. The Department of Justice also
9 maintains a Sex Offender Identification Line through which
10 inquiries about individuals may be made. This is a "900" telephone
11 service. Callers must have specific information about individuals
12 they are checking. Information regarding neighborhoods is not
13 available through the "900" telephone service.

14 (2) A contract entered into by the parties on or after September
15 1, 2005, and before April 1, 2006, shall contain either the notice
16 specified in paragraph (1) or the notice specified in paragraph (3).

17 (3) A contract entered into by the parties on or after April 1,
18 2006, shall contain the following notice:

19 Notice: Pursuant to Section 290.46 of the Penal Code,
20 information about specified registered sex offenders is made
21 available to the public via an Internet Web site maintained by the
22 Department of Justice at www.meganslaw.ca.gov. Depending on
23 an offender's criminal history, this information will include either
24 the address at which the offender resides or the community of
25 residence and ZIP Code in which he or she resides.

26 (b) Subject to subdivision (c), upon delivery of the notice to the
27 lessee or transferee of the real property, the lessor, seller, or broker
28 is not required to provide information in addition to that contained
29 in the notice regarding the proximity of registered sex offenders.
30 The information in the notice shall be deemed to be adequate to
31 inform the lessee or transferee about the existence of a statewide
32 database of the locations of registered sex offenders and
33 information from the database regarding those locations. The
34 information in the notice shall not give rise to any cause of action
35 against the disclosing party by a registered sex offender.

36 (c) Notwithstanding subdivisions (a) and (b), nothing in this
37 section shall alter any existing duty of the lessor, seller, or broker
38 under any other statute or decisional law including, but not limited
39 to, the duties of a lessor, seller, or broker under this article, or the

1 duties of a seller or broker under Article 1.5 (commencing with
2 Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2.

3 *(d) This section shall repeal on July 1, 2018.*

4 *SEC. 187. Section 2079.10a is added to the Civil Code, to read:*

5 *2079.10a. (a) Every lease or rental agreement for residential*
6 *real property entered into on or after July 1, 1999, and every*
7 *contract for the sale of residential real property comprised of one*
8 *to four dwelling units entered into on or after that date, shall*
9 *contain, in not less than 8-point type, a notice as specified in*
10 *paragraph (1), (2), or (3).*

11 *(1) A contract entered into by the parties on or after July 1,*
12 *1999, and before September 1, 2005, shall contain the following*
13 *notice:*

14 *Notice: The California Department of Justice, sheriff's*
15 *departments, police departments serving jurisdictions of 200,000*
16 *or more, and many other local law enforcement authorities*
17 *maintain for public access a database of the locations of persons*
18 *required to register pursuant to paragraph (1) of subdivision (a)*
19 *of Section 290.4 of the Penal Code. The database is updated on a*
20 *quarterly basis and is a source of information about the presence*
21 *of these individuals in any neighborhood. The Department of*
22 *Justice also maintains a Sex Offender Identification Line through*
23 *which inquiries about individuals may be made. This is a "900"*
24 *telephone service. Callers shall have specific information about*
25 *individuals they are checking. Information regarding*
26 *neighborhoods is not available through the "900" telephone*
27 *service.*

28 *(2) A contract entered into by the parties on or after September*
29 *1, 2005, and before April 1, 2006, shall contain either the notice*
30 *specified in paragraph (1) or the notice specified in paragraph*
31 *(3).*

32 *(3) A contract entered into by the parties on or after April 1,*
33 *2006, shall contain the following notice:*

34 *Notice: Pursuant to Section 290.46 of the Penal Code,*
35 *information about specified registered sex offenders is made*
36 *available to the public via an Internet Web site maintained by the*
37 *Department of Justice at www.meganslaw.ca.gov. Depending on*
38 *an offender's criminal history, this information will include either*
39 *the address at which the offender resides or the community of*
40 *residence and ZIP Code in which he or she resides.*

1 (b) Subject to subdivision (c), upon delivery of the notice to the
2 lessee or buyer of the real property, the lessor, seller, or broker
3 is not required to provide information in addition to that contained
4 in the notice regarding the proximity of registered sex offenders.
5 The information in the notice shall be deemed to be adequate to
6 inform the lessee or buyer about the existence of a statewide
7 database of the locations of registered sex offenders and
8 information from the database regarding those locations. The
9 information in the notice shall not give rise to any cause of action
10 against the disclosing party by a registered sex offender.

11 (c) Notwithstanding subdivisions (a) and (b), nothing in this
12 section shall alter any existing duty of the lessor, seller, or broker
13 under any other statute or decisional law including, but not limited
14 to, the duties of a lessor, seller, or broker under this article, or the
15 duties of a seller or broker under Article 1.5 (commencing with
16 Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2.

17 (d) This section shall become operative on July 1, 2018.

18 SEC. 188. Section 2079.13 of the Civil Code is amended to
19 read:

20 2079.13. As used in Sections 2079.14 to 2079.24, inclusive,
21 the following terms have the following meanings:

22 (a) “Agent” means a person acting under provisions of Title 9
23 (commencing with Section 2295) in a real property transaction,
24 and includes a person who is licensed as a real estate broker under
25 Chapter 3 (commencing with Section 10130) of Part 1 of Division
26 4 of the Business and Professions Code, and under whose license
27 a listing is executed or an offer to purchase is obtained.

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

36 The agent in the real property transaction bears responsibility
37 for his or her associate licensees who perform as agents of the
38 agent. When an associate licensee owes a duty to any principal,
39 or to any buyer or seller who is not a principal, in a real property

1 transaction, that duty is equivalent to the duty owed to that party
2 by the broker for whom the associate licensee functions.

3 (c) “Buyer” means a transferee in a real property transaction,
4 and includes a person who executes an offer to purchase real
5 property from a seller through an agent, or who seeks the services
6 of an agent in more than a casual, transitory, or preliminary manner,
7 with the object of entering into a real property transaction. “Buyer”
8 includes vendee or lessee.

9 (d) “Commercial real property” means all real property in the
10 state, except single-family residential real property, dwelling units
11 made subject to Chapter 2 (commencing with Section 1940) of
12 Title 5, mobilehomes, as defined in Section 798.3, or recreational
13 vehicles, as defined in Section 799.29.

14 (e) “Dual agent” means an agent acting, either directly or
15 through an associate licensee, as agent for both the seller and the
16 buyer in a real property transaction.

17 (f) “Listing agreement” means a contract between an owner of
18 real property and an agent, by which the agent has been authorized
19 to sell the real property or to find or obtain a buyer.

20 (g) “Listing agent” means a person who has obtained a listing
21 of real property to act as an agent for compensation.

22 (h) “Listing price” is the amount expressed in dollars specified
23 in the listing for which the seller is willing to sell the real property
24 through the listing agent.

25 (i) “Offering price” is the amount expressed in dollars specified
26 in an offer to purchase for which the buyer is willing to buy the
27 real property.

28 (j) “Offer to purchase” means a written contract executed by a
29 buyer acting through a selling agent that becomes the contract for
30 the sale of the real property upon acceptance by the seller.

31 (k) “Real property” means any estate specified by subdivision
32 (1) or (2) of Section 761 in property that constitutes or is improved
33 with one to four dwelling units, any commercial real property, any
34 leasehold in these types of property exceeding one year’s duration,
35 and mobilehomes, when offered for sale or sold through an agent
36 pursuant to the authority contained in Section 10131.6 of the
37 Business and Professions Code.

38 (l) “Real property transaction” means a transaction for the sale
39 of real property in which an agent is employed by one or more of

1 the principals to act in that transaction, and includes a listing or
2 an offer to purchase.

3 (m) “Sell,” “sale,” or “sold” refers to a transaction for the
4 transfer of real property from the seller to the buyer, and includes
5 exchanges of real property between the seller and buyer,
6 transactions for the creation of a real property sales contract within
7 the meaning of Section 2985, and transactions for the creation of
8 a leasehold exceeding one year’s duration.

9 (n) “Seller” means the transferor in a real property transaction,
10 and includes an owner who lists real property with an agent,
11 whether or not a transfer results, or who receives an offer to
12 purchase real property of which he or she is the owner from an
13 agent on behalf of another. “Seller” includes both a vendor and a
14 lessor.

15 (o) “Selling agent” means a listing agent who acts alone, or an
16 agent who acts in cooperation with a listing agent, and who sells
17 or finds and obtains a buyer for the real property, or an agent who
18 locates property for a buyer or who finds a buyer for a property
19 for which no listing exists and presents an offer to purchase to the
20 seller.

21 (p) “Subagent” means a person to whom an agent delegates
22 agency powers as provided in Article 5 (commencing with Section
23 2349) of Chapter 1 of Title 9. However, “subagent” does not
24 include an associate licensee who is acting under the supervision
25 of an agent in a real property transaction.

26 *This section shall repeal on July 1, 2018.*

27 *SEC. 189. Section 2079.13 is added to the Civil Code, to read:*

28 *2079.13. (a) For the purposes of this article, the definitions*
29 *in Chapter 1 (commencing with Section 10000) of Part 1 of*
30 *Division 4 of the Business and Professions Code shall apply.*

31 *(b) Notwithstanding subdivision (a), for the purposes of Sections*
32 *2079 through 2079.6, inclusive, and Sections 2079.9 through*
33 *2079.12, inclusive, owners and managers of multi-family*
34 *residential properties improved by more than four residential units*
35 *are not “sellers” and a lease of such property does not constitute*
36 *a “sale.”*

37 *(c) This section shall become operative on July 1, 2018.*

38 *SEC. 190. Section 2079.14 of the Civil Code is amended to*
39 *read:*

1 2079.14. Listing agents and selling agents shall provide the
2 seller and buyer in a real property transaction with a copy of the
3 disclosure form specified in Section 2079.16, and, except as
4 provided in subdivision (c), shall obtain a signed acknowledgment
5 of receipt from that seller or buyer, except as provided in this
6 section or Section 2079.15, as follows:

7 (a) The listing agent, if any, shall provide the disclosure form
8 to the seller prior to entering into the listing agreement.

9 (b) The selling agent shall provide the disclosure form to the
10 seller as soon as practicable prior to presenting the seller with an
11 offer to purchase, unless the selling agent previously provided the
12 seller with a copy of the disclosure form pursuant to subdivision
13 (a).

14 (c) Where the selling agent does not deal on a face-to-face basis
15 with the seller, the disclosure form prepared by the selling agent
16 may be furnished to the seller (and acknowledgment of receipt
17 obtained for the selling agent from the seller) by the listing agent,
18 or the selling agent may deliver the disclosure form by certified
19 mail addressed to the seller at his or her last known address, in
20 which case no signed acknowledgment of receipt is required.

21 (d) The selling agent shall provide the disclosure form to the
22 buyer as soon as practicable prior to execution of the buyer's offer
23 to purchase, except that if the offer to purchase is not prepared by
24 the selling agent, the selling agent shall present the disclosure form
25 to the buyer not later than the next business day after the selling
26 agent receives the offer to purchase from the buyer.

27 (e) *This section shall repeal on July 1, 2018.*

28 *SEC. 191. Section 2079.14 is added to the Civil Code, to read:*

29 *2079.14. A real estate broker shall provide the seller and buyer*
30 *in a real property transaction with a copy of the disclosure form*
31 *specified in Section 2079.16, and, except as provided in subdivision*
32 *(c), shall obtain a signed acknowledgment of receipt from that*
33 *seller or buyer, except as provided in this section or Section*
34 *2079.15, as follows:*

35 *(a) The seller's broker, if any, shall provide the disclosure form*
36 *to the seller prior to entering into the listing agreement.*

37 *(b) The buyer's broker shall provide the disclosure form to the*
38 *buyer as soon as practicable prior to execution of the buyer's offer*
39 *to purchase, except that if the offer to purchase is not prepared by*
40 *the buyer's broker, the buyer's broker shall present the disclosure*

1 *form to the buyer not later than the next business day after the*
2 *buyer's broker receives the offer to purchase from the buyer.*

3 *(c) This section shall become operative on July 1, 2018.*

4 *SEC. 192. Section 2079.15 of the Civil Code is amended to*
5 *read:*

6 2079.15. (a) In any circumstance in which the seller or buyer
7 refuses to sign an acknowledgment of receipt pursuant to Section
8 2079.14, the agent, or an associate licensee acting for an agent,
9 shall set forth, sign, and date a written declaration of the facts of
10 the refusal.

11 *(b) This section shall repeal on July 1, 2018.*

12 *SEC. 193. Section 2079.15 is added to the Civil Code, to read:*

13 2079.15. (a) In any circumstance in which the seller or buyer
14 refuses to sign an acknowledgment of receipt pursuant to Section
15 2079.14, the real estate broker, or an associate licensee acting for
16 a real estate broker, shall set forth, sign, and date a written
17 declaration of the facts of the refusal.

18 *(b) This section shall become operative on July 1, 2018.*

19 *SEC. 194. Section 2079.16 of the Civil Code is amended to*
20 *read:*

21 2079.16. The disclosure form required by Section 2079.14
22 shall have Sections 2079.13 to 2079.24, inclusive, excluding this
23 section, printed on the back, and on the front of the disclosure form
24 the following shall appear:

25
26 **DISCLOSURE REGARDING**
27 **REAL ESTATE AGENCY RELATIONSHIP**
28 **(As required by the Civil Code)**
29

30 When you enter into a discussion with a real estate agent
31 regarding a real estate transaction, you should from the outset
32 understand what type of agency relationship or representation you
33 wish to have with the agent in the transaction.

34
35 **SELLER'S AGENT**
36

37 A Seller's agent under a listing agreement with the Seller acts
38 as the agent for the Seller only. A Seller's agent or a subagent of
39 that agent has the following affirmative obligations:

40 To the Seller:

1 A fiduciary duty of utmost care, integrity, honesty, and loyalty
2 in dealings with the Seller.

3 To the Buyer and the Seller:

4 (a) Diligent exercise of reasonable skill and care in performance
5 of the agent’s duties.

6 (b) A duty of honest and fair dealing and good faith.

7 (c) A duty to disclose all facts known to the agent materially
8 affecting the value or desirability of the property that are not known
9 to, or within the diligent attention and observation of, the parties.

10 An agent is not obligated to reveal to either party any confidential
11 information obtained from the other party that does not involve
12 the affirmative duties set forth above.

13

14

BUYER’S AGENT

15

16 A selling agent can, with a Buyer’s consent, agree to act as agent
17 for the Buyer only. In these situations, the agent is not the Seller’s
18 agent, even if by agreement the agent may receive compensation
19 for services rendered, either in full or in part from the Seller. An
20 agent acting only for a Buyer has the following affirmative
21 obligations:

22 To the Buyer:

23 A fiduciary duty of utmost care, integrity, honesty, and loyalty
24 in dealings with the Buyer.

25 To the Buyer and the Seller:

26 (a) Diligent exercise of reasonable skill and care in performance
27 of the agent’s duties.

28 (b) A duty of honest and fair dealing and good faith.

29 (c) A duty to disclose all facts known to the agent materially
30 affecting the value or desirability of the property that are not known
31 to, or within the diligent attention and observation of, the parties.

32 An agent is not obligated to reveal to either party any confidential
33 information obtained from the other party that does not involve
34 the affirmative duties set forth above.

35

36

AGENT REPRESENTING BOTH SELLER AND BUYER

37

38 A real estate agent, either acting directly or through one or more
39 associate licensees, can legally be the agent of both the Seller and

1 the Buyer in a transaction, but only with the knowledge and consent
2 of both the Seller and the Buyer.

3 In a dual agency situation, the agent has the following affirmative
4 obligations to both the Seller and the Buyer:

5 (a) A fiduciary duty of utmost care, integrity, ~~honesty~~ *honesty*,
6 and loyalty in the dealings with either the Seller or the Buyer.

7 (b) Other duties to the Seller and the Buyer as stated above in
8 their respective sections.

9 In representing both Seller and Buyer, the agent may not, without
10 the express permission of the respective party, disclose to the other
11 party that the Seller will accept a price less than the listing price
12 or that the Buyer will pay a price greater than the price offered.

13 The above duties of the agent in a real estate transaction do not
14 relieve a Seller or Buyer from the responsibility to protect his or
15 her own interests. You should carefully read all agreements to
16 assure that they adequately express your understanding of the
17 transaction. A real estate agent is a person qualified to advise about
18 real estate. If legal or tax advice is desired, consult a competent
19 professional.

20 Throughout your real property transaction you may receive more
21 than one disclosure form, depending upon the number of agents
22 assisting in the transaction. The law requires each agent with whom
23 you have more than a casual relationship to present you with this
24 disclosure form. You should read its contents each time it is
25 presented to you, considering the relationship between you and
26 the real estate agent in your specific transaction.

27 This disclosure form includes the provisions of Sections 2079.13
28 to 2079.24, inclusive, of the Civil Code set forth on the reverse
29 hereof. Read it carefully.

30

31

Agent (date)	Buyer/Seller (date)
(Signature)	(Signature)

34

Associate Licensee (date)	Buyer/Seller (date)
(Signature)	(Signature)

37

38 *This section shall repeal on July 1, 2018.*

39 *SEC. 195. Section 2079.16 is added to the Civil Code, to read:*

1 2079.16. *The disclosure form required by Section 2079.14*
2 *shall contain at a minimum the following:*

3
4 *DISCLOSURE REGARDING*
5 *REAL ESTATE RELATIONSHIPS WITH LICENSEES*
6 *(As required by Section 2079.14 of the Civil Code)*
7

8 *When you enter into a relationship with a real estate broker*
9 *regarding a real estate transaction, you should from the outset*
10 *understand what type of representation you wish to have with the*
11 *broker in the transaction.*

12
13 *SELLER’S BROKER*
14

15 *A Seller’s broker under a listing agreement with the Seller acts*
16 *as the broker for the Seller only. A Seller’s broker has the following*
17 *affirmative obligations:*

18 *To the Seller:*

19 *A fiduciary duty of care, integrity, honesty, and loyalty in*
20 *dealings with the Seller.*

21 *To the Buyer and the Seller:*

22 *(a) Diligent exercise of reasonable skill and care in performance*
23 *of the broker’s duties.*

24 *(b) A duty of honest and fair dealing and good faith.*

25 *(c) A duty to disclose all facts known to the broker materially*
26 *affecting the value or desirability of the property that are not*
27 *known to, or within the diligent attention and observation of, the*
28 *parties.*

29 *(d) A Seller’s broker may have other listing agreements with*
30 *other Sellers.*

31 *A broker is not obligated to reveal to either party any*
32 *confidential information obtained from the other party or from*
33 *other clients that does not involve the affirmative duties set forth*
34 *above. Confidential information includes, but is not limited to,*
35 *facts relating to the party’s financial position, motivations,*
36 *bargaining position, or other personal information that may impact*
37 *price or price-related issues.*

BUYER'S BROKER

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A broker can, with the Buyer's agreement, agree to act as broker for the Buyer only. The Buyer's broker may receive compensation for services rendered, either in full or in part from the Seller, but that does not make the Buyer's broker the Seller's broker. A broker acting for a Buyer has the following affirmative obligations:

To the Buyer:

A fiduciary duty of care, integrity, honesty, and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the broker's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the real estate broker materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. A real estate broker is not obligated to reveal to either party any confidential information obtained from the other party or from other clients that does not involve the affirmative duties set forth above. Confidential information includes, but is not limited to, facts relating to the party's financial position, motivations, bargaining position, or other personal information that may impact price or price-related issues.

(d) The Buyer's broker may also be providing services to other buyers in regard to the same or different properties.

BROKER REPRESENTING BOTH SELLER AND BUYER

A real estate broker, either acting directly or through one or more associate licensees, can legally represent both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual brokerage or dual licensee situation, the broker and dual licensees have the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of care, integrity, honesty, and loyalty in the dealings with either the Seller or the Buyer.

(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

1 *In representing both Seller and Buyer, the broker or dual licensee*
 2 *may not, without the express permission of the respective party,*
 3 *disclose to the other party in that transaction any confidential*
 4 *information obtained from the other party that does not involve*
 5 *the affirmative duties set forth above. Confidential information*
 6 *includes, but is not limited to, facts relating to the party's financial*
 7 *position, motivations, bargaining position, or other personal*
 8 *information that may impact price or price-related issues. A broker*
 9 *is not obligated to reveal to either party any information obtained*
 10 *from clients or reports regarding the property in a previous*
 11 *transaction regarding the same property without the client's*
 12 *consent.*

13
 14 **CONSUMER RESPONSIBILITIES**
 15

16 *The above duties of the broker in a real estate transaction do*
 17 *not relieve a Seller or Buyer from the responsibility to protect his*
 18 *or her own interests, including reading all documents, reports,*
 19 *and disclosures. The Buyer has a duty to exercise reasonable care*
 20 *to protect himself or herself, including obtaining and considering*
 21 *those facts which are known to or within the diligent attention and*
 22 *observation of the Buyer. You should carefully read all agreements*
 23 *to assure that they adequately express your understanding of the*
 24 *transaction. A real estate broker is a person qualified to advise*
 25 *about real estate. If legal or tax advice is desired, consult a*
 26 *competent professional.*

27 *Since you will likely not know who the Buyer is going to be, if*
 28 *you are the Seller, or which property you are going to buy, if you*
 29 *are the Buyer, consider the confirmation of relationships carefully*
 30 *in the context of each offer as it may change as the property in the*
 31 *transaction is identified and the respective parties and their brokers*
 32 *become clear.*

33 *This disclosure form includes the provisions of Sections 2079.13*
 34 *to 2079.24, inclusive, of the Civil Code set forth on the reverse*
 35 *hereof. Read it carefully.*

36
 37
 38 _____
 39 *Real Estate Broker (date) Buyer/Seller (date)*
 40 *(Signature) (Signature)*

1 Associate Licensee (date) Buyer/Seller (date)
 2 (Signature) (Signature)

3
 4 *This section shall become operative on July 1, 2018.*

5 SEC. 196. Section 2079.17 of the Civil Code is amended to
 6 read:

7 2079.17. (a) As soon as practicable, the selling agent shall
 8 disclose to the buyer and seller whether the selling agent is acting
 9 in the real property transaction exclusively as the buyer’s agent,
 10 exclusively as the seller’s agent, or as a dual agent representing
 11 both the buyer and the seller. This relationship shall be confirmed
 12 in the contract to purchase and sell real property or in a separate
 13 writing executed or acknowledged by the seller, the buyer, and the
 14 selling agent prior to or coincident with execution of that contract
 15 by the buyer and the seller, respectively.

16 (b) As soon as practicable, the listing agent shall disclose to the
 17 seller whether the listing agent is acting in the real property
 18 transaction exclusively as the seller’s agent, or as a dual agent
 19 representing both the buyer and seller. This relationship shall be
 20 confirmed in the contract to purchase and sell real property or in
 21 a separate writing executed or acknowledged by the seller and the
 22 listing agent prior to or coincident with the execution of that
 23 contract by the seller.

24 (c) The confirmation required by subdivisions (a) and (b) shall
 25 be in the following form:

26
 27 _____ is the agent of (check one):

28 (Name of Listing Agent)

29 [] the seller exclusively; or

30 [] both the buyer and seller.

31
 32 _____
 (Name of Selling Agent if not the same as the Listing Agent)

33 is the agent of (check one):

34 [] the buyer exclusively; or

35 [] the seller exclusively; or

36 [] both the buyer and seller.

37
 38 (d) The disclosures and confirmation required by this section
 39 shall be in addition to the disclosure required by Section 2079.14.

40 (e) *This section shall repeal on July 1, 2018.*

1 SEC. 197. Section 2079.17 is added to the Civil Code, to read:
 2 2079.17. (a) As soon as practicable, the buyer's broker shall
 3 disclose to the buyer and seller whether the broker is acting in the
 4 real property transaction as the buyer's broker or as a dual broker
 5 representing both the buyer and the seller. This relationship shall
 6 be confirmed in the contract to purchase and sell real property or
 7 in a separate writing executed or acknowledged by the seller, the
 8 buyer, and the buyer's broker either directly or through an
 9 associate licensee prior to or coincident with execution of that
 10 contract by the buyer and the seller, respectively.

11 (b) As soon as practicable, the seller's broker shall disclose to
 12 the seller whether the seller's licensee is acting in the real property
 13 transaction as the seller's broker or as a dual broker representing
 14 both the buyer and seller. This relationship shall be confirmed in
 15 the contract to purchase and sell real property or in a separate
 16 writing executed or acknowledged by the seller and the seller's
 17 broker either directly or through an associate licensee prior to or
 18 coincident with the execution of that contract by the seller.

19 (c) The confirmation required by subdivisions (a) and (b) shall
 20 be in the following form:

21 _____ is
 22 (Name of Seller's Broker, Brokerage firm, and license number)

23 the broker of (check one):
 24 [] the seller; or
 25 [] both the buyer and seller. (dual broker)

26 _____ is (check one):
 27 (Name of Seller's Licensee and license number)

28 [] is the Seller's Licensee. (salesperson or associate broker)
 29 [] is both the Buyer's and Seller's Licensee. (dual licensee)

30 _____ is
 31 (Name of Buyer's Broker, Brokerage firm, and license number)

32 the broker of (check one):
 33 [] the buyer; or
 34 [] both the buyer and seller. (dual broker)

35 _____ is
 36 (Name of Buyer's Licensee and license number)

37 [] the Buyer's Licensee. (salesperson or associate broker)
 38 [] both the Buyer's and Seller's Licensee. (dual licensee)

39
 40

1 (d) *The disclosures and confirmation required by this section*
2 *shall be in addition to the disclosure required by Section 2079.14.*
3 *A real estate salesperson or associate broker affiliated with a*
4 *broker providing the required disclosures and confirmation on*
5 *behalf of that broker shall satisfy the broker's duties of disclosure*
6 *and confirmation.*

7 (e) *This section shall become operative on July 1, 2018.*

8 SEC. 198. *Section 2079.18 of the Civil Code is amended to*
9 *read:*

10 2079.18. (a) *No selling agent in a real property transaction*
11 *may act as an agent for the buyer only, when the selling agent is*
12 *also acting as the listing agent in the transaction.*

13 (b) *This section shall repeal on July 1, 2018.*

14 SEC. 199. *Section 2079.19 of the Civil Code is amended to*
15 *read:*

16 2079.19. (a) *The payment of compensation or the obligation*
17 *to pay compensation to an agent by the seller or buyer is not*
18 *necessarily determinative of a particular agency relationship*
19 *between an agent and the seller or buyer. A listing agent and a*
20 *selling agent may agree to share any compensation or commission*
21 *paid, or any right to any compensation or commission for which*
22 *an obligation arises as the result of a real estate transaction, and*
23 *the terms of any such agreement shall not necessarily be*
24 *determinative of a particular relationship.*

25 (b) *This section shall repeal on July 1, 2018.*

26 SEC. 200. *Section 2079.19 is added to the Civil Code, to read:*

27 2079.19. (a) *The payment of compensation or the obligation*
28 *to pay compensation to a real estate broker by the seller or buyer*
29 *is not necessarily determinative of a particular agency relationship*
30 *between a real estate broker and the seller or buyer. The parties*
31 *may agree to an agency relationship established and governed by*
32 *a written agreement between the parties or an agreement for*
33 *services for licensed activity without an agency relationship. A*
34 *seller's broker and a buyer's broker may agree to share any*
35 *compensation or commission paid, or any right to any*
36 *compensation or commission for which an obligation arises as the*
37 *result of a real estate transaction, and the terms of any such*
38 *agreement shall not necessarily be determinative of a particular*
39 *relationship.*

40 (b) *This section shall become operative on July 1, 2018.*

1 *SEC. 201. Section 2079.20 of the Civil Code is amended to*
2 *read:*

3 2079.20. (a) Nothing in this article prevents an agent from
4 selecting, as a condition of the agent's employment, a specific
5 form of agency relationship not specifically prohibited by this
6 article if the requirements of Section 2079.14 and Section 2079.17
7 are complied with.

8 (b) *This section shall repeal on July 1, 2018.*

9 *SEC. 202. Section 2079.21 of the Civil Code is amended to*
10 *read:*

11 2079.21. A dual agent shall not disclose to the buyer that the
12 seller is willing to sell the property at a price less than the listing
13 price, without the express written consent of the seller. A dual
14 agent shall not disclose to the seller that the buyer is willing to pay
15 a price greater than the offering price, without the express written
16 consent of the buyer.

17 This section does not alter in any way the duty or responsibility
18 of a dual agent to any principal with respect to confidential
19 information other than price.

20 *This section shall repeal on July 1, 2018.*

21 *SEC. 203. Section 2079.21 is added to the Civil Code, to read:*

22 2079.21. (a) A dual licensee may not, without the express
23 permission of a client, disclose to the other client any confidential
24 information obtained from the other client that does not involve
25 the affirmative duties described in Section 2079.16. Confidential
26 information includes, but is not limited to, facts relating to the
27 client's financial position, motivations, bargaining position, or
28 other personal information that may impact price or price-related
29 issues.

30 (b) *This section shall become operative on July 1, 2018.*

31 *SEC. 204. Section 2079.22 of the Civil Code is amended to*
32 *read:*

33 2079.22. (a) Nothing in this article precludes a listing agent
34 from also being a selling agent, and the combination of these
35 functions in one agent does not, of itself, make that agent a dual
36 agent.

37 (b) *This section shall repeal on July 1, 2018.*

38 *SEC. 205. Section 2079.22 is added to the Civil Code, to read:*

39 2079.22. (a) Nothing in this article precludes a seller's broker,
40 including through one or more associate licensees, from also being

1 *a buyer's broker. If one party to the transaction chooses to not be*
2 *represented by a broker, that does not, of itself, make that broker*
3 *a dual licensee without the written consent set forth in Section*
4 *2079.18. An agency relationship between a client and a broker or*
5 *associate licensee shall have the express written consent of all*
6 *parties.*

7 *(b) This section shall become operative on July 1, 2018.*

8 *SEC. 206. Section 2079.23 of the Civil Code is amended to*
9 *read:*

10 2079.23. (a) A contract between the principal and agent may
11 be modified or altered to change the agency relationship at any
12 time before the performance of the act which is the object of the
13 agency with the written consent of the parties to the agency
14 relationship.

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

25 *(c) This section shall repeal on July 1, 2018.*

26 *SEC. 207. Section 2079.23 is added to the Civil Code, to read:*

27 2079.23. (a) A contract between the principal and the real
28 estate broker may be modified or altered to change the relationship
29 at any time before the performance of the act which is the object
30 of the license services with the written consent of the parties to the
31 relationship.

32 (b) A lender or an auction company retained by a lender to
33 control aspects of a transaction of real property subject to this
34 part, including validating the sales price, shall not require, as a
35 condition of receiving the lender's approval of the transaction,
36 the homeowner or any licensee to defend or indemnify the lender
37 or auction company from any liability alleged to result from the
38 actions of the lender or auction company. Any clause, provision,
39 covenant, or agreement purporting to impose an obligation to

1 *defend or indemnify a lender or an auction company in violation*
 2 *of this subdivision is against public policy, void, and unenforceable.*

3 *(c) This section shall become operative on July 1, 2018.*

4 *SEC. 208. Section 2079.24 of the Civil Code is amended to*
 5 *read:*

6 2079.24. *(a) Nothing in this article shall be construed to either*
 7 *diminish the duty of disclosure owed buyers and sellers by agents*
 8 *and their associate licensees, subagents, and employees or to relieve*
 9 *agents and their associate licensees, subagents, and employees*
 10 *from liability for their conduct in connection with acts governed*
 11 *by this article or for any breach of a fiduciary duty or a duty of*
 12 *disclosure.*

13 *(b) This section shall repeal on July 1, 2018.*

14 *SEC. 209. Section 2079.24 is added to the Civil Code, to read:*

15 2079.24. *(a) Nothing in this article shall be construed to either*
 16 *diminish the duty of disclosure owed to buyers and sellers by*
 17 *brokers, including their broker associates, salespersons, and*
 18 *employees, or to relieve brokers, including their broker associates,*
 19 *salespersons, and employees from liability for their conduct in*
 20 *connection with acts governed by this article.*

21 *(b) This section shall become operative on July 1, 2018.*

22 *SEC. 210. Section 31210 of the Corporations Code is amended*
 23 *to read:*

24 31210. *(a) It is unlawful for any person to effect or attempt*
 25 *to effect a sale of a franchise in this state, except in transactions*
 26 *exempted under Chapter 1 (commencing with Section 31100) of*
 27 *Part 2 of this division, unless such person is: (1) identified in an*
 28 *application or amended application filed with the commissioner*
 29 *pursuant to Part 2 (commencing with Section 31100) of this*
 30 *division, (2) licensed by the Bureau of Real Estate as a real estate*
 31 *broker or real estate salesman, or (3) licensed by the commissioner*
 32 *as a broker-dealer or agent pursuant to the Corporate Securities*
 33 *Law of 1968.*

34 *(b) This section shall repeal on July 1, 2018.*

35 *SEC. 211. Section 31210 is added to the Corporations Code,*
 36 *to read:*

37 31210. *(a) It is unlawful for any person to effect or attempt to*
 38 *effect a sale of a franchise in this state, except in transactions*
 39 *exempted under Chapter 1 (commencing with Section 31100) of*
 40 *Part 2 of this division, unless such person is: (1) identified in an*

1 application or amended application filed with the commissioner
2 pursuant to Part 2 (commencing with Section 31100) of this
3 division, (2) licensed by the Bureau of Real Estate as a real estate
4 broker or real estate salesperson, or (3) licensed by the
5 commissioner as a broker-dealer or agent pursuant to the
6 Corporate Securities Law of 1968.

7 (b) This section shall become operative on July 1, 2018.

8 SEC. 212. No reimbursement is required by this act pursuant
9 to Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 SECTION 1. Section 10080.9 of the Business and Professions
18 Code is amended to read:

19 ~~10080.9. (a) If, upon inspection, examination, or investigation,~~
20 ~~the commissioner has cause to believe that a person who does not~~
21 ~~possess a real estate license is engaged or has engaged in activities~~
22 ~~for which a real estate license is required, or that a person who~~
23 ~~does not possess a prepaid rental listing service license or a real~~
24 ~~estate broker license is engaged or has engaged in activities for~~
25 ~~which a license is required pursuant to Section 10167.2, or that a~~
26 ~~licensee is violating or has violated any provision of this division~~
27 ~~or any rule or order thereunder, the commissioner or his or her~~
28 ~~designated representative may issue a citation to that person in~~
29 ~~writing, describing with particularity the basis of the citation. Each~~
30 ~~citation may contain an order to correct the violation or violations~~
31 ~~identified and a reasonable time period or periods by which the~~
32 ~~violation or violations must be corrected. In addition, each citation~~
33 ~~may assess an administrative fine not to exceed two thousand five~~
34 ~~hundred dollars (\$2,500), that shall be deposited into the Recovery~~
35 ~~Account of the Real Estate Fund and shall, upon appropriation by~~
36 ~~the Legislature, be available for expenditure for the purposes~~
37 ~~specified in Chapter 6.5 (commencing with Section 10470). In~~
38 ~~assessing a fine, the commissioner shall give due consideration to~~
39 ~~the appropriateness of the amount of the fine with respect to factors~~
40 ~~such as the gravity of the violation, the good faith of the person~~

1 cited, and the history of previous violations. A citation issued and
2 a fine assessed pursuant to this section, while constituting discipline
3 for a violation of the law, shall be in lieu of other administrative
4 discipline by the commissioner for the offense or offenses cited,
5 and the citation against and payment of any fine by a licensee shall
6 not be reported as disciplinary action taken by the commissioner.

7 (b) ~~Notwithstanding subdivision (a), nothing in this section shall~~
8 ~~prevent the commissioner from issuing an order to desist and~~
9 ~~refrain from engaging in a specific business activity or activities~~
10 ~~or an order to suspend all business operations to a person who is~~
11 ~~engaged in or has engaged in continued or repeated violations of~~
12 ~~this part. In any of these circumstances, the sanctions authorized~~
13 ~~under this section shall be separate from, and in addition to, all~~
14 ~~other administrative, civil, or criminal penalties.~~

15 (c) ~~If, within 30 days from the receipt of the citation or the~~
16 ~~citation and fine, the person cited fails to notify the commissioner~~
17 ~~that he or she intends to request a hearing as described in~~
18 ~~subdivision (d), the citation or the citation and fine shall be deemed~~
19 ~~final.~~

20 (d) ~~Any hearing under this section shall be conducted in~~
21 ~~accordance with Chapter 5 (commencing with Section 11500) of~~
22 ~~Part 1 of Division 3 of Title 2 of the Government Code.~~

23 (e) ~~After the exhaustion of the review procedures provided for~~
24 ~~in this section, the commissioner may apply to the appropriate~~
25 ~~superior court for a judgment in the amount of any administrative~~
26 ~~penalty imposed pursuant to subdivision (a) and an order~~
27 ~~compelling the person cited to comply with the order of the~~
28 ~~commissioner. The application, which shall include a certified~~
29 ~~copy of the final order of the commissioner, shall constitute a~~
30 ~~sufficient showing to warrant issuing the judgment and order.~~

31 (f) ~~Failure of any person to comply with the terms of a citation~~
32 ~~or pay a fine assessed pursuant to this section, within a reasonable~~
33 ~~period specified by the commissioner, shall subject that person to~~
34 ~~disciplinary action by the commissioner. In no event may a license~~
35 ~~be issued or renewed if an unpaid fine remains outstanding or the~~
36 ~~terms of a citation have not been complied with.~~

37 ~~SEC. 2. Section 10177 of the Business and Professions Code~~
38 ~~is amended to read:~~

39 ~~10177. The commissioner may suspend or revoke the license~~
40 ~~of a real estate licensee, delay the renewal of a license of a real~~

1 estate licensee, or deny the issuance of a license to an applicant,
2 who has done any of the following, or may suspend or revoke the
3 license of a corporation, delay the renewal of a license of a
4 corporation, or deny the issuance of a license to a corporation, if
5 an officer, director, or person owning or controlling 10 percent or
6 more of the corporation's stock has done any of the following:

7 (a) ~~Procured, or attempted to procure, a real estate license or~~
8 ~~license renewal, for himself or herself or a salesperson, by fraud,~~
9 ~~misrepresentation, or deceit, or by making a material misstatement~~
10 ~~of fact in an application for a real estate license, license renewal,~~
11 ~~or reinstatement.~~

12 (b) ~~Entered a plea of guilty or no contest to, or been found guilty~~
13 ~~of, or been convicted of, a felony, or a crime substantially related~~
14 ~~to the qualifications, functions, or duties of a real estate licensee,~~
15 ~~and the time for appeal has elapsed or the judgment of conviction~~
16 ~~has been affirmed on appeal, irrespective of an order granting~~
17 ~~probation following that conviction, suspending the imposition of~~
18 ~~sentence, or of a subsequent order under Section 1203.4 of the~~
19 ~~Penal Code allowing that licensee to withdraw his or her plea of~~
20 ~~guilty and to enter a plea of not guilty, or dismissing the accusation~~
21 ~~or information.~~

22 (c) ~~Knowingly authorized, directed, connived at, or aided in the~~
23 ~~publication, advertisement, distribution, or circulation of a material~~
24 ~~false statement or representation concerning his or her designation~~
25 ~~or certification of special education, credential, trade organization~~
26 ~~membership, or business, or concerning a business opportunity or~~
27 ~~a land or subdivision, as defined in Chapter 1 (commencing with~~
28 ~~Section 11000) of Part 2, offered for sale.~~

29 (d) ~~Willfully disregarded or violated the Real Estate Law (Part~~
30 ~~1 (commencing with Section 10000)) or Chapter 1 (commencing~~
31 ~~with Section 11000) of Part 2 or the rules and regulations of the~~
32 ~~commissioner for the administration and enforcement of the Real~~
33 ~~Estate Law and Chapter 1 (commencing with Section 11000) of~~
34 ~~Part 2.~~

35 (e) ~~Willfully used the term "realtor" or a trade name or insignia~~
36 ~~of membership in a real estate organization of which the licensee~~
37 ~~is not a member.~~

38 (f) ~~Acted or conducted himself or herself in a manner that would~~
39 ~~have warranted the denial of his or her application for a real estate~~
40 ~~license, or either had a license denied or had a license issued by~~

1 another agency of this state, another state, or the federal
2 government revoked, surrendered, or suspended for acts that, if
3 done by a real estate licensee, would be grounds for the suspension
4 or revocation of a California real estate license, if the action of
5 denial, revocation, surrender, or suspension by the other agency
6 or entity was taken only after giving the licensee or applicant fair
7 notice of the charges, an opportunity for a hearing, and other due
8 process protections comparable to the Administrative Procedure
9 Act (Chapter 3.5 (commencing with Section 11340), Chapter 4
10 (commencing with Section 11370), and Chapter 5 (commencing
11 with Section 11500) of Part 1 of Division 3 of Title 2 of the
12 Government Code), and only upon an express finding of a violation
13 of law by the agency or entity.

14 (g) Demonstrated negligence or incompetence in performing
15 an act for which he or she is required to hold a license.

16 (h) As a broker licensee, failed to exercise reasonable
17 supervision over the activities of his or her salespersons, or, as the
18 officer designated by a corporate broker licensee, failed to exercise
19 reasonable supervision and control of the activities of the
20 corporation for which a real estate license is required.

21 (i) Used his or her employment by a governmental agency in a
22 capacity giving access to records, other than public records, in a
23 manner that violates the confidential nature of the records.

24 (j) Engaged in any other conduct, whether of the same or a
25 different character than specified in this section, that constitutes
26 fraud or dishonest dealing.

27 (k) Violated any of the terms, conditions, restrictions, and
28 limitations contained in an order granting a restricted license.

29 (l) (1) Solicited or induced the sale, lease, or listing for sale or
30 lease of residential property on the ground, wholly or in part, of
31 loss of value, increase in crime, or decline of the quality of the
32 schools due to the present or prospective entry into the
33 neighborhood of a person or persons having a characteristic listed
34 in subdivision (a) or (d) of Section 12955 of the Government Code,
35 as those characteristics are defined in Sections 12926 and 12926.1,
36 subdivision (m) and paragraph (1) of subdivision (p) of Section
37 12955, and Section 12955.2 of the Government Code.

38 (2) Notwithstanding paragraph (1), with respect to familial
39 status, paragraph (1) shall not be construed to apply to housing for
40 older persons, as defined in Section 12955.9 of the Government

1 Code. With respect to familial status, nothing in paragraph (1)
2 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,
3 and 799.5 of the Civil Code, relating to housing for senior citizens.
4 Subdivision (d) of Section 51 and Section 4760 of the Civil Code
5 and subdivisions (n), (o), and (p) of Section 12955 of the
6 Government Code shall apply to paragraph (1).

7 (m) Violated the Franchise Investment Law (Division 5
8 (commencing with Section 31000) of Title 4 of the Corporations
9 Code) or regulations of the Commissioner of Corporations
10 pertaining thereto.

11 (n) Violated the Corporate Securities Law of 1968 (Division 1
12 (commencing with Section 25000) of Title 4 of the Corporations
13 Code) or the regulations of the Commissioner of Corporations
14 pertaining thereto.

15 (o) Failed to disclose to the buyer of real property, in a
16 transaction in which the licensee is an agent for the buyer, the
17 nature and extent of a licensee's direct or indirect ownership
18 interest in that real property. The direct or indirect ownership
19 interest in the property by a person related to the licensee by blood
20 or marriage, by an entity in which the licensee has an ownership
21 interest, or by any other person with whom the licensee has a
22 special relationship shall be disclosed to the buyer.

23 (p) Violated Article 6 (commencing with Section 10237).

24 (q) Violated or failed to comply with Chapter 2 (commencing
25 with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil
26 Code, related to mortgages.

27 (r) Failure to surrender a license that was issued in error or by
28 mistake.

29 If a real estate broker that is a corporation has not done any of
30 the foregoing acts, either directly or through its employees, agents,
31 officers, directors, or persons owning or controlling 10 percent or
32 more of the corporation's stock, the commissioner may not deny
33 the issuance or delay the renewal of a real estate license to, or
34 suspend or revoke the real estate license of, the corporation,
35 provided that any offending officer, director, or stockholder, who
36 has done any of the foregoing acts individually and not on behalf
37 of the corporation, has been completely disassociated from any
38 affiliation or ownership in the corporation. A decision by the
39 commissioner to delay the renewal of a real estate license shall
40 toll the expiration of that license until the results of any pending

1 ~~disciplinary actions against that licensee are final, or until the~~
2 ~~licensee voluntarily surrenders his, her, or its license, whichever~~
3 ~~is earlier.~~

4 ~~SEC. 3. Section 10186.2 of the Business and Professions Code~~
5 ~~is amended to read:~~

6 ~~10186.2. (a) (1) A licensee shall report any of the following~~
7 ~~to the bureau:~~

8 ~~(A) The bringing of a criminal complaint, information, or~~
9 ~~indictment charging a felony against the licensee.~~

10 ~~(B) The conviction of the licensee, including any verdict of~~
11 ~~guilty, or plea of guilty or no contest, of any felony or~~
12 ~~misdemeanor.~~

13 ~~(C) Any disciplinary action taken by another licensing entity~~
14 ~~or authority of this state or of another state or an agency of the~~
15 ~~federal government.~~

16 ~~(2) The report required by this subdivision shall be made in~~
17 ~~writing within 30 days of the date of the bringing of the indictment~~
18 ~~or the charging of a felony, the conviction, or the disciplinary~~
19 ~~action.~~

20 ~~(b) Failure to make a report required by this section shall~~
21 ~~constitute a cause for discipline.~~

22 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
23 ~~Section 6 of Article XIII B of the California Constitution because~~
24 ~~the only costs that may be incurred by a local agency or school~~
25 ~~district will be incurred because this act creates a new crime or~~
26 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
27 ~~for a crime or infraction, within the meaning of Section 17556 of~~
28 ~~the Government Code, or changes the definition of a crime within~~
29 ~~the meaning of Section 6 of Article XIII B of the California~~
30 ~~Constitution.~~