

**ASSEMBLY BILL**

**No. 1750**

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**Introduced by Assembly Member Dodd**

February 2, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1750, as introduced, Dodd. Real property transactions: definitions.

Existing law defines various terms for the purposes of some, but not all, provisions relating to the duty owed to the prospective purchaser in transactions of commercial and residential real estate, including, but not limited to, the terms “agent,” “buyer,” “real property,” “sell,” “sale,” “sold,” and “seller.”

This bill would specify that those definitions also apply to the remaining provisions relating to the duty owed to the prospective purchaser.

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

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

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

1 Chapter 3 (commencing with Section 10130) of Part 1 of Division  
2 4 of the Business and Professions Code, and under whose license  
3 a listing is executed or an offer to purchase is obtained.

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

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

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

24 (d) “Commercial real property” means all real property in the  
25 state, except single-family residential real property, dwelling units  
26 made subject to Chapter 2 (commencing with Section 1940) of  
27 Title 5, mobilehomes, as defined in Section 798.3, or recreational  
28 vehicles, as defined in Section 799.29.

29 (e) “Dual agent” means an agent acting, either directly or  
30 through an associate licensee, as agent for both the seller and the  
31 buyer in a real property transaction.

32 (f) “Listing agreement” means a contract between an owner of  
33 real property and an agent, by which the agent has been authorized  
34 to sell the real property or to find or obtain a buyer.

35 (g) “Listing agent” means a person who has obtained a listing  
36 of real property to act as an agent for compensation.

37 (h) “Listing price” is the amount expressed in dollars specified  
38 in the listing for which the seller is willing to sell the real property  
39 through the listing agent.

1 (i) “Offering price” is the amount expressed in dollars specified  
2 in an offer to purchase for which the buyer is willing to buy the  
3 real property.

4 (j) “Offer to purchase” means a written contract executed by a  
5 buyer acting through a selling agent that becomes the contract for  
6 the sale of the real property upon acceptance by the seller.

7 (k) “Real property” means any estate specified by subdivision  
8 (1) or (2) of Section 761 in property that constitutes or is improved  
9 with one to four dwelling units, any commercial real property, any  
10 leasehold in these types of property exceeding one year’s duration,  
11 and mobilehomes, when offered for sale or sold through an agent  
12 pursuant to the authority contained in Section 10131.6 of the  
13 Business and Professions Code.

14 (l) “Real property transaction” means a transaction for the sale  
15 of real property in which an agent is employed by one or more of  
16 the principals to act in that transaction, and includes a listing or  
17 an offer to purchase.

18 (m) “Sell,” “sale,” or “sold” refers to a transaction for the  
19 transfer of real property from the seller to the buyer, and includes  
20 exchanges of real property between the seller and buyer,  
21 transactions for the creation of a real property sales contract within  
22 the meaning of Section 2985, and transactions for the creation of  
23 a leasehold exceeding one year’s duration.

24 (n) “Seller” means the transferor in a real property transaction,  
25 and includes an owner who lists real property with an agent,  
26 whether or not a transfer results, or who receives an offer to  
27 purchase real property of which he or she is the owner from an  
28 agent on behalf of another. “Seller” includes both a vendor and a  
29 lessor.

30 (o) “Selling agent” means a listing agent who acts alone, or an  
31 agent who acts in cooperation with a listing agent, and who sells  
32 or finds and obtains a buyer for the real property, or an agent who  
33 locates property for a buyer or who finds a buyer for a property  
34 for which no listing exists and presents an offer to purchase to the  
35 seller.

36 (p) “Subagent” means a person to whom an agent delegates  
37 agency powers as provided in Article 5 (commencing with Section  
38 2349) of Chapter 1 of Title 9. However, “subagent” does not

- 1 include an associate licensee who is acting under the supervision
- 2 of an agent in a real property transaction.

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