

AMENDED IN ASSEMBLY FEBRUARY 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1650

Introduced by Assembly Member Frazier

January 12, 2016

An act to amend, repeal, and add Section 10140.6 of the Business and Professions Code, relating to real estate.

LEGISLATIVE COUNSEL'S DIGEST

AB 1650, as amended, Frazier. Real estate licensees: advertisements.

Existing law, the Real Estate Law, governs the licensing and regulation of real estate licensees, as defined, as administered by the Real Estate Commissioner. Under those provisions, a real estate licensee is prohibited from publishing, circulating, distributing, or causing to be published, circulated, or distributed in any newspaper or periodical, or by mail, any matter pertaining to any activity for which a real estate license is required that does not contain a designation disclosing that the licensee is performing acts for which a real estate license is required. Existing law further requires a real estate licensee to include his or her license identification number and, if that licensee is a mortgage loan originator, the unique identifier assigned to that licensee, on the above-described circulations, distributions, publications, or mailings, on all solicitation materials, as described, and on all real property agreements when acting as an agent in those transactions. Existing law authorizes the Real Estate Commissioner to adopt regulations in that regard.

This bill, beginning January 1, 2018, would revise the disclosure requirements with regard to solicitation materials to require the inclusion of the name of the licensee, ~~remove the identification of the mortgage~~

~~loan originator and instead would require the inclusion of licensee and the responsible broker’s identity, and would revise the description of solicitation materials.~~

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

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

1 SECTION 1. Section 10140.6 of the Business and Professions
2 Code is amended to read:

3 10140.6. (a) A real estate licensee shall not publish, circulate,
4 distribute, or cause to be published, circulated, or distributed in
5 any newspaper or periodical, or by mail, any matter pertaining to
6 any activity for which a real estate license is required that does
7 not contain a designation disclosing that he or she is performing
8 acts for which a real estate license is required.

9 (b) (1) A real estate licensee shall disclose his or her license
10 identification number and, if that licensee is a mortgage loan
11 originator, the unique identifier assigned to that licensee by the
12 Nationwide Mortgage Licensing System and Registry, on all
13 solicitation materials intended to be the first point of contact with
14 consumers and on real property purchase agreements when acting
15 as an agent in those transactions. The commissioner may adopt
16 regulations identifying the materials in which a licensee must
17 disclose a license identification number and, if that licensee is a
18 mortgage loan originator, the unique identifier assigned to that
19 licensee by the Nationwide Mortgage Licensing System and
20 Registry.

21 (2) For purposes of this section, “solicitation materials intended
22 to be the first point of contact with consumers” includes business
23 cards, stationery, advertising fliers, and other materials designed
24 to solicit the creation of a professional relationship between the
25 licensee and a consumer, and excludes an advertisement in print
26 or electronic media and “for sale” signs.

27 (3) Nothing in this section shall be construed to limit or change
28 the requirement described in Section 10236.4 as applicable to real
29 estate brokers.

30 (c) The provisions of this section shall not apply to classified
31 rental advertisements reciting the telephone number at the premises

1 of the property offered for rent or the address of the property
2 offered for rent.

3 (d) “Mortgage loan originator,” “unique identifier,” and
4 “Nationwide Mortgage Licensing System and Registry” have the
5 meanings set forth in Section 10166.01.

6 (e) This section shall remain in effect only until January 1, 2018,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2018, deletes or extends that date.

9 SEC. 2. Section 10140.6 is added to the Business and
10 Professions Code, to read:

11 10140.6. (a) A real estate licensee shall not publish, circulate,
12 distribute, or cause to be published, circulated, or distributed in
13 any newspaper or periodical, or by mail, any matter pertaining to
14 any activity for which a real estate license is required that does
15 not contain a designation disclosing that he or she is performing
16 acts for which a real estate license is required.

17 (b) (1) A real estate licensee shall disclose his or her name,
18 license identification ~~number~~ *number and unique identifier*
19 *assigned to that licensee by the Nationwide Mortgage Licensing*
20 *System and Registry, if that licensee is a mortgage loan originator,*
21 and responsible broker’s identity, as defined in Section 10159.7,
22 on all solicitation materials intended to be the first point of contact
23 with consumers and on real property purchase agreements when
24 acting as an agent in those transactions. The commissioner may
25 adopt regulations identifying the materials in which a licensee
26 must disclose a license identification ~~number~~ *number and unique*
27 *identifier assigned to that licensee by the Nationwide Mortgage*
28 *Licensing System and Registry, and responsible broker’s identity.*

29 (2) *A real estate licensee shall disclose his or her name and*
30 *responsible broker’s identity, as defined in Section 10159.7, on*
31 *“for sale,” rent, lease, “open house,” and directional signs.*

32 ~~(2)~~

33 (3) For purposes of this section, “solicitation materials intended
34 to be the first point of contact with consumers” includes business
35 cards, stationery, advertising fliers, advertisements on television,
36 in print, or electronic media, ~~“for sale,” rent, lease, “open house,”~~
37 ~~and directional signs,~~ and other materials designed to solicit the
38 creation of a professional relationship between the licensee and a
39 consumer.

40 ~~(3)~~

1 (4) Nothing in this section shall be construed to limit or change
2 the requirement described in Section 10236.4 as applicable to real
3 estate brokers.

4 (c) ~~(1)~~ This section shall not apply to “open house” and
5 directional signs displaying only the responsible broker’s identity,
6 as defined in Section ~~10159.7~~. *10159.7, that do not contain a*
7 *reference to a licensee’s name.*

8 ~~(2)~~ This section shall not apply to “open house” and directional
9 signs that do not contain a reference to a licensee’s name or
10 responsible broker’s identity, as defined in Section 10159.7.

11 (d) “Mortgage loan originator,” “unique identifier,” and
12 “Nationwide Mortgage Licensing System and Registry” have the
13 meanings set forth in Section 10166.01.

14 ~~(d)~~

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