

Assembly Bill No. 2330

Passed the Assembly August 29, 2016

Chief Clerk of the Assembly

Passed the Senate August 23, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend, repeal, and add Sections 10083.2 and 10161.8 of the Business and Professions Code, relating to real estate licensees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2330, Ridley-Thomas. Real estate licensees.

The Real Estate Law provides for the licensure and regulation of real estate brokers and real estate salespersons by the Bureau of Real Estate headed by the Real Estate Commissioner. Existing law requires the commissioner to provide on the Internet specific information regarding the status of every license issued by the department. That law requires a real estate broker to immediately notify the commissioner in writing whenever a real estate salesperson enters the employ of or is terminated by that real estate broker. That law makes a willful or knowing violation of any of its provisions punishable as a misdemeanor.

This bill would, beginning January 1, 2018, require that information to include whether a licensee is an associate licensee and, if the associate licensee is a broker, to identify each responsible broker with whom the licensee is contractually associated. This bill would additionally require a real estate broker to immediately notify the commissioner in writing whenever a real estate broker acting as a salesperson enters the employ of or is terminated by the responsible real estate broker and would make certain nonsubstantive changes. By placing a new requirement on a real estate broker to report to the commissioner regarding the employment or termination of a real estate broker acting as a salesperson, this bill would expand an existing crime.

This bill would incorporate additional changes in Section 10083.2 of the Business and Professions Code, proposed by AB 1807, that would become operative only if AB 1807 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

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.

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

SECTION 1. Section 10083.2 of the Business and Professions Code is amended to read:

10083.2. (a) The commissioner shall provide on the Internet information regarding the status of every license issued by the department in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the department and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure or regulation by the department. The information shall not include personal information, including home telephone number, date of birth, or social security number. The commissioner shall disclose a licensee's address of record. However, the commissioner shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude the commissioner from also requiring a licensee who has provided a post office box number or other alternative mailing address as his or her address of record to provide a physical business address or residence address only for the department's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) For purposes of this section, "Internet" has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

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

SEC. 1.5. Section 10083.2 of the Business and Professions Code is amended to read:

10083.2. (a) The commissioner shall provide on the Internet information regarding the status of every license issued by the department in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the department and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure or regulation by the department. The information shall not include personal information, including home telephone number, date of birth, or social security number. The commissioner shall disclose a licensee's address of record. However, the commissioner shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude the commissioner from also requiring a licensee who has provided a post office box number or other alternative mailing address as his or her address of record to provide a physical business address or residence address only for the department's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) For purposes of this section, "Internet" has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

(c) Upon petition by a licensee accompanied by a fee sufficient to defray costs associated with consideration of a petition, the commissioner may remove from the posting of discipline described in subdivision (a) an item that has been posted on the bureau's Internet Web site for no less than 10 years and for which the licensee provides evidence of rehabilitation indicating that the notice is no longer required in order to prevent a credible risk to members of the public utilizing licensed activity of the licensee. In evaluating a petition, the Commissioner shall take into consideration other violations that present a credible risk to the

members of the public since the posting of discipline requested for removal.

(d) The bureau may develop, through regulations, the amount of the fee and the minimum information to be included in a licensee's petition, including, but not limited to, a written justification and evidence of rehabilitation pursuant to Section 482.

(e) "Posted" for purposes of this section is defined as the date of disciplinary action taken by the bureau.

(f) The petition process described by subdivisions (c) and (d) shall commence January 1, 2018.

(g) The bureau shall maintain a list of all licensees whose disciplinary records are altered as a result of a petition approved under subdivision (c). The bureau shall make the list accessible to other licensing bodies. The bureau shall update and provide the list to other licensing bodies as often as it modifies the records displayed on its Internet Web site in response to petitions approved under subdivision (c).

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

SEC. 2. Section 10083.2 is added to the Business and Professions Code, to read:

10083.2. (a) (1) The commissioner shall provide on the Internet information regarding the status of every license issued by the department in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(2) The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the department and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure or regulation by the department.

(3) The public information shall not include personal information, including home telephone number, date of birth, or social security number. The commissioner shall disclose a

licensee's address of record. However, the commissioner shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude the commissioner from also requiring a licensee who has provided a post office box number or other alternative mailing address as his or her address of record to provide a physical business address or residence address only for the department's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(4) The public information shall also include whether a licensee is an associate licensee within the meaning of subdivision (b) of Section 2079.13 of the Civil Code and, if the associate licensee is a broker, identify each responsible broker with whom the licensee is contractually associated as described in Section 10032 of this code or Section 2079.13 of the Civil Code.

(b) For purposes of this section, "Internet" has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

(c) This section shall become operative January 1, 2018.

SEC. 2.5. Section 10083.2 is added to the Business and Professions Code, to read:

10083.2. (a) (1) The commissioner shall provide on the Internet information regarding the status of every license issued by the department in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(2) The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the department and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure or regulation by the department.

(3) The public information shall not include personal information, including home telephone number, date of birth, or social security number. The commissioner shall disclose a licensee's address of record. However, the commissioner shall allow a licensee to provide a post office box number or other

alternate address, instead of his or her home address, as the address of record. This section shall not preclude the commissioner from also requiring a licensee who has provided a post office box number or other alternative mailing address as his or her address of record to provide a physical business address or residence address only for the department's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(4) The public information shall also include whether a licensee is an associate licensee within the meaning of subdivision (b) of Section 2079.13 of the Civil Code and, if the associate licensee is a broker, identify each responsible broker with whom the licensee is contractually associated as described in Section 10032 of this code or Section 2079.13 of the Civil Code.

(b) For purposes of this section, "Internet" has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

(c) Upon petition by a licensee accompanied by a fee sufficient to defray costs associated with consideration of a petition, as described in Section 10223, the commissioner may remove from the posting of discipline described in subdivision (a) an item that has been posted on the bureau's Internet Web site for no less than 10 years and for which the licensee provides evidence of rehabilitation indicating that the notice is no longer required in order to prevent a credible risk to members of the public utilizing licensed activity of the licensee. In evaluating a petition, the commissioner shall take into consideration other violations that present a credible risk to the members of the public since the posting of discipline requested for removal.

(d) The bureau may develop, through regulations, the amount of the fee and the minimum information to be included in a licensee's petition, including, but not limited to, a written justification and evidence of rehabilitation pursuant to Section 482.

(e) "Posted" for purposes of this section is defined as the date of disciplinary action taken by the bureau.

(f) The petition process described in subdivisions (c) and (d) shall commence January 1, 2018.

(g) The bureau shall maintain a list of all licensees whose disciplinary records are altered as a result of a petition approved under subdivision (c). The bureau shall make the list accessible to

other licensing bodies. The bureau shall update and provide the list to other licensing bodies as often as it modifies the records displayed on its Internet Web site in response to petitions approved under subdivision (c).

(h) This section shall become operative January 1, 2018.

SEC. 3. Section 10161.8 of the Business and Professions Code is amended to read:

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

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

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

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

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

SEC. 4. Section 10161.8 is added to the Business and Professions Code, to read:

10161.8. (a) Whenever a real estate salesperson or broker acting as a salesperson enters the employ of a real estate broker, the responsible broker shall immediately notify the commissioner thereof in writing.

(b) Whenever employment of a real estate salesperson or broker acting as a salesperson is terminated, the responsible broker shall immediately notify the commissioner of that termination in writing.

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

(d) Whenever a real estate salesperson enters the employ of a new real estate broker the salesperson shall mark out the name of his or her former broker on the face of the license and type or write the name of the new employing broker in ink on the reverse side, and date and initial the same.

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

SEC. 5. Sections 1.5 and 2.5 of this bill incorporate changes to Section 10083.2 of the Business and Professions Code proposed by both this bill and Assembly Bill 1807. Those sections shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 10083.2 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 1807, in which case Sections 1 and 2 of this bill shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2016

Governor