

ASSEMBLY BILL

No. 2397

Introduced by Assembly Member Rodriguez

February 18, 2016

An act to amend Section 10133 of the Business and Professions Code, relating to real estate brokers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2397, as introduced, Rodriguez. Real estate brokers: licensure requirements: exemption.

Existing law, the Real Estate Law, provides for the licensure and regulation of real estate brokers by the Real Estate Commissioner. Under existing law, a real estate broker is a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, does or negotiates to do one or more specified acts for another or others. Existing law exempts these acts from real estate licensure requirements if performed by specified persons under specified circumstances.

This bill would also exempt those acts from real estate licensure requirements if performed by any agent, employee, or independent contractor of an individual, entity that provides housing services and the individual or entity's sole activities related to real estate involve ownership or management of residential property owned or controlled by the individual or entity, and would prohibit this exemption from applying under specified circumstances.

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

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

SECTION 1. Section 10133 of the Business and Professions Code is amended to read:

10133. (a) The acts described in Section 10131 are not acts for which a real estate license is required if performed by:

(1) A regular officer of a corporation or a general partner of a partnership with respect to real property owned or leased by the corporation or partnership, respectively, or in connection with the proposed purchase or leasing of real property by the corporation or partnership, respectively, if the acts are not performed by the officer or partner in expectation of special compensation.

(2) A person holding a duly executed power of attorney from the owner of the real property with respect to which the acts are performed.

(3) An attorney at law in rendering legal services to a client.

(4) A receiver, trustee in bankruptcy or other person acting under order of a court of competent jurisdiction.

(5) A trustee for the beneficiary of a deed of trust when selling under authority of that deed of trust.

(6) Any individual, or agent, employee, or independent contractor that provides housing services and the individual or entity's sole activities related to real estate involve ownership or management of residential property owned or controlled by the individual or entity. This exemption shall not apply if and to the extent an agent, employee, or independent contractor paid a commission or other compensation strictly on a transactional basis is employed to make sales, exchanges, or leases to or with customers in the ordinary course of the entity's business of selling, exchanging, or leasing real property to the public,

(b) The exemptions in subdivision (a) are not applicable to a person who uses or attempts to use them for the purpose of evading the provisions of this part.