

AMENDED IN SENATE JUNE 14, 2016

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 ~~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 11212 of, 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 *and to amend* Section 31210 of the Corporations Code, relating to real estate.

LEGISLATIVE COUNSEL'S DIGEST

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

~~(1) Existing~~

~~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~~

~~(1) Under existing law, a real estate salesman is a natural person who is licensed and employed by a licensed real estate broker to do specified acts. Under existing law, whenever the word salesman is used in specified provisions of law, it means salesperson. However, existing law authorizes a licensee to refer to the licensed status as real estate salesman, real estate saleswoman, or real estate salesperson.~~

~~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: rename the licensed status of "real estate salesman" as a "real estate salesperson" and would make numerous conforming changes in this regard. The bill would also recast the provision authorizing a licensee to refer to his or her licensed status as described above.~~

~~(2) Under existing law, if the commissioner has cause to believe that a person who does not possess a real estate license is engaged or has engaged in activities for which a real estate license is required, the commissioner or his or her designated representative is authorized to issue a citation to that person. Existing law prohibits a license from being renewed if an unpaid fine remains outstanding or the terms of a citation have not been complied with.~~

This bill would additionally prohibit a license from being issued under those circumstances.

(3) This bill would make various nonsubstantive changes.

~~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.~~

~~(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 licensed 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.

(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-no*.

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~~ *firm*, or corporation holding a
4 license as real estate broker or real estate ~~salesman~~, *salesperson*,
5 when making appraisals and valuations of real estate properties,
6 while engaged in the business or acting in the capacity of a real
7 estate broker or a real estate ~~salesman~~, *salesperson*, within the
8 meaning of the ~~California Real Estate Act~~ *Law* is exempt from
9 registration under the provisions of this 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:

1 ~~6742. (a) Any person, firm or corporation holding a license~~
2 ~~as real estate broker or real estate salesperson, when making~~
3 ~~appraisals and valuations of real estate properties, while engaged~~
4 ~~in the business or acting in the capacity of a real estate broker or~~
5 ~~a real estate salesperson, within the meaning of the California Real~~
6 ~~Estate Act is exempt from registration under the provisions of this~~
7 ~~chapter.~~
8 ~~(b) This section shall become operative on July 1, 2018.~~
9 ~~SEC. 3. Section 10001 of the Business and Professions Code~~
10 ~~is amended to read:~~
11 ~~10001. (a) The definitions in this chapter apply to the~~
12 ~~provisions of this part only and do not affect any other provisions~~
13 ~~of this code.~~
14 ~~(b) This section shall repeal on July 1, 2018.~~
15 ~~SEC. 4. Section 10001 is added to the Business and Professions~~
16 ~~Code, to read:~~
17 ~~10001. (a) Except as otherwise specified, the definitions in~~
18 ~~this chapter apply to the provisions of this part only and do not~~
19 ~~affect any other provisions of this code.~~
20 ~~(b) This section shall become operative on July 1, 2018.~~
21 ~~SEC. 5.~~
22 ~~SEC. 2. Section 10003 of the Business and Professions Code~~
23 ~~is amended to read:~~
24 ~~10003. (a) “Commissioner” refers to means the Real Estate~~
25 ~~Commissioner.~~
26 ~~(b) This section shall repeal on July 1, 2018.~~
27 ~~SEC. 6. Section 10003 is added to the Business and Professions~~
28 ~~Code, to read:~~
29 ~~10003. (a) “Commissioner” means the Real Estate~~
30 ~~Commissioner.~~
31 ~~(b) This section shall become operative on July 1, 2018.~~
32 ~~SEC. 7.~~
33 ~~SEC. 3. Section 10007 of the Business and Professions Code~~
34 ~~is amended to read:~~
35 ~~10007. (a) “Provisions of this part relating to real estate” refers~~
36 ~~to means the provisions of Chapters 1, 2, 3, and 6 of Part 1.~~
37 ~~(b) This section shall repeal on July 1, 2018.~~
38 ~~SEC. 8. Section 10007 is added to the Business and Professions~~
39 ~~Code, to read:~~

1 10007. (a) “Provisions of this part relating to real estate” means
2 the provisions of Chapters 1, 2, 3, and 6 of Part 1.
3 (b) This section shall become operative on July 1, 2018.
4 SEC. 9.
5 SEC. 4. Section 10008 of the Business and Professions Code
6 is amended to read:
7 10008. (a) “Provisions of this part relating to business
8 opportunity regulation” refers to means the provisions of Chapters
9 1, 2, and 6 of Part 1.
10 (b) This section shall repeal on July 1, 2018.
11 SEC. 10. Section 10008 is added to the Business and
12 Professions Code, to read:
13 10008. (a) “Provisions of this part relating to business
14 opportunity regulation” means the provisions of Chapters 1, 2, and
15 6 of Part 1.
16 (b) This section shall become operative on July 1, 2018.
17 SEC. 11.
18 SEC. 5. Section 10009.5 of the Business and Professions Code
19 is amended to read:
20 10009.5. (a) “Provisions of this part relating to mineral, oil,
21 and gas brokerage” refers to means the provisions of Chapters 1,
22 2, 6, and 7, of Part 1.
23 (b) This section shall repeal on July 1, 2018.
24 SEC. 12. Section 10009.5 is added to the Business and
25 Professions Code, to read:
26 10009.5. (a) “Provisions of this part relating to mineral, oil,
27 and gas brokerage” means the provisions of Chapters 1, 2, 6, and
28 7, of Part 1.
29 (b) This section shall become operative on July 1, 2018.
30 SEC. 13.
31 SEC. 6. Section 10010 of the Business and Professions Code
32 is amended to read:
33 10010. (a) “Provisions of this part relating to hearings” refers
34 to means the provisions of Article 3 of Chapter 2 of Part 1.
35 (b) This section shall repeal on July 1, 2018.
36 SEC. 14. Section 10010 is added to the Business and
37 Professions Code, to read:
38 10010. (a) “Provisions of this part relating to hearings” means
39 the provisions of Article 3 of Chapter 2 of Part 1.
40 (b) This section shall become operative on July 1, 2018.

1 ~~SEC. 15.~~

2 ~~SEC. 7.~~ Section 10011 of the Business and Professions Code
3 is amended to read:

4 10011. (a) ~~“Licensee,”~~ when used without modification, ~~refers~~
5 ~~to~~ *means* a person, whether broker or ~~salesman,~~ *salesperson,*
6 licensed under any of the provisions of this part.

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

8 ~~SEC. 16.~~ Section 10011 is added to the Business and
9 Professions Code, to read:

10 10011. (a) ~~“Licensee,”~~ when used without modification, ~~means~~
11 ~~to~~ a person, whether broker or salesperson, licensed under any of
12 the provisions of this part.

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

14 ~~SEC. 17.~~

15 ~~SEC. 8.~~ Section 10012 of the Business and Professions Code
16 is amended to read:

17 10012. (a) ~~“Broker,”~~ when used without modification, ~~refers~~
18 ~~to~~ *means* a person licensed as a broker under any of the provisions
19 of this part.

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

21 ~~SEC. 18.~~ Section 10012 is added to the Business and
22 Professions Code, to read:

23 10012. (a) ~~“Broker,”~~ when used without modification, ~~means~~
24 ~~a person licensed as a broker under any of the provisions of this~~
25 ~~part.~~

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

27 ~~SEC. 19.~~

28 ~~SEC. 9.~~ Section 10013 of the Business and Professions Code
29 is amended to read:

30 10013. (a) ~~“Salesman,”~~ *“Salesperson,”* when used without
31 modification, ~~refers to~~ *means* a person licensed as a ~~salesman~~
32 *salesperson* under any of the provisions of this part. *Whenever the*
33 *word salesman is used in this division, or in the rules and*
34 *regulations of the commissioner, it means salesperson.*
35 *Notwithstanding any other law, a licensee may elect to refer to his*
36 *or her licensed status as real estate salesman, real estate*
37 *saleswoman, or real estate salesperson.*

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

39 ~~SEC. 20.~~ Section 10013 is added to the Business and
40 Professions Code, to read:

1 10013. ~~(a) “Salesperson,” when used without modification,~~
2 ~~means a person licensed as a salesperson under any of the~~
3 ~~provisions of this part. Whenever the word salesman is used in~~
4 ~~this division, or in the rules and regulations of the commissioner,~~
5 ~~it means salesperson. A licensee may elect to refer to his or her~~
6 ~~licensed status as real estate salesman, real estate saleswoman, or~~
7 ~~real estate salesperson.~~

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

9 ~~SEC. 21.~~

10 ~~SEC. 10.~~ Section 10014 of the Business and Professions Code
11 is amended to read:

12 10014. ~~(a) “Real estate licensee” refers to~~ *means* a person,
13 ~~whether broker or salesman,~~ *salesperson*, licensed under Chapter
14 3 of this part.

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

16 ~~SEC. 22.~~ Section 10014 is added to the Business and
17 Professions Code, to read:

18 10014. ~~(a) “Real estate licensee” means a person, whether~~
19 ~~broker or salesperson, licensed under Chapter 3 of this part.~~

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

21 ~~SEC. 23.~~

22 ~~SEC. 11.~~ Section 10015 of the Business and Professions Code
23 is amended to read:

24 10015. ~~(a) “Real estate broker” refers to~~ *means* a person
25 licensed as a broker under Chapter 3 of this part.

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

27 ~~SEC. 24.~~ Section 10015 is added to the Business and
28 Professions Code, to read:

29 10015. ~~(a) “Real estate broker” means a person licensed as a~~
30 ~~broker under Chapter 3 of this part.~~

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

32 ~~SEC. 25.~~ Section 10015.1 is added to the Business and
33 Professions Code, to read:

34 10015.1. ~~(a) “Responsible broker” means a real estate broker~~
35 ~~responsible for the exercise of control and supervision of real estate~~
36 ~~salespersons under Section 10159.2 or a real estate licensee subject~~
37 ~~to discipline under subdivision (h) of Section 10177 for failure to~~
38 ~~supervise activity requiring a real estate license. The supervision~~
39 ~~of a salesperson required under this part is limited to regulatory~~
40 ~~compliance and consumer protection.~~

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

2 ~~SEC. 26. Section 10015.2 is added to the Business and~~
3 ~~Professions Code, to read:~~

4 ~~10015.2. (a) “Branch manager” or “division manager” means~~
5 ~~a real estate licensee authorized to perform supervisory services~~
6 ~~for a responsible broker.~~

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

8 ~~SEC. 27. Section 10015.3 is added to the Business and~~
9 ~~Professions Code, to read:~~

10 ~~10015.3. (a) “Broker associate” means a broker affiliated with~~
11 ~~another real estate broker as an independent contractor or affiliated~~
12 ~~in another capacity who has authority to provide services requiring~~
13 ~~a real estate license on behalf of the real estate broker.~~

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

15 ~~SEC. 28. Section 10015.4 is added to the Business and~~
16 ~~Professions Code, to read:~~

17 ~~10015.4. (a) “Broker identity” means the name under which~~
18 ~~the broker operates or conducts business and may include a sole~~
19 ~~proprietorship or business entity name.~~

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

21 ~~SEC. 29.~~

22 ~~SEC. 12. Section 10016 of the Business and Professions Code~~
23 ~~is amended to read:~~

24 ~~10016. (a) “Real estate salesman” refers to salesperson” means~~
25 ~~a person licensed as a salesman salesperson under Chapter 3 of~~
26 ~~this part.~~

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

28 ~~SEC. 30. Section 10016 is added to the Business and~~
29 ~~Professions Code, to read:~~

30 ~~10016. (a) “Real estate salesperson” means a person licensed~~
31 ~~as a salesperson under Chapter 3 of this part or a broker associate.~~

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

33 ~~SEC. 31. Section 10017 of the Business and Professions Code~~
34 ~~is amended to read:~~

35 ~~10017. (a) Whenever the word salesman is used in this~~
36 ~~division, or in the rules and regulations of the commissioner, it~~
37 ~~means salesperson. A licensee, however, may elect to refer to the~~
38 ~~licensed status as real estate salesman, real estate saleswoman, or~~
39 ~~real estate salesperson.~~

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

1 ~~SEC. 13. Section 10017 of the Business and Professions Code~~
2 ~~is repealed.~~

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

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

10 ~~10018.01. (a) "Retained" means the relationship between a~~
11 ~~broker and a real estate licensee who is either an independent~~
12 ~~contractor or otherwise affiliated with a broker to perform activities~~
13 ~~that require a license and are performed under a broker's~~
14 ~~supervision.~~

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

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

18 ~~10018.02. (a) "Seller" means a transferor in a real property~~
19 ~~transaction, and includes an owner who lists real property with a~~
20 ~~broker, whether or not a transfer results, or who receives an offer~~
21 ~~to purchase real property of which he or she is the owner from a~~
22 ~~licensee on behalf of another. "Seller" includes both a vendor and~~
23 ~~lessor of real property.~~

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

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

27 ~~10018.03. (a) "Listing licensee" means a real estate licensee~~
28 ~~who provides services requiring a real estate license for a seller~~
29 ~~pursuant to a listing agreement.~~

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

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

33 ~~10018.04. (a) "Seller's licensee" means a real estate licensee~~
34 ~~who provides services requiring a real estate license for a seller.~~

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

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

38 ~~10018.05. (a) "Buyer" means a transferee in a real property~~
39 ~~transaction, and includes a person who executes an offer to~~
40 ~~purchase real property from a seller through a broker, or a broker~~

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

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

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

10 ~~10018.06.— (a) “Buyer’s licensee,” “cooperating licensee,” and~~
11 ~~“selling licensee” each means a real estate licensee who provides~~
12 ~~services requiring a real estate license for a buyer.~~

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

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

16 ~~10018.07.— (a) “Real property” means any estate specified in~~
17 ~~paragraphs (1) or (2) Section 761 of the Civil Code in property,~~
18 ~~and includes (a) residential property, (b) multiunit residential~~
19 ~~property with more than four dwelling units, (c) commercial real~~
20 ~~property, (d) a ground lease coupled with improvements, or (e) a~~
21 ~~mobilehome as defined in Section 18008 of the Health and Safety~~
22 ~~Code.~~

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

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

26 ~~10018.08.— (a) “Residential property” means property (1)~~
27 ~~improved with one to four dwelling units, (2) any leasehold~~
28 ~~exceeding one year’s duration, (3) a unit in a residential stock~~
29 ~~cooperative, or (4) a mobilehome when offered for sale or sold~~
30 ~~through a real estate broker.~~

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

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

34 ~~10018.09.— (a) “Commercial real property” means all real~~
35 ~~property in the state, except (1) residential real property, (2)~~
36 ~~dwelling units made subject to Chapter 2 (commencing with~~
37 ~~Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code,~~
38 ~~(3) a mobilehome as defined in Section 798.3 of the Civil Code,~~
39 ~~or (4) a recreational vehicle as defined in Section 799.29 of the~~
40 ~~Civil Code.~~

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

2 ~~SEC. 41. Section 10018.10 is added to the Business and~~
3 ~~Professions Code, to read:~~

4 ~~10018.10. (a) “Sell,” “sale,” or “sold” means a transaction for~~
5 ~~the transfer of real property from a seller to a buyer, and includes~~
6 ~~(1) an exchange of real property between a seller and a buyer, (2)~~
7 ~~transactions for the creation of a real property sales contract within~~
8 ~~the meaning of Section 2985 of the Civil Code, and (3) a leasehold~~
9 ~~exceeding one year’s duration.~~

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

11 ~~SEC. 42. Section 10018.11 is added to the Business and~~
12 ~~Professions Code, to read:~~

13 ~~10018.11. (a) “Dual broker” means a responsible broker that~~
14 ~~has both a seller’s licensee and a buyer’s licensee under his or her~~
15 ~~supervision in the same transaction or who individually provides~~
16 ~~services for both a seller and a buyer in the same transaction.~~

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

18 ~~SEC. 43. Section 10018.12 is added to the Business and~~
19 ~~Professions Code, to read:~~

20 ~~10018.12. (a) “Dual licensee” means a real estate salesperson~~
21 ~~or broker associate who individually provides services requiring~~
22 ~~a real estate license for both a seller and a buyer at the same time~~
23 ~~in the same transaction.~~

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

25 ~~SEC. 44. Section 10018.13 is added to the Business and~~
26 ~~Professions Code, to read:~~

27 ~~10018.13. (a) “Transaction coordinator” means a person who~~
28 ~~provides services which include administrative and clerical tasks~~
29 ~~for a real estate licensee that do not include licensed activities.~~

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

31 ~~SEC. 45. Section 10018.14 is added to the Business and~~
32 ~~Professions Code, to read:~~

33 ~~10018.14. (a) “Appraiser” means one licensed or certified~~
34 ~~under Part 3 (commencing with Section 11300) of Division 4.~~

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

36 ~~SEC. 46. Section 10018.15 is added to the Business and~~
37 ~~Professions Code, to read:~~

38 ~~10018.15. (a) “Listing agreement” means a written contract~~
39 ~~between an owner of real property and a real estate licensee by~~

1 which the licensee has been authorized to sell the real property or
2 find or obtain a buyer.

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

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

6 10018.16. (a) “Exclusive right to sell listing” means a listing
7 agreement whereby the owner grants to a broker, for a specified
8 period of time, the exclusive right to sell, find, or obtain a buyer
9 for the real property, and the broker is entitled to the agreed
10 compensation if during that period of time the real property is sold,
11 no matter who effected the sale, or when the listing broker receives
12 and presents to the owner any enforceable offer from a ready, able,
13 and willing buyer on terms authorized by the listing agreement or
14 which is accepted by the owner. The “exclusive right to sell listing”
15 may provide for compensation to the listing broker if the property
16 is sold within a specified period after termination of the listing
17 agreement.

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

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

21 10018.17. (a) “Exclusive agency listing” means an “exclusive
22 right to sell listing” in which the owner reserves the right to sell
23 directly but not through any other broker and, in that event, without
24 obligation to pay compensation to the broker.

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

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

28 10018.18. (a) “Open listing” means a listing agreement which
29 grants no exclusive rights or priorities to the listing broker, and
30 the agreed commission is payable to the broker only if the listing
31 broker obtains and presents to the owner an enforceable offer from
32 a ready, able, and willing buyer on the terms authorized by the
33 listing agreement which is accepted by the owner, before the
34 property is otherwise sold either through another broker or by the
35 owner directly and before the listing agreement expires by its terms
36 or is revoked.

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

38 SEC. 50.

39 SEC. 14. Section 10023 of the Business and Professions Code
40 is amended to read:

1 10023. ~~(a) “Mineral, oil, and gas licensee” refers to means a~~
2 person licensed under Chapter 7 (commencing with Section 10500)
3 of this part.

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

5 ~~SEC. 51. Section 10023 is added to the Business and~~
6 ~~Professions Code, to read:~~

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

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

11 ~~SEC. 52.~~

12 ~~SEC. 15. Section 10024 of the Business and Professions Code~~
13 ~~is amended to read:~~

14 ~~10024. (a) “Mineral, oil, and gas broker” refers to means a~~
15 ~~person licensed as a broker under Chapter 7 of this part.~~

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

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

19 ~~10024. (a) “Mineral, oil, and gas broker” means a person~~
20 ~~licensed as a broker under Chapter 7 of this part.~~

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

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

24 ~~10026. (a) The term “advance fee,” as used in this part, is a~~
25 ~~fee, regardless of the form, that is claimed, demanded, charged,~~
26 ~~received, or collected by a licensee for services requiring a license,~~
27 ~~or for a listing, as that term is defined in Section 10027, before~~
28 ~~fully completing the service the licensee contracted to perform or~~
29 ~~represented would be performed. Neither an advance fee nor the~~
30 ~~services to be performed shall be separated or divided into~~
31 ~~components for the purpose of avoiding the application of this~~
32 ~~division.~~

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

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

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

39 ~~(3) A fee that is claimed, demanded, charged, received, or~~
40 ~~collected for the purpose of advertising the sale, lease, or exchange~~

1 of real estate, or of a business opportunity, in a newspaper of
2 general circulation, any other written publication, or through
3 electronic media comparable to any type of written publication,
4 provided that the electronic media or the publication is not under
5 the control or ownership of the broker.

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

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

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

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

25 SEC. 55. Section 10026 is added to the Business and
26 Professions Code, to read:

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

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

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

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

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

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

20 ~~(5) A fee approved by the bureau pursuant to Section 10085.~~

21 ~~(e) A contract between a real estate broker and a principal that~~
22 ~~requires payment of a commission to the broker after the contract~~
23 ~~is fully performed does not represent an agreement for an advance~~
24 ~~fee.~~

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

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

30 ~~SEC. 56.~~

31 *SEC. 16.* Section 10027 of the Business and Professions Code
32 is amended to read:

33 10027. ~~(a)~~ The term “listing” as used in this part includes, but
34 is not limited to:

35 (1)

36 (a) The name or a list of the names, of the owners, landlords,
37 exchangers, or lessors, or the location or locations, of property, or
38 of an interest in property, offered for rent, sale, lease, or exchange.

39 (2)

1 (b) 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 (3)

5 (c) 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 (4)

10 (d) 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~~ *salesperson* to said property
14 which is 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, or
22 of an interest in property, offered for rent, sale, lease, or exchange.

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

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

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

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

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

38 10050. (a) There is in the Department of Consumer Affairs a
39 Bureau of Real Estate, the chief officer of which bureau is named
40 the Real Estate Commissioner.

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

7 ~~(e) Wherever the term “commissioner” is used in this division,~~
8 ~~it means the Real Estate Commissioner.~~

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

10 ~~SEC. 59. Section 10050 is added to the Business and~~
11 ~~Professions Code, to read:~~

12 ~~10050. (a) There is in the Department of Consumer Affairs a~~
13 ~~Bureau of Real Estate, the chief officer of which bureau is named~~
14 ~~the Real Estate Commissioner.~~

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

21 ~~(e) Wherever the term “commissioner” is used in this division,~~
22 ~~it means the Real Estate Commissioner.~~

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

24 ~~SEC. 60.~~

25 ~~SEC. 17. Section 10074 of the Business and Professions Code~~
26 ~~is amended to read:~~

27 ~~10074. (a) After qualifying as such neither the commissioner~~
28 ~~nor any of the deputies, clerks *clerks*, or employees of the~~
29 ~~department shall be interested in any mineral, oil *oil*, or gas~~
30 ~~business, mineral, oil *oil*, or gas brokerage firm, real estate~~
31 ~~company or any real estate brokerage firm, as director, stockholder,~~
32 ~~officer, member, agent or employee, or act as a broker or salesman;~~
33 ~~*salesperson*, or act as a co-partner or agent for any broker or~~
34 ~~brokers, salesman or salesmen. *or salesperson or salespersons.*~~

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

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

38 ~~10074. (a) After qualifying as such neither the commissioner~~
39 ~~nor any of the deputies, clerks or employees of the department~~
40 ~~shall be interested in any mineral, oil, or gas business, mineral,~~

1 oil, or gas brokerage firm, real estate company or any real estate
2 brokerage firm, as director, stockholder, officer, member, agent,
3 or employee, or act as a broker or salesperson, or act as a copartner
4 or agent for any broker or brokers, salesperson or salespersons.

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

6 ~~SEC. 62.~~

7 *SEC. 18.* Section 10080.9 of the Business and Professions Code
8 is amended to read:

9 10080.9. (a) If, upon inspection, examination, or investigation,
10 the commissioner has cause to believe that a person who does not
11 possess a real estate license is engaged or has engaged in activities
12 for which a real estate license is required, or that a person who
13 does not possess a prepaid rental listing service license or a real
14 estate broker license is engaged or has engaged in activities for
15 which a license is required pursuant to Section 10167.2, or that a
16 licensee is violating or has violated any provision of this division
17 or any rule or order thereunder, the commissioner or his or her
18 designated representative may issue a citation to that person in
19 writing, describing with particularity the basis of the citation. Each
20 citation may contain an order to correct the violation or violations
21 identified and a reasonable time period or periods by which the
22 violation or violations must be corrected. In addition, each citation
23 may assess an administrative fine not to exceed two thousand five
24 hundred dollars (\$2,500), which shall be deposited into the
25 Recovery Account of the Real Estate Fund and shall, upon
26 appropriation by the Legislature, be available for expenditure for
27 the purposes specified in Chapter 6.5 (commencing with Section
28 10470). In assessing a fine, the commissioner shall give due
29 consideration to the appropriateness of the amount of the fine with
30 respect to factors such as the gravity of the violation, the good
31 faith of the person cited, and the history of previous violations. A
32 citation issued and a fine assessed pursuant to this section, while
33 constituting discipline for a violation of the law, shall be in lieu
34 of other administrative discipline by the commissioner for the
35 offense or offenses cited, and the citation against and payment of
36 any fine by a licensee shall not be reported as disciplinary action
37 taken by the commissioner.

38 (b) Notwithstanding subdivision (a), nothing in this section shall
39 prevent the commissioner from issuing an order to desist and
40 refrain from engaging in a specific business activity or activities

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

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

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

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

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

29 ~~(g) This section shall repeal on July 1, 2018.~~

30 ~~SEC. 63. Section 10080.9 is added to the Business and~~
31 ~~Professions Code, to read:~~

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

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

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

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

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

36 ~~(e) After the exhaustion of the review procedures provided for~~
37 ~~in this section, the commissioner may apply to the appropriate~~
38 ~~superior court for a judgment in the amount of any administrative~~
39 ~~penalty imposed pursuant to subdivision (a) and an order~~
40 ~~compelling the person cited to comply with the order of the~~

1 commissioner. The application, which shall include a certified
2 copy of the final order of the commissioner, shall constitute a
3 sufficient showing to warrant issuing the judgment and order.

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

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

11 ~~SEC. 64.~~

12 *SEC. 19.* Section 10082 of the Business and Professions Code
13 is amended to read:

14 10082. (a) The commissioner may publish or cause to be
15 published at appropriate intervals a directory or list of licensed
16 brokers and salesmen *salespersons* and may publish therewith
17 such matter as he may deem pertinent to this part and Chapter 1
18 (commencing with Section 11000) of Part 2. He shall furnish one
19 copy of such directory to each licensed broker upon his request
20 and the payment of an appropriate charge based upon cost of
21 publication. Such directory may contain copies of the Real Estate
22 Law, Chapter 1 (commencing with Section 11000) of Part 2 of
23 Division 4 of the Business and Professions Code, and the Rules
24 and Regulations of the Real Estate Commissioner.

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

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

28 10082. (a) The commissioner may publish or cause to be
29 published at appropriate intervals a directory or list of licensed
30 brokers and salespersons and may publish therewith such matter
31 as he may deem pertinent to this part and Chapter 1 (commencing
32 with Section 11000) of Part 2. He shall furnish one copy of such
33 directory to each licensed broker upon his request and the payment
34 of an appropriate charge based upon cost of publication. Such
35 directory may contain copies of the Real Estate Law, Chapter 1
36 (commencing with Section 11000) of Part 2 of Division 4 of the
37 Business and Professions Code, and the Rules and Regulations of
38 the Real Estate Commissioner.

39 (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 supervision
39 and control over the activities of nonlicensed persons acting under
40 paragraph (3) of subdivision (a).

1 ~~(e) 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.~~

7 *SEC. 20.* Section 10132 of the Business and Professions Code
8 is amended to read:

9 10132. ~~(a)~~ A real estate ~~salesman~~ *salesperson* within the
10 meaning of this part is a natural person who, for a compensation
11 or in expectation of a compensation, is employed by a licensed
12 real estate broker to do one or more of the acts set forth in Sections
13 10131, 10131.1, 10131.2, 10131.3, 10131.4, and 10131.6.

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

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

17 10132. ~~(a)~~ A real estate salesperson within the meaning of this
18 part is a natural person who, for a compensation or in expectation
19 of a compensation, is retained by a licensed real estate broker to
20 do one or more of the acts set forth in Sections 10131, 10131.1,
21 10131.2, 10131.3, 10131.4, and 10131.6.

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

23 ~~SEC. 70.~~

24 *SEC. 21.* Section 10133.1 of the Business and Professions Code
25 is amended to read:

26 10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section
27 10131.1, Article 5 (commencing with Section 10230), and Article
28 7 (commencing with Section 10240) of this code and Section
29 1695.13 of the Civil Code do not apply to any of the following:

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

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

39 (3) Any corporation, association, syndicate, joint stock company,
40 or partnership engaged exclusively in the business of marketing

1 agricultural, horticultural, viticultural, dairy, livestock, poultry, or
2 bee products on a cooperative nonprofit basis, in loaning or
3 advancing money to the members thereof or in connection with
4 any business of that type.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (2) A broker shall exercise reasonable supervision and control
39 over the activities of nonlicensed employees acting under this

1 subdivision, and shall comply with Section 10163 for each location
2 where the nonlicensed persons are employed.

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

11 ~~(d) This section shall repeal on July 1, 2018.~~

12 ~~SEC. 71. Section 10133.1 is added to the Business and~~
13 ~~Professions Code, to read:~~

14 ~~10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section~~
15 ~~10131.1, Article 5 (commencing with Section 10230), and Article~~
16 ~~7 (commencing with Section 10240) of this code and Section~~
17 ~~1695.13 of the Civil Code do not apply to any of the following:~~

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

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

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

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

37 ~~(5) Any person licensed to practice law in this state, not actively~~
38 ~~and principally engaged in the business of negotiating loans secured~~
39 ~~by real property, when that person renders services in the course~~
40 ~~of his or her practice as an attorney at law, and the disbursements~~

1 of that person, whether paid by the borrower or other person, are
2 not charges or costs and expenses regulated by or subject to the
3 limitations of Article 7 (commencing with Section 10240), and
4 the fees and disbursements are not shared, directly or indirectly,
5 with the person negotiating the loan or the lender.

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

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

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

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

27 ~~(10) Any person licensed as a mortgage loan lender or servicer
28 when acting under the authority of that license.~~

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

38 ~~(b) Persons described in paragraph (1), (2), or (3), as follows,
39 are exempt from the provisions of subdivisions (d) and (e) of
40 Section 10131 or Section 10131.1 with respect to the collection~~

1 of payments or performance of services for lenders or on notes of
2 owners in connection with loans secured directly or collaterally
3 by liens on real property:

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

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

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

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

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

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

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

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

1 ~~SEC. 72.~~

2 *SEC. 22.* Section 10136 of the Business and Professions Code
3 is amended to read:

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

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

13 ~~SEC. 73.~~ Section 10136 is added to the Business and
14 Professions Code, to read:

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

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

23 ~~SEC. 74.~~

24 *SEC. 23.* Section 10137 of the Business and Professions Code
25 is amended to read:

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

37 ~~(b) No~~

38 *No* real estate salesperson shall be employed by or accept
39 compensation *for activity requiring a real estate license* from any

1 person other than the broker under whom he or she is at the time
2 licensed.

3 ~~(e) It~~

4 *It is unlawful for any licensed real estate salesperson to pay any*
5 *compensation for performing any of the acts within the scope of*
6 *this chapter to any real estate licensee except through the broker*
7 *under whom he or she is at the time licensed.*

8 ~~(d) For~~

9 *For a violation of any of the provisions of this section, the*
10 *commissioner may temporarily suspend or permanently revoke*
11 *the license of the real estate licensee, in accordance with the*
12 *provisions of this part relating to hearings.*

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

14 ~~SEC. 75. Section 10137 is added to the Business and~~
15 ~~Professions Code, to read:~~

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

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

29 ~~(c) It is unlawful for any licensed real estate salesperson to pay~~
30 ~~any compensation for performing any of the acts within the scope~~
31 ~~of this chapter to any real estate licensee except through the~~
32 ~~responsible broker under whom he or she is at the time licensed.~~
33 ~~A licensee may enter into an agreement with another licensee to~~
34 ~~share such compensation provided that any such compensation is~~
35 ~~paid through the responsible broker.~~

36 ~~(d) For a violation of any of the provisions of this section, the~~
37 ~~commissioner may temporarily suspend or permanently revoke~~
38 ~~the license of the real estate licensee, in accordance with the~~
39 ~~provisions of this part relating to hearings.~~

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

1 ~~SEC. 76.~~

2 ~~SEC. 24.~~ Section 10140.5 of the Business and Professions Code
3 is amended to read:

4 10140.5. ~~(a)~~ Each advertisement or other statement which is
5 published by a real estate broker or ~~salesman~~ *salesperson* offering
6 to assist persons to file applications for the purchase or lease of,
7 or to locate or enter upon, lands owned by the state or federal
8 government shall, when published, indicate the name of the broker
9 for whom it is published and state that ~~he~~ *the broker* is licensed as
10 a real estate broker by the State of California.

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

12 ~~SEC. 77.~~ Section 10140.5 is added to the Business and
13 Professions Code, to read:

14 10140.5. ~~(a)~~ Each advertisement or other statement which is
15 published by a real estate broker or salesperson offering to assist
16 persons to file applications for the purchase or lease of, or to locate
17 or enter upon, lands owned by the state or federal government
18 shall, when published, indicate the name of the broker for whom
19 it is published and state that he is licensed as a real estate broker
20 by the State of California.

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

22 ~~SEC. 78.~~ Section 10142 of the Business and Professions Code
23 is amended to read:

24 10142. ~~(a)~~ When a licensee prepares or has prepared an
25 agreement authorizing or employing such licensee to perform any
26 of the acts for which he is required to hold a license, or when such
27 licensee secures the signature of any person to any contract
28 pertaining to such services or transaction, he shall deliver a copy
29 of the agreement to the person signing it at the time the signature
30 is obtained.

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

32 ~~SEC. 79.~~ Section 10142 is added to the Business and
33 Professions Code, to read:

34 10142. ~~(a)~~ When a licensee prepares or has prepared an
35 agreement authorizing or retaining such licensee to perform any
36 of the acts for which he is required to hold a license, or when such
37 licensee secures the signature of any person to any contract
38 pertaining to such services or transaction, he shall deliver a copy,
39 either in printed or electronic format, of the agreement to the person

1 signing it as soon as practicable after the time the signature is
2 obtained.

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

4 ~~SEC. 80.~~

5 ~~SEC. 25.~~ Section 10143.5 of the Business and Professions Code
6 is amended to read:

7 10143.5. ~~(a)~~ Any real estate broker who assists another or
8 others, or whose real estate ~~salesmen~~ *salespersons* assist another
9 or others, for a compensation, in filing an application for the
10 purchase or lease of, or in locating or entering upon, lands owned
11 by the ~~State or Federal Government~~ *state or federal government*
12 shall report to the commissioner the names and addresses of all
13 persons he or his ~~salesmen~~ *salespersons* have assisted in filing
14 applications for land owned by the ~~State or Federal Government~~
15 *state or federal government* and the amount of compensation
16 received from such persons. The report shall be filed quarterly
17 within 10 days after the end of each calendar quarter.

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

19 ~~SEC. 81.~~ Section 10143.5 is added to the Business and
20 Professions Code, to read:

21 10143.5. ~~(a)~~ Any real estate broker who assists another or
22 others, or whose real estate ~~salespersons~~ assist another or others,
23 for a compensation, in filing an application for the purchase or
24 lease of, or in locating or entering upon, lands owned by the state
25 or federal government shall report to the commissioner the names
26 and addresses of all persons he or his ~~salespersons~~ have assisted
27 in filing applications for land owned by the state or federal
28 government and the amount of compensation received from such
29 persons. The report shall be filed quarterly within 10 days after
30 the end of each calendar quarter.

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

32 ~~SEC. 82.~~

33 ~~SEC. 26.~~ Section 10144 of the Business and Professions Code
34 is amended to read:

35 10144. ~~(a)~~ The commissioner may prescribe by regulation the
36 information which shall be contained in contracts or other
37 agreements by a real estate broker, or a real estate ~~salesman~~,
38 *salesperson*, to assist another or others in filing an application for
39 the purchase or lease of, or in locating or entering upon, lands
40 owned by the ~~State or Federal Government~~, *state or federal*

1 *government*, including, but not limited to, information with regard
 2 to the services agreed to be performed and information with regard
 3 to the hazards which may prevent the person to be assisted in filing
 4 an application with the ~~State or Federal Government~~ *state or*
 5 *federal government* ever receiving any state or federal land under
 6 the application.

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

8 ~~SEC. 83. Section 10144 is added to the Business and~~
 9 ~~Professions Code, to read:~~

10 10144. (a) ~~The commissioner may prescribe by regulation the~~
 11 ~~information which shall be contained in contracts or other~~
 12 ~~agreements by a real estate broker, or a real estate salesperson, to~~
 13 ~~assist another or others 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, including, but not limited to, information~~
 16 ~~with regard to the services agreed to be performed and information~~
 17 ~~with regard to the hazards which may prevent the person to be~~
 18 ~~assisted in filing an application with the state or federal government~~
 19 ~~ever receiving any state or federal land under the application.~~

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

21 ~~SEC. 84. Section 10158 of the Business and Professions Code~~
 22 ~~is amended to read:~~

23 10158. (a) ~~When a real estate license is issued to a corporation,~~
 24 ~~if it desires any of its officers other than the officer designated by~~
 25 ~~it pursuant to Section 10211, to act under its license as a real estate~~
 26 ~~broker, it shall procure an additional license to so employ each of~~
 27 ~~such additional officers.~~

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

29 ~~SEC. 85. Section 10158 is added to the Business and~~
 30 ~~Professions Code, to read:~~

31 10158. (a) ~~When a real estate license is issued to a corporation,~~
 32 ~~if it desires any of its officers other than the officer designated by~~
 33 ~~it pursuant to Section 10211, to act under its license as a real estate~~
 34 ~~broker, it shall procure an additional license to retain each of such~~
 35 ~~additional officers. In the event of death or incapacity of a sole~~
 36 ~~designated broker-officer, a corporation may operate continuously~~
 37 ~~under its existing license if notice of the event is filed with the~~
 38 ~~bureau before midnight of the 10th day after the event.~~

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

1 ~~SEC. 86.— Section 10159 of the Business and Professions Code~~
2 ~~is amended to read:~~

3 ~~10159. (a) Each officer of a corporation through whom it is~~
4 ~~licensed to act as a real estate broker is, while so employed under~~
5 ~~such license, a licensed real estate broker, but licensed only to act~~
6 ~~as such for and on behalf of the corporation as an officer.~~

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

8 ~~SEC. 87.— Section 10159 is added to the Business and~~
9 ~~Professions Code, to read:~~

10 ~~10159.— Each officer of a corporation through whom it is~~
11 ~~licensed to act as a real estate broker need not be a licensed real~~
12 ~~estate broker, but if not, is licensed only to act as such for and on~~
13 ~~behalf of the corporation as an officer. This does not preclude a~~
14 ~~designated corporate officer who has a separate individual license~~
15 ~~from conducting licensed activity for another entity if the entity~~
16 ~~for which he or she acts is clearly disclosed and apparent to any~~
17 ~~member of the public using his or her services outside the~~
18 ~~corporation.~~

19 ~~When a corporation wishes to act as a real estate broker, the~~
20 ~~corporation shall be licensed by the bureau through qualified broker~~
21 ~~officers, who have either passed the broker license examination~~
22 ~~and are now qualified to obtain a broker license, or who are~~
23 ~~currently licensed as real estate brokers. An officer of a corporation~~
24 ~~through whom it is licensed to act need not maintain an individual~~
25 ~~broker's license, but is otherwise subject to all duties and~~
26 ~~responsibilities of a licensed broker.~~

27 ~~This section shall become operative on July 1, 2018.~~

28 ~~SEC. 88.— Section 10159.6 of the Business and Professions~~
29 ~~Code is amended to read:~~

30 ~~10159.6.— All of the following apply to use of a team name, as~~
31 ~~defined in paragraph (5) of subdivision (a) of Section 10159.7:~~

32 ~~(a) Notwithstanding subdivision (b) of Section 10140.6,~~
33 ~~advertising and solicitation materials that contain a team name,~~
34 ~~including print or electronic media and “for sale” signage, shall~~
35 ~~include, and display in a conspicuous and prominent manner, the~~
36 ~~team name and the name and license number of at least one of the~~
37 ~~licensed members of the team.~~

38 ~~(b) The responsible broker's identity, as defined in paragraph~~
39 ~~(1) of subdivision (a) of Section 10159.7, shall be displayed as~~

1 prominently and conspicuously as the team name in all advertising
2 and solicitation materials.

3 ~~(e) The advertising and solicitation materials shall not contain~~
4 ~~terms that imply the existence of a real estate entity independent~~
5 ~~of the responsible broker.~~

6 ~~(d) Notwithstanding Section 10185, a violation of this section~~
7 ~~is not a misdemeanor.~~

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

9 SEC. 89. ~~Section 10159.6 is added to the Business and~~
10 ~~Professions Code, to read:~~

11 ~~10159.6. All of the following apply to use of a team name, as~~
12 ~~defined in paragraph (3) of subdivision (a) of Section 10159.7:~~

13 ~~(a) Notwithstanding subdivision (b) of Section 10140.6,~~
14 ~~advertising and solicitation materials that contain a team name,~~
15 ~~including print or electronic media and “for sale” signage, shall~~
16 ~~include, and display in a conspicuous and prominent manner, the~~
17 ~~team name and the name and license number of at least one of the~~
18 ~~licensed members of the team.~~

19 ~~(b) The responsible broker’s identity shall be displayed as~~
20 ~~prominently and conspicuously as the team name in all advertising~~
21 ~~and solicitation materials.~~

22 ~~(e) The advertising and solicitation materials shall not contain~~
23 ~~terms that imply the existence of a real estate entity independent~~
24 ~~of the responsible broker.~~

25 ~~(d) Notwithstanding Section 10185, a violation of this section~~
26 ~~is not a misdemeanor.~~

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

28 SEC. 90. ~~Section 10159.7 of the Business and Professions~~
29 ~~Code is amended to read:~~

30 ~~10159.7. (a) For the purposes of this article, the following~~
31 ~~definitions shall apply:~~

32 ~~(1) “Responsible broker’s identity” means a name and the~~
33 ~~associated license identification number under which the~~
34 ~~responsible broker is currently licensed by the bureau and conducts~~
35 ~~business in general or is a substantial division of the real estate~~
36 ~~firm. Responsible broker’s identity does not include a fictitious~~
37 ~~business name obtained pursuant to paragraph (2) of subdivision~~
38 ~~(a) of Section 10159.5 or the use of a team name pursuant to~~
39 ~~Section 10159.6.~~

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

5 (3) ~~“Ownership of a fictitious business name” means the right~~
6 ~~to use, renew, and control the use of a fictitious business name~~
7 ~~obtained in accordance with Section 10159.5.~~

8 (4) ~~“Responsible broker” means the broker responsible for the~~
9 ~~exercise of control and supervision of salespersons under Section~~
10 ~~10159.2, or a licensee subject to discipline under subdivision (h)~~
11 ~~of Section 10177 for failure to supervise activity requiring a real~~
12 ~~estate license. The supervision of a salesperson required under this~~
13 ~~part or any other law is limited to regulatory compliance and~~
14 ~~consumer protection.~~

15 (5) ~~“Team name” means a professional identity or brand name~~
16 ~~used by a salesperson, and one or more other real estate licensees,~~
17 ~~for the provision of real estate licensed services. Notwithstanding~~
18 ~~any other law, the use of a team name does not require that a~~
19 ~~separate license be issued for that name pursuant to Section~~
20 ~~10159.5. A team name does not constitute a fictitious business~~
21 ~~name for purposes of this part or any other law or for purposes of~~
22 ~~filing a fictitious business name statement with an application as~~
23 ~~required by subdivision (a) of Section 10159.5 if all of the~~
24 ~~following apply:~~

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

29 (B) ~~The name includes the surname of at least one of the licensee~~
30 ~~members of the team, group, or association in conjunction with~~
31 ~~the term “associates,” “group,” or “team.”~~

32 (C) ~~The name does not include any term or terms, such as “real~~
33 ~~estate broker,” “real estate brokerage,” “broker,” or “brokerage”~~
34 ~~or any other term that would lead a member of the public to believe~~
35 ~~that the team is offering real estate brokerage services, that imply~~
36 ~~or suggest the existence of a real estate entity independent of a~~
37 ~~responsible broker.~~

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

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

1 SEC. 91. ~~Section 10159.7 is added to the Business and~~
2 ~~Professions Code, to read:~~

3 10159.7. (a) ~~For the purposes of this article, the following~~
4 ~~definitions shall apply:~~

5 (1) ~~“Fictitious business name” means a professional identity or~~
6 ~~brand name under which activity requiring a real estate license is~~
7 ~~conducted and the use of which is subject to approval by the bureau~~
8 ~~pursuant to Section 10159.5.~~

9 (2) ~~“Ownership of a fictitious business name” means the right~~
10 ~~to use, renew, and control the use of a fictitious business name~~
11 ~~obtained in accordance with Section 10159.5.~~

12 (3) ~~“Team name” means a professional identity or brand name~~
13 ~~used by a salesperson, and one or more other real estate licensees,~~
14 ~~for the provision of real estate licensed services. Notwithstanding~~
15 ~~any other law, the use of a team name does not require that a~~
16 ~~separate license be issued for that name pursuant to Section~~
17 ~~10159.5. A team name does not constitute a fictitious business~~
18 ~~name for purposes of this part or any other law or for purposes of~~
19 ~~filing a fictitious business name statement with an application as~~
20 ~~required by subdivision (a) of Section 10159.5 if all of the~~
21 ~~following apply:~~

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

26 (B) ~~The name includes the surname of at least one of the licensee~~
27 ~~members of the team, group, or association in conjunction with~~
28 ~~the term “associates,” “group,” or “team.”~~

29 (C) ~~The name does not include any term or terms, such as “real~~
30 ~~estate broker,” “real estate brokerage,” “broker,” or “brokerage”~~
31 ~~or any other term that would lead a member of the public to believe~~
32 ~~that the team is offering real estate brokerage services, that imply~~
33 ~~or suggest the existence of a real estate entity independent of a~~
34 ~~responsible broker.~~

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

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

38 SEC. 92. ~~Section 10160 of the Business and Professions Code~~
39 ~~is amended to read:~~

1 ~~10160. (a) The real estate salesman's license shall remain in~~
2 ~~the possession of the licensed real estate broker employer until~~
3 ~~canceled or until the salesman leaves the employ of the broker,~~
4 ~~and the broker shall make his license and the licenses of his~~
5 ~~salesman available for inspection by the commissioner or his~~
6 ~~designated representative.~~

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

8 ~~SEC. 93.~~

9 ~~SEC. 27.~~ Section 10161.5 of the Business and Professions Code
10 is amended to read:

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

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

21 ~~SEC. 94.~~ Section 10161.5 is added to the Business and
22 Professions Code, to read:

23 10161.5. ~~(a)~~ When the holder of a real estate broker's or
24 ~~salesperson's~~ license is required to relinquish his license to assume
25 an office in local, state, or federal government, he may have it
26 reinstated at any time within six months of termination of his
27 service in office upon payment of the appropriate renewal fee, and
28 compliance with the provisions of Article 2.5 (commencing with
29 Section 10170) of this chapter, if the relinquished license was
30 issued four or more years prior to his application for reinstatement.

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

32 ~~SEC. 95.~~

33 ~~SEC. 28.~~ Section 10161.8 of the Business and Professions Code
34 is amended to read:

35 10161.8. (a) Whenever a real estate ~~salesman~~ *salesperson*
36 enters the employ of a real estate broker, the broker shall
37 immediately notify the commissioner thereof in writing.

38 (b) Whenever employment of a real estate ~~salesman~~ *salesperson*
39 is terminated, the broker shall immediately notify the commissioner
40 thereof in writing.

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

6 (d) Whenever a real estate ~~salesman~~ *salesperson* enters the
 7 employ of a new real estate broker he *or she* shall mark out the
 8 name of his *or her* former broker on the face of the license and
 9 type or write the name of the new employing broker in ink on the
 10 reverse side, and date and initial same.

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

12 ~~SEC. 96. Section 10161.8 is added to the Business and~~
 13 ~~Professions Code, to read:~~

14 ~~10161.8. (a) A broker and a real estate licensee shall~~
 15 ~~immediately notify the commissioner in a manner designated by~~
 16 ~~the commissioner whenever any of the following occur:~~

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

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

21 ~~(3) A real estate licensee affiliated with or retained by a broker~~
 22 ~~acquires a business address different from the address shown on~~
 23 ~~the records maintained by the commissioner.~~

24 ~~(4) A real estate licensee affiliates as an independent contractor,~~
 25 ~~or is otherwise retained by, a new real estate broker to conduct~~
 26 ~~licensed activities.~~

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

28 ~~SEC. 97. Section 10164 of the Business and Professions Code~~
 29 ~~is amended to read:~~

30 ~~10164. (a) An employing broker or corporate designated broker~~
 31 ~~officer may appoint a licensee as a manager of a branch office or~~
 32 ~~division of the employing broker's or employing corporate~~
 33 ~~designated broker officer's real estate business and delegate to the~~
 34 ~~appointed manager the responsibility to oversee day-to-day~~
 35 ~~operations, supervise the licensed activities of licensees, and~~
 36 ~~supervise clerical staff employed in the branch office or division.~~

37 ~~(b) Notwithstanding subdivision (a), nothing in this section shall~~
 38 ~~be construed to limit the responsibilities of an employing broker~~
 39 ~~or a corporate designated broker officer pursuant to subdivision~~
 40 ~~(h) of Section 10177. A licensee accepting appointment as a~~

1 manager shall be subject to disciplinary action pursuant to Section
2 10165 for failure to properly supervise licensed activity pursuant
3 to subdivision (a).

4 (e) Appointment of a manager shall only be made by means of
5 a written contract in which the manager accepts the delegated
6 responsibility. The appointing employing broker or corporate
7 designated broker officer shall retain a copy of the contract and
8 send a notice to the department, in a form approved by the
9 commissioner, identifying the appointed manager and the branch
10 office or division the manager is appointed to supervise.

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

13 (1) The licensee holds a restricted license.

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

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

18 (e) Whenever an appointment of a branch manager is terminated
19 or changed, the employing broker or corporate designated broker
20 officer shall immediately notify the commissioner thereof in
21 writing.

22 (f) This section shall repeal on July, 1, 2018.

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

25 10164. (a) A responsible broker or corporate designated broker
26 officer may appoint a licensee as a manager of a branch office or
27 division of the broker's real estate business and delegate to the
28 appointed manager the responsibility to oversee day-to-day
29 operations, supervise the licensed activities of licensees, and
30 supervise clerical staff employed in the branch office or division.

31 (b) Notwithstanding subdivision (a), nothing in this section shall
32 be construed to limit the responsibilities of a responsible broker
33 or a designated broker corporate officer pursuant to subdivision
34 (h) of Section 10177. A licensee accepting appointment as a
35 manager shall be subject to disciplinary action pursuant to Section
36 10165 for failure to properly supervise licensed activity pursuant
37 to subdivision (a).

38 (e) Appointment of a manager shall only be made by means of
39 a written contract in which the manager accepts the delegated
40 responsibility. The appointing broker shall retain a copy of the

1 contract and send a notice to the department, in a form approved
2 by the commissioner, identifying the appointed manager and the
3 branch office or division the manager is appointed to supervise.

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

- 6 (1) ~~The licensee holds a restricted license.~~
- 7 (2) ~~The licensee is or has been subject to an order of debarment.~~
- 8 (3) ~~The licensee is a salesperson with less than two years of~~
9 ~~full-time real estate experience within five years preceding the~~
10 ~~appointment.~~

11 (e) ~~Whenever an appointment of a branch manager is terminated~~
12 ~~or changed, the appointing broker shall immediately notify the~~
13 ~~commissioner thereof in writing.~~

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

15 ~~SEC. 99. Section 10166.03 of the Business and Professions~~
16 ~~Code is amended to read:~~

17 ~~10166.03. (a) A loan processor or underwriter who does not~~
18 ~~represent to the public, through advertising or other means of~~
19 ~~communicating or providing information, including the use of~~
20 ~~business cards, stationery, brochures, signs, rate lists, or other~~
21 ~~promotional items, that the individual can or will perform any of~~
22 ~~the activities of a mortgage loan originator shall not be required~~
23 ~~to obtain a license endorsement as a mortgage loan originator.~~

24 ~~(b) An individual engaging solely in loan processor or~~
25 ~~underwriter activities shall not represent to the public, through~~
26 ~~advertising or other means of communicating or providing~~
27 ~~information including the use of business cards, stationery,~~
28 ~~brochures, signs, rate lists, or other promotional items, that the~~
29 ~~individual can or will perform any of the activities of a mortgage~~
30 ~~loan originator.~~

31 ~~(c) An independent contractor who is employed by a mortgage~~
32 ~~loan originator may not engage in the activities of a loan processor~~
33 ~~or underwriter for a residential mortgage loan unless the~~
34 ~~independent contractor loan processor or underwriter obtains and~~
35 ~~maintains an endorsement as a mortgage loan originator under this~~
36 ~~article. Each independent contractor loan processor or underwriter~~
37 ~~who obtains and maintains an endorsement as a mortgage loan~~
38 ~~originator under this article shall have and maintain a valid unique~~
39 ~~identifier issued by the Nationwide Mortgage Licensing System~~
40 ~~and Registry.~~

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

2 ~~SEC. 100. Section 10166.03 is added to the Business and~~
3 ~~Professions Code, 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 retained 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 become operative on July 1, 2018.~~

29 ~~SEC. 101. Section 10176 of the Business and Professions Code~~
30 ~~is amended to read:~~

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

40 ~~(1) Making any substantial misrepresentation.~~

- 1 ~~(2) Making any false promises of a character likely to influence,~~
2 ~~persuade, or induce.~~
- 3 ~~(3) A continued and flagrant course of misrepresentation or~~
4 ~~making of false promises through real estate agents or salespersons.~~
- 5 ~~(4) Acting for more than one party in a transaction without the~~
6 ~~knowledge or consent of all parties thereto.~~
- 7 ~~(5) Commingling with his or her own money or property the~~
8 ~~money or other property of others which is received and held by~~
9 ~~him or her.~~
- 10 ~~(6) Claiming, demanding, or receiving a fee, compensation, or~~
11 ~~commission under any exclusive agreement authorizing or~~
12 ~~employing a licensee to perform any acts set forth in Section 10131~~
13 ~~for compensation or commission where the agreement does not~~
14 ~~contain a definite, specified date of final and complete termination.~~
- 15 ~~(7) The claiming or taking by a licensee of any secret or~~
16 ~~undisclosed amount of compensation, commission, or profit or the~~
17 ~~failure of a licensee to reveal to the employer of the licensee the~~
18 ~~full amount of the licensee's compensation, commission, or profit~~
19 ~~under any agreement authorizing or employing the licensee to do~~
20 ~~any acts for which a license is required under this chapter for~~
21 ~~compensation or commission prior to or coincident with the signing~~
22 ~~of an agreement evidencing the meeting of the minds of the~~
23 ~~contracting parties, regardless of the form of the agreement,~~
24 ~~whether evidenced by documents in an escrow or by any other or~~
25 ~~different procedure.~~
- 26 ~~(8) The use by a licensee of any provision allowing the licensee~~
27 ~~an option to purchase in an agreement authorizing or employing~~
28 ~~the licensee to sell, buy, or exchange real estate or a business~~
29 ~~opportunity for compensation or commission, except when the~~
30 ~~licensee prior to or coincident with election to exercise the option~~
31 ~~to purchase reveals in writing to the employer the full amount of~~
32 ~~the licensee's profit and obtains the written consent of the employer~~
33 ~~approving the amount of the profit.~~
- 34 ~~(9) Any other conduct, whether of the same or a different~~
35 ~~character than specified in this section, which constitutes fraud or~~
36 ~~dishonest dealing.~~
- 37 ~~(10) Obtaining the signature of a prospective purchaser to an~~
38 ~~agreement which provides that the prospective purchaser shall~~
39 ~~either transact the purchasing, leasing, renting, or exchanging of~~
40 ~~a business opportunity property through the broker obtaining the~~

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

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 ~~(A) The lender.~~

11 ~~(B) Authorized to issue the commitment on behalf of the lender~~
12 ~~or lenders in the mortgage loan transaction.~~

13 ~~(12) Intentionally delaying the closing of a mortgage loan for~~
14 ~~the sole purpose of increasing interest, costs, fees, or charges~~
15 ~~payable by the borrower.~~

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

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

21 ~~SEC. 102. Section 10176 is added to the Business and~~
22 ~~Professions Code, to read:~~

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

32 ~~(1) Making any substantial misrepresentation.~~

33 ~~(2) Making any false promises of a character likely to influence,~~
34 ~~persuade, or induce.~~

35 ~~(3) A continued and flagrant course of misrepresentation or~~
36 ~~making of false promises through licensees.~~

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

- 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 ~~(6) Claiming, demanding, or receiving a fee, compensation, or~~
5 ~~commission under any exclusive agreement authorizing or retaining~~
6 ~~a licensee to perform any acts set forth in Section 10131 for~~
7 ~~compensation or commission where the agreement does not contain~~
8 ~~a definite, specified date of final and complete termination.~~
- 9 ~~(7) The claiming or taking by a licensee of any secret or~~
10 ~~undisclosed amount of compensation, commission, or profit or the~~
11 ~~failure of a licensee to reveal to the principal retaining the licensee~~
12 ~~the full amount of the licensee's compensation, commission, or~~
13 ~~profit under any agreement authorizing or retaining the licensee~~
14 ~~to do any acts for which a license is required under this chapter~~
15 ~~for compensation or commission prior to or coincident with the~~
16 ~~signing of an agreement evidencing the meeting of the minds of~~
17 ~~the contracting parties, regardless of the form of the agreement,~~
18 ~~whether evidenced by documents in an escrow or by any other or~~
19 ~~different procedure.~~
- 20 ~~(8) The use by a licensee of any provision allowing the licensee~~
21 ~~an option to purchase in an agreement authorizing or retaining the~~
22 ~~licensee to sell, buy, or exchange real estate or a business~~
23 ~~opportunity for compensation or commission, except when the~~
24 ~~licensee prior to or coincident with election to exercise the option~~
25 ~~to purchase reveals in writing to the responsible broker the full~~
26 ~~amount of the licensee's profit and obtains the written consent of~~
27 ~~the responsible broker approving the amount of the profit.~~
- 28 ~~(9) Any other conduct, whether of the same or of a different~~
29 ~~character than specified in this section, which constitutes fraud or~~
30 ~~dishonest dealing.~~
- 31 ~~(10) Obtaining the signature of a prospective purchaser to an~~
32 ~~agreement which provides that the prospective purchaser shall~~
33 ~~either transact the purchasing, leasing, renting, or exchanging of~~
34 ~~a business opportunity property through the broker obtaining the~~
35 ~~signature or pay a compensation to the broker if the property is~~
36 ~~purchased, leased, rented, or exchanged without the broker first~~
37 ~~having obtained the written authorization of the owner of the~~
38 ~~property concerned to offer the property for sale, lease, exchange,~~
39 ~~or rent.~~

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

5 ~~(A) The lender.~~

6 ~~(B) Authorized to issue the commitment on behalf of the lender~~
7 ~~or lenders in the mortgage loan transaction.~~

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

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

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

16 ~~SEC. 103. Section 10177 of the Business and Professions Code~~
17 ~~is amended to read:~~

18 ~~10177. The commissioner may suspend or revoke the license~~
19 ~~of a real estate licensee, delay the renewal of a license of a real~~
20 ~~estate licensee, or deny the issuance of a license to an applicant,~~
21 ~~who has done any of the following, or may suspend or revoke the~~
22 ~~license of a corporation, delay the renewal of a license of a~~
23 ~~corporation, or deny the issuance of a license to a corporation, if~~
24 ~~an officer, director, or person owning or controlling 10 percent or~~
25 ~~more of the corporation's stock has done any of the following:~~

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

31 ~~(b) Entered a plea of guilty or nolo contendere to, or been found~~
32 ~~guilty of, or been convicted of, a felony, or a crime substantially~~
33 ~~related to the qualifications, functions, or duties of a real estate~~
34 ~~licensee, and the time for appeal has elapsed or the judgment of~~
35 ~~conviction has been affirmed on appeal, irrespective of an order~~
36 ~~granting probation following that conviction, suspending the~~
37 ~~imposition of sentence, or of a subsequent order under Section~~
38 ~~1203.4 of the Penal Code allowing that licensee to withdraw his~~
39 ~~or her plea of guilty and to enter a plea of not guilty, or dismissing~~
40 ~~the accusation or information.~~

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

8 ~~(d) Willfully disregarded or violated the Real Estate Law (Part~~
9 ~~1 (commencing with Section 10000)) or Chapter 1 (commencing~~
10 ~~with Section 11000) of Part 2 or the rules and regulations of the~~
11 ~~commissioner for the administration and enforcement of the Real~~
12 ~~Estate Law and Chapter 1 (commencing with Section 11000) of~~
13 ~~Part 2.~~

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

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

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

35 ~~(h) As a broker licensee, failed to exercise reasonable~~
36 ~~supervision over the activities of his or her salespersons, or, as the~~
37 ~~officer designated by a corporate broker licensee, failed to exercise~~
38 ~~reasonable supervision and control of the activities of the~~
39 ~~corporation for which a real estate license is required.~~

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

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

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

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

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

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

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

35 (o) ~~Failed to disclose to the buyer of real property, in a~~
36 ~~transaction in which the licensee is an agent for the buyer, the~~
37 ~~nature and extent of a licensee's direct or indirect ownership~~
38 ~~interest in that real property. The direct or indirect ownership~~
39 ~~interest in the property by a person related to the licensee by blood~~
40 ~~or marriage, by an entity in which the licensee has an ownership~~

1 interest, or by any other person with whom the licensee has a
2 special relationship shall be disclosed to the buyer.

3 ~~(p) Violated Article 6 (commencing with Section 10237).~~

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

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

22 This section shall repeal on July 1, 2018.

23 ~~SEC. 104. Section 10177 is added to the Business and~~
24 ~~Professions Code, to read:~~

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

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

38 ~~(b) Entered a plea of guilty or no contest to, or been found guilty~~
39 ~~of, or been convicted of, a felony, or a crime substantially related~~
40 ~~to the qualifications, functions, or duties of a real estate licensee,~~

1 and the time for appeal has elapsed or the judgment of conviction
2 has been affirmed on appeal, irrespective of an order granting
3 probation following that conviction, suspending the imposition of
4 sentence, or of a subsequent order under Section 1203.4 of the
5 Penal Code allowing that licensee to withdraw his or her plea of
6 guilty and to enter a plea of not guilty, or dismissing the accusation
7 or information.

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

15 (d) ~~Willfully disregarded or violated the Real Estate Law (Part~~
16 ~~1 (commencing with Section 10000)) or Chapter 1 (commencing~~
17 ~~with Section 11000) of Part 2 or the rules and regulations of the~~
18 ~~commissioner for the administration and enforcement of the Real~~
19 ~~Estate Law and Chapter 1 (commencing with Section 11000) of~~
20 ~~Part 2.~~

21 (e) ~~Willfully used the term “realtor” or a trade name or insignia~~
22 ~~of membership in a real estate organization of which the licensee~~
23 ~~is not a member.~~

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

- 1 ~~(g) Demonstrated negligence or incompetence in performing~~
2 ~~an act for which he or she is required to hold a license.~~
- 3 ~~(h) As a broker licensee, failed to exercise reasonable~~
4 ~~supervision over the activities of his or her salespersons, or, as the~~
5 ~~officer designated by a corporate broker licensee, failed to exercise~~
6 ~~reasonable supervision and control of the activities of the~~
7 ~~corporation for which a real estate license is required.~~
- 8 ~~(i) Used his or her employment by a governmental agency in a~~
9 ~~capacity giving access to records, other than public records, in a~~
10 ~~manner that violates the confidential nature of the records.~~
- 11 ~~(j) Engaged in any other conduct, whether of the same or of a~~
12 ~~different character than specified in this section, that constitutes~~
13 ~~fraud or dishonest dealing.~~
- 14 ~~(k) Violated any of the terms, conditions, restrictions, and~~
15 ~~limitations contained in an order granting a restricted license.~~
- 16 ~~(l) (1) Solicited or induced the sale, lease, or listing for sale or~~
17 ~~lease of residential property on the grounds, wholly or in part, of~~
18 ~~loss of value, increase in crime, or decline of the quality of the~~
19 ~~schools due to the present or prospective entry into the~~
20 ~~neighborhood of a person or persons having a characteristic listed~~
21 ~~in subdivision (a) or (d) of Section 12955 of the Government Code,~~
22 ~~as those characteristics are defined in Sections 12926 and 12926.1~~
23 ~~of, subdivision (m) and paragraph (1) of subdivision (p) of Section~~
24 ~~12955 of, and Section 12955.2 of, the Government Code.~~
- 25 ~~(2) Notwithstanding paragraph (1), with respect to familial~~
26 ~~status, paragraph (1) shall not be construed to apply to housing for~~
27 ~~older persons, as defined in Section 12955.9 of the Government~~
28 ~~Code. With respect to familial status, nothing in paragraph (1)~~
29 ~~shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,~~
30 ~~and 799.5 of the Civil Code, relating to housing for senior citizens.~~
31 ~~Subdivision (d) of Section 51 and Section 4760 of the Civil Code~~
32 ~~and subdivisions (n), (o), and (p) of Section 12955 of the~~
33 ~~Government Code shall apply to paragraph (1).~~
- 34 ~~(m) Violated the Franchise Investment Law (Division 5~~
35 ~~(commencing with Section 31000) of Title 4 of the Corporations~~
36 ~~Code) or regulations of the Commissioner of Corporations~~
37 ~~pertaining thereto.~~
- 38 ~~(n) Violated the Corporate Securities Law of 1968 (Division 1~~
39 ~~(commencing with Section 25000) of Title 4 of the Corporations~~

1 Code) or the regulations of the Commissioner of Corporations
2 pertaining thereto.

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

11 ~~(p) Violated Article 6 (commencing with Section 10237).~~

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

15 ~~(r) Failure to surrender a license that was issued in error or by~~
16 ~~mistake.~~

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

32 ~~This section shall become operative on July 1, 2018.~~

33 ~~SEC. 105.~~

34 ~~SEC. 29.~~ Section 10178 of the Business and Professions Code
35 is amended to read:

36 10178. ~~(a)~~ When any real estate ~~salesman~~ *salesperson* is
37 discharged by his *or her* employer for a violation of any of the
38 provisions of this article prescribing a ground for disciplinary
39 action, a certified written statement of the facts with reference
40 thereto shall be filed forthwith with the commissioner by the

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

20 ~~SEC. 30. Section 10179 of the Business and Professions Code~~
21 ~~is amended to read:~~

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

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

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

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

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

1 ~~SEC. 109.~~

2 ~~SEC. 31.~~ Section 10186.2 of the Business and Professions Code
3 is amended to read:

4 10186.2. (a) (1) A licensee shall report any of the following
5 to the ~~department:~~ *bureau*:

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

8 (B) The conviction of the licensee, including any verdict of
9 guilty, or plea of guilty or no contest, of any felony or
10 misdemeanor.

11 (C) Any disciplinary action taken by another licensing entity
12 or authority of this state or of another state or an agency of the
13 federal government.

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

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

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

21 ~~SEC. 110.~~ Section 10186.2 is added to the Business and
22 Professions Code, to read:

23 10186.2. (a) (1) A licensee shall report any of the following
24 to the ~~bureau:~~

25 ~~(A) The bringing of a criminal complaint, information, or~~
26 ~~indictment charging a felony against the licensee.~~

27 ~~(B) The conviction of the licensee, including any verdict of~~
28 ~~guilty, or plea of guilty or no contest, of any felony or~~
29 ~~misdemeanor.~~

30 ~~(C) Any disciplinary action taken by another licensing entity~~
31 ~~or authority of this state or of another state or an agency of the~~
32 ~~federal government.~~

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

37 ~~(b) Failure to make a report required by this section shall~~
38 ~~constitute a cause for discipline.~~

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

1 ~~SEC. 111. Section 10232.3 of the Business and Professions~~
2 ~~Code is amended to read:~~

3 ~~10232.3. (a) Any transaction that involves the sale of or offer~~
4 ~~to sell a note secured directly by an interest in one or more parcels~~
5 ~~of real property or the sale of an undivided interest in a note secured~~
6 ~~directly by one or more parcels of real property shall adhere to all~~
7 ~~of the following:~~

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

- 19
- 20 (A) Single-family residence, owner occupied..... 80%
- 21 (B) Single-family residence, not owner occupied..... 75%
- 22 (C) Commercial properties and income-producing properties not
- 23 described in (B) or (E)..... 65%
- 24 (D) Single-family residentially zoned lot or parcel that has installed
- 25 offsite improvements including drainage, curbs, gutters, sidewalks,
- 26 paved roads, and utilities as mandated by the political subdivision
- 27 having jurisdiction over the lot or parcel..... 65%
- 28 (E) Land that produces income from crops, timber, or minerals..... 60%
- 29 (F) Land that is not income producing but has been zoned for (and if
- 30 required, approved for subdivision as) commercial or residential
- 31 development..... 50%
- 32 (G) Other real property..... 35%
- 33

34 ~~(2) The percentage amounts specified in paragraph (1) may be~~
35 ~~exceeded when and to the extent that the broker determines that~~
36 ~~the encumbrance of the property in excess of these percentages is~~
37 ~~reasonable and prudent considering all relevant factors pertaining~~
38 ~~to the real property. However, in no event shall the aggregate~~
39 ~~principal amount of the note or interest sold, together with the~~
40 ~~unpaid principal amount of any encumbrances upon the property~~

1 senior thereto, exceed 80 percent of the current fair market value
2 of improved real property or 50 percent of the current fair market
3 value of unimproved real property, except in the case of a
4 single-family zoned lot or parcel as defined in paragraph (1), which
5 shall not exceed 65 percent of the current fair market value of that
6 lot or parcel, plus the amount insured as specified in paragraph
7 (1). A written statement shall be prepared by the broker that sets
8 forth the material considerations and facts that the broker relies
9 upon for his or her determination, which shall be retained as a part
10 of the broker's record of the transaction. Either a copy of the
11 statement or the information contained therein shall be included
12 in the disclosures required pursuant to Section 10232.5.

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

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

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

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

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

35 (D) The disbursement draws from the escrow account are based
36 on verification from an independent qualified person who certifies
37 that the work completed to date meets the related codes and
38 standards and that the draws were made in accordance with the
39 construction contract and draw schedule. For purposes of this
40 subparagraph, "independent qualified person" means a person who

1 is not an employee, agent, or affiliate of the broker and who is a
2 licensed architect, general contractor, structural engineer, or active
3 local government building inspector acting in his or her official
4 capacity.

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

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

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

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

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

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

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

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

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

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

39 (b) The note or interest shall not be sold, unless the purchaser
40 meets one or both of the qualifications of income or net worth set

1 forth below and signs a statement, which shall be retained by the
2 broker for four years, conforming to the following:

3
4 “Transaction Identifier: _____
5 Name of Purchaser: _____ Date: _____

6 Check either one of the following, if true:

- 7 () My investment in the transaction does not exceed 10% of my net worth,
8 —exclusive of home, furnishings, and automobiles;
- 9 () My investment in the transaction does not exceed 10% of my adjusted
10 —gross income for federal income tax purposes for my last tax year or,
11 —in the alternative, as estimated for the current year.

12 _____
13 Signature”
14

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

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

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

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

- 34
- 35 (A) Single-family residence, owner-occupied..... 80%
- 36 (B) Single-family residence, not owner-occupied..... 75%
- 37 (C) Commercial properties and income-producing properties not
38 described in (B) or (E)..... 65%
- 39 (D) Single-family residentially zoned lot or parcel that has installed
40 offsite improvements, including drainage, curbs, gutters, sidewalks, 65%

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

8

9 (2) ~~The percentage amounts specified in paragraph (1) may be~~
 10 ~~exceeded when and to the extent that the broker determines that~~
 11 ~~the encumbrance of the property in excess of these percentages is~~
 12 ~~reasonable and prudent considering all relevant factors pertaining~~
 13 ~~to the real property. However, in no event shall the aggregate~~
 14 ~~principal amount of the note or interest sold, together with the~~
 15 ~~unpaid principal amount of any encumbrances upon the property~~
 16 ~~senior thereto, exceed 80 percent of the current fair market value~~
 17 ~~of improved real property or 50 percent of the current fair market~~
 18 ~~value of unimproved real property, except in the case of a~~
 19 ~~single-family zoned lot or parcel as defined in paragraph (1), which~~
 20 ~~shall not exceed 65 percent of the current fair market value of that~~
 21 ~~lot or parcel, plus the amount insured as specified in paragraph~~
 22 ~~(1). A written statement shall be prepared by the broker that sets~~
 23 ~~forth the material considerations and facts that the broker relies~~
 24 ~~upon for his or her determination, which shall be retained as part~~
 25 ~~of the broker’s record of the transaction. Either a copy of the~~
 26 ~~statement or the information contained therein shall be included~~
 27 ~~in the disclosures required pursuant to Section 10232.5.~~

28 (3) ~~A copy of the appraisal or the broker’s evaluation, for each~~
 29 ~~parcel of real property securing the note or interest, shall be~~
 30 ~~delivered to the purchaser. The broker shall advise the purchaser~~
 31 ~~of his or her right to receive a copy. For purposes of this paragraph,~~
 32 ~~“appraisal” means a written estimate of value based upon the~~
 33 ~~assembling, analyzing, and reconciling of facts and value indicators~~
 34 ~~for the real property in question. A broker shall not purport to make~~
 35 ~~an appraisal unless he or she is qualified on the basis of special~~
 36 ~~training, preparation, or experience.~~

37 (4) ~~For construction or rehabilitation loans, where the amount~~
 38 ~~withheld for construction or rehabilitation at the start of the project~~
 39 ~~exceeds one hundred thousand dollars (\$100,000), the term “current~~

1 market value” may be deemed to be the value of the completed
2 project if all of the following safeguards are met:

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

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 who
18 is not an employee, agent, or affiliate of the broker and who is a
19 licensed architect, general contractor, structural engineer, or active
20 local government building inspector acting in his or her official
21 capacity.

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

25 (F) The documentation includes a detailed description of the
26 actions that may be taken in the event of a failure to complete the
27 project, whether that failure is due to default, insufficiency of
28 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) For construction or rehabilitation loans, where the amount
32 withheld for construction or rehabilitation at the start of the project
33 is one hundred thousand dollars (\$100,000) or less, the term
34 “current market value” may be deemed to be the value of the
35 completed project if all of the following safeguards are met:

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

1 ~~(B) A comprehensive, detailed draw schedule is used to ensure~~
2 ~~proper and timely disbursements to allow for completion of the~~
3 ~~project.~~

4 ~~(C) An appraisal is completed by a qualified and licensed~~
5 ~~appraiser in accordance with the Uniform Standards of Professional~~
6 ~~Appraisal Practice (USPAP).~~

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

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

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

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

23
24 ~~“Transaction Identifier: _____~~

25 ~~Name of Purchaser: _____ Date: _____~~

26 ~~Check either one of the following, if true:~~

27 ~~() My investment in the transaction does not exceed 10% of my net worth,~~
28 ~~— exclusive of home, furnishings, and automobiles.~~

29 ~~() My investment in the transaction does not exceed 10% of my adjusted~~
30 ~~— gross income for federal income tax purposes for my last tax year or,~~
31 ~~— in the alternative, as estimated for the current year.~~

32 _____
33 Signature”

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

36 ~~SEC. 113. Section 10238 of the Business and Professions Code~~
37 ~~is amended to read:~~

38 ~~10238. (a) A notice in the following form and containing the~~
39 ~~following information shall be filed with the commissioner within~~

1 30 days after the first transaction and within 30 days of any material
2 change in the information required in the notice:

3
4 TO: Real Estate Commissioner
5 Mortgage Loan Section
6 1651 Exposition Boulevard
7 Sacramento, CA 95815

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

10 () Original Notice () Amended Notice

11 1. Name of Broker conducting transaction under Section 10237:
12 _____

13
14 2. Broker license identification number: _____

15
16 3. List the month the fiscal year ends: _____

17
18 4. Broker's telephone number: _____

19
20 5. Firm name (if different from "1"):

21 _____

22
23 6. Street address (main location):

24 - _____ -
25 # and Street City State ZIP Code

26
27 7. Mailing address (if different from "6"):

28 _____

29
30 8. Servicing agent: Identify by name, address, and telephone number the

31 person or entity who will act as the servicing agent in transactions pursuant

32 to Section 10237 (including the undersigned Broker if that is the case):

33 _____

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

37 -
38 10. Total number of interests sold to investors on the

39 multilender's notes: _____
40

1 11: Inspection of trust account (before answering this question, review the
2 provisions of paragraph (3) of subdivision (k) of Section 10238):

3 CHECK ONLY ONE OF THE FOLLOWING:

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

7 Amount of Multilender Payments Collected Last Fiscal Quarter: _____

8

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

10

11 (-) The undersigned Broker is NOT (or does NOT expect to be) required to
12 file reports of inspection of its trust account(s) with the Real Estate
13 Commissioner pursuant to paragraph (3) of subdivision (k) of Section
14 10238.

15

16 12: Signature. The contents of this notice are true and correct.

17

18 _____
Date Type Name of Broker

19

20 _____
Signature of Broker or of Designated Officer of

21

22 _____
Corporate Broker

23

24 _____
Type Name of Person(s) Signing This Notice

25

26 NOTE: AN AMENDED NOTICE MUST BE FILED BY THE
27 BROKER WITHIN 30 DAYS OF ANY MATERIAL CHANGE
28 IN THE INFORMATION REQUIRED TO BE SET FORTH
29 HEREIN.

30

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

38

39 (c) All advertising employed for transactions under this article
shall show the name of the broker and comply with Section 10235
of this code and Sections 260.302 and 2848 of Title 10 of the

1 California Code of Regulations. Brokers and their agents are
2 cautioned that a reference to a prospective investor that a
3 transaction is conducted under this article may be deemed
4 misleading or deceptive if this representation may reasonably be
5 construed by the investor as an implication of merit or approval
6 of the transaction.

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

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

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

35 (e) The notes or interests shall be sold by or through a real estate
36 broker, as principal or agent. At the time the notes or interests are
37 originally sold or assigned, neither the broker nor an affiliate of
38 the broker shall have an interest as owner, lessor, or developer of
39 the property securing the loan, or any contractual right to acquire,
40 lease, or develop the property securing the loan. This provision

1 does not prohibit a broker from conducting the following
2 transactions if, in either case, the disclosure statement furnished
3 by the broker pursuant to subdivision (l) discloses the interest of
4 the broker or affiliate in the transaction and the circumstances
5 under which the broker or affiliate acquired the interest:

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

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

15 (f) (1) The notes or interests shall not be sold to more than 10
16 persons, each of whom meets one or both of the qualifications of
17 income or net worth set forth below and signs a statement, which
18 shall be retained by the broker for four years, conforming to the
19 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
27 (←) My investment in the transaction does not exceed 10% of my adjusted
28 gross income for federal income tax purposes for my last tax year or, in
29 the alternative, as estimated for the current year.

30 _____
31 Signature

32
33 (2) The number of offerees shall not be considered for the
34 purposes of this section.

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

37 (4) A retirement plan, trust, business trust, corporation, or other
38 entity that is wholly owned by an individual and the individual's
39 spouse or the individual's dependents, or any combination thereof,
40 shall not be counted separately from the individual, but the

1 investments of these entities shall be aggregated with those of the
2 individual for the purposes of the statement required by paragraph
3 (1). If the investments of any entities are required to be aggregated
4 under this subdivision, the adjusted gross income or net worth of
5 these entities may also be aggregated with the net worth, income,
6 or both, of the individual.

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

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

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

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

- 38
- 39 (A) Single-family residence, owner occupied 80%
- 40 (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), which~~
24 ~~shall not exceed 65 percent of the current fair market value of that~~
25 ~~lot or parcel, plus the amount insured as specified in paragraph~~
26 ~~(1). A written statement shall be prepared by the broker that sets~~
27 ~~forth the material considerations and facts that the broker relies~~
28 ~~upon for his or her determination, which shall be retained as a part~~
29 ~~of the broker’s record of the transaction. Either a copy of the~~
30 ~~statement or the information contained therein shall be included~~
31 ~~in the disclosures required pursuant to subdivision (l).~~

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. The broker shall advise purchasers~~
35 ~~of their right to receive a copy. For purposes of this paragraph,~~
36 ~~“appraisal” means a written estimate of value based upon the~~
37 ~~assembling, analyzing, and reconciling of facts and value indicators~~
38 ~~for the real property in question. A broker shall not purport to make~~
39 ~~an appraisal unless the person so employed is qualified on the basis~~
40 ~~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 (f) 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 (e) 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 material~~
37 ~~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 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.~~

14 _____
15 Date Type Name of Broker

16 _____
17 Signature of Responsible Broker

18 _____
19 Type Name of Person(s) Signing This Notice
20

21 ~~NOTE: AN AMENDED NOTICE MUST BE FILED BY THE~~
22 ~~BROKER WITHIN 30 DAYS OF ANY MATERIAL CHANGE~~
23 ~~IN THE INFORMATION REQUIRED TO BE SET FORTH~~
24 ~~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 payments~~
28 ~~due during any period of three consecutive months in the aggregate~~
29 ~~exceed one hundred twenty-five thousand dollars (\$125,000) or~~
30 ~~the number of persons entitled to the payments exceeds 120, shall~~
31 ~~file the notice required by subdivision (a) with the commissioner~~
32 ~~within 30 days after becoming the servicing agent.~~

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

1 construed by the investor as an implication of merit or approval
2 of the transaction.

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

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

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

31 ~~(e) The notes or interests shall be sold by or through a real estate~~
32 ~~broker, as principal or agent. At the time the notes or interests are~~
33 ~~originally sold or assigned, neither the broker nor an affiliate of~~
34 ~~the broker shall have an interest as owner, lessor, or developer of~~
35 ~~the property securing the loan or any contractual right to acquire,~~
36 ~~lease, or develop the property securing the loan. This provision~~
37 ~~does not prohibit a broker from conducting the following~~
38 ~~transactions if, in either case, the disclosure statement furnished~~
39 ~~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 (e), 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 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. For purposes of this paragraph,~~
 33 ~~“appraisal” means a written estimate of value based upon the~~
 34 ~~assembling, analyzing, and reconciling of facts and value indicators~~
 35 ~~for the real property in question. A broker shall not purport to make~~
 36 ~~an appraisal unless he or she is qualified on the basis of special~~
 37 ~~training, preparation, or experience.~~

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

- 1 ~~(A) An independent neutral third-party escrow holder is used~~
2 ~~for all deposits and disbursements.~~
- 3 ~~(B) The loan is fully funded, with the entire loan amount to be~~
4 ~~deposited in escrow prior to the recording of the deed or deeds of~~
5 ~~trust.~~
- 6 ~~(C) A comprehensive, detailed draw schedule is used to ensure~~
7 ~~proper and timely disbursements to allow for completion of the~~
8 ~~project.~~
- 9 ~~(D) The disbursement draws from the escrow account are based~~
10 ~~on verification from an independent qualified person who certifies~~
11 ~~that the work completed to date meets the related codes and~~
12 ~~standards and that the draws were made in accordance with the~~
13 ~~construction contract and draw schedule. For purposes of this~~
14 ~~subparagraph, “independent qualified person” means a person who~~
15 ~~is not an employee, agent, or affiliate of the broker and who is a~~
16 ~~licensed architect, general contractor, structural engineer, or active~~
17 ~~local government building inspector acting in his or her official~~
18 ~~capacity.~~
- 19 ~~(E) An appraisal is completed by a qualified and licensed~~
20 ~~appraiser in accordance with the Uniform Standards of Professional~~
21 ~~Appraisal Practice (USPAP).~~
- 22 ~~(F) In addition to the transaction documentation required by~~
23 ~~subdivision (i), the documentation shall include a detailed~~
24 ~~description of actions that may be taken in the event of a failure~~
25 ~~to complete the project, whether that failure is due to default,~~
26 ~~insufficiency of funds, 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) 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 ~~(i) The documentation of the transaction shall require both of~~
36 ~~the following:~~
 - 37 ~~(1) A default upon any note or interest is a default upon all notes~~
38 ~~or interests.~~
 - 39 ~~(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 both of the following:

37 (A) Three sales made or 5 percent of the sales made pursuant
38 to this article during the period for which the examination is
39 conducted, whichever is greater.

1 ~~(B) Ten payments processed or 2 percent of payments processed~~
2 ~~under this article during the period for which the examination is~~
3 ~~conducted, whichever is greater.~~

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

23 ~~(6) Within 30 days of the close of the period for which the report~~
24 ~~is made, or within any additional time as the commissioner may~~
25 ~~in writing allow in a particular case, the accountant shall forward~~
26 ~~to the broker or servicing agent, as the case may be, and to the~~
27 ~~commissioner, the report of the accountant, stating that the~~
28 ~~inspection was performed in accordance with this section, listing~~
29 ~~the sales and the payments examined, specifying the nature of the~~
30 ~~deficiencies, if any, noted by the accountant with respect to each~~
31 ~~sale or payment, together with any further information as the~~
32 ~~accountant may wish to include, such as corrective steps taken~~
33 ~~with respect to any deficiency so noted, or stating that no~~
34 ~~deficiencies were observed. If the broker meets the threshold~~
35 ~~criteria of Section 10232, the report of the accountant shall be~~
36 ~~submitted as part of the quarterly reports required under Section~~
37 ~~10232.25.~~

38 ~~(k) The notes or interests shall be sold subject to a written~~
39 ~~agreement that obligates a licensed real estate broker, or a person~~
40 ~~exempted from the licensing requirement for real estate brokers~~

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

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

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

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

34 (3) If the broker or person who is or becomes the servicing agent
35 for notes or interests sold pursuant to this article upon which the
36 payments due during any period of three consecutive months in
37 the aggregate exceed one hundred twenty-five thousand dollars
38 (\$125,000) or the number of persons entitled to the payments
39 exceeds 120, the trust account or accounts of that broker or affiliate
40 shall be inspected by an independent certified public accountant

1 at no less than three-month intervals during the time the volume
2 is maintained. Within 30 days after the close of the period for
3 which the review is made, the report of the accountant shall be
4 forwarded as provided in paragraph (6) of subdivision (j). If the
5 broker is required to file an annual report pursuant to subdivision
6 (e) or pursuant to Section 10232.2, the quarterly report pursuant
7 to this subdivision need not be filed for the last quarter of the year
8 for which the annual report is made. For the purposes of this
9 subdivision, an affiliate of a broker is any person controlled by,
10 controlling, or under common control with the broker.

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

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

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

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

23 (i) The broker shall disclose in writing to each purchaser or
24 lender the material facts concerning the transaction on a disclosure
25 form adopted or approved by the commissioner pursuant to Section
26 10232.5, subject to the following:

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

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

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

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

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

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

39 (v) A description of, and the estimated amount of, each cost
40 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 (e) 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 become operative on July 1, 2018.~~

32 ~~SEC. 115. Section 10243 of the Business and Professions Code~~
33 ~~is amended to read:~~

34 ~~10243. If the loan is not consummated due to the failure of the~~
35 ~~borrower to disclose the outstanding liens of record or the correct~~
36 ~~current vested title which is material to the loan upon the real~~
37 ~~property as provided by subdivision (c) of Section 10241, the~~
38 ~~borrower shall be liable for the costs and expenses provided in~~
39 ~~subdivision (a) of Section 10241 which have been paid or incurred,~~
40 ~~and shall be liable for the payment of one-half of the charges~~

1 provided in subdivision (b) of Section 10241. An exclusive
2 agreement authorizing or employing a licensee to negotiate a loan
3 secured directly or collaterally by a lien on real property shall be
4 limited to a term of not more than 45 days.

5 If the loan is not consummated and the broker is entitled to any
6 charges, costs or expenses authorized by this article, he or she may
7 not record a lien or encumbrance against the borrower's property
8 except subsequent to the filing of a legal action pursuant to the
9 Code of Civil Procedure to recover said charges, costs or expenses.
10 However, nothing contained herein shall prohibit a broker from
11 recording a lien pursuant to a voluntary lien agreement in
12 conjunction with a stipulation to dismiss an actual or proposed
13 complaint for damages entitling the broker to such charges, costs
14 or expenses after written notice to the borrower that the broker
15 proposes or has initiated a complaint for damages pursuant to the
16 Code of Civil Procedure.

17 This section shall repeal on July 1, 2018.

18 SEC. 116. Section 10243 is added to the Business and
19 Professions Code, to read:

20 10243. If the loan is not consummated due to the failure of the
21 borrower to disclose the outstanding liens of record or the correct
22 current vested title which is material to the loan upon the real
23 property as provided by subdivision (c) of Section 10241, the
24 borrower shall be liable for the costs and expenses provided in
25 subdivision (a) of Section 10241 that have been paid or incurred
26 and shall be liable for the payment of one-half of the charges
27 provided in subdivision (b) of Section 10241. An exclusive
28 agreement authorizing or retaining a licensee to negotiate a loan
29 secured directly or collaterally by a lien on real property shall be
30 limited to a term of not more than 45 days.

31 If the loan is not consummated and the broker is entitled to any
32 charges, costs, or expenses authorized by this article, he or she
33 may not record a lien or encumbrance against the borrower's
34 property except subsequent to the filing of a legal action pursuant
35 to the Code of Civil Procedure to recover said charges, costs, or
36 expenses. However, nothing contained herein shall prohibit a
37 broker from recording a lien pursuant to a voluntary lien agreement
38 in conjunction with a stipulation to dismiss an actual or proposed
39 complaint for damages entitling the broker to such charges, costs,
40 or expenses after written notice to the borrower that the broker

1 proposes or has initiated a complaint for damages pursuant to the
2 Code of Civil Procedure.

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

4 SEC. 117. Section 10509 of the Business and Professions Code
5 is amended to read:

6 10509. (a) It is unlawful for a mineral, oil, and gas broker or
7 a real estate broker to employ or compensate, directly or indirectly,
8 any person who is not a mineral, oil, and gas broker or a licensed
9 real estate salesperson in the employ of the real estate broker for
10 performing any acts for which a mineral, oil, and gas broker license
11 is required.

12 (b) It is a misdemeanor, punishable by a fine of not exceeding
13 one hundred dollars (\$100) for each offense, for any person,
14 whether obligor, escrow holder or otherwise, to pay or deliver
15 compensation to a person for performing any acts for which a
16 mineral, oil, and gas broker license is required unless that person
17 is known by the payer to be or has presented evidence to the payer
18 that he or she was a licensed mineral, oil, and gas broker at the
19 time the compensation was earned.

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

21 SEC. 118. Section 10509 is added to the Business and
22 Professions Code, to read:

23 10509. (a) It is unlawful for a mineral, oil, and gas broker or
24 a real estate broker to compensate, directly or indirectly, any person
25 who is not a mineral, oil, and gas broker or a licensed real estate
26 salesperson retained by the real estate broker for performing any
27 acts for which a mineral, oil, and gas broker license is required.

28 (b) It is a misdemeanor, punishable by a fine of not exceeding
29 one hundred dollars (\$100) for each offense, for any person,
30 whether obligor, escrow holder or otherwise, to pay or deliver
31 compensation to a person for performing any acts for which a
32 mineral, oil, and gas broker license is required unless that person
33 is known by the payer to be or has presented evidence to the payer
34 that he or she was a licensed mineral, oil, and gas broker at the
35 time the compensation was earned.

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

37 SEC. 119. Section 10561 of the Business and Professions Code
38 is amended to read:

39 10561. (a) The commissioner may, upon his own motion, and
40 shall, upon the verified complaint in writing of any person,

1 investigate the actions of any person engaged in the business or
2 acting in the capacity of a mineral, oil and gas licensee, within this
3 state, and he may temporarily suspend or permanently revoke a
4 mineral, oil and gas license at any time if the licensee, while a
5 mineral, oil and gas licensee, in performing or attempting to
6 perform any of the acts within the scope of this chapter, has been
7 guilty of any of the following:

- 8 (1) Making any substantial misrepresentation.
- 9 (2) Making any false promises of a character likely to influence,
10 persuade or induce.
- 11 (3) Acting for more than one party in a transaction without the
12 knowledge or consent of all parties thereto.
- 13 (4) Commingling with his own money or property the money
14 or property of others which is received and held by him.
- 15 (5) Claiming or demanding a fee, compensation or commission
16 under any exclusive agreement authorizing or employing a licensee
17 to sell, buy or exchange mineral, oil or gas property for
18 compensation, or commission where such agreement does not
19 contain a definite, specified date of final and complete termination.
- 20 (6) The claiming or taking by a licensee of any secret or
21 undisclosed amount of compensation, commission or profit or the
22 failure of a licensee to reveal to the employer of such licensee the
23 full amount of such licensee's compensation, commission, or profit
24 under any agreement authorizing or employing such licensee to
25 do any acts for which a license is required under this chapter for
26 compensation or commission prior to or coincident with the signing
27 of an agreement evidencing the meeting of the minds of the
28 contracting parties, regardless of the form of such agreement,
29 whether evidenced by documents in an escrow or by any other or
30 different procedure.
- 31 (7) The use by a licensee of any provision allowing the licensee
32 an option to purchase in an agreement authorizing or employing
33 such licensee to sell, buy or exchange mineral, oil or gas property
34 for compensation or commission, except when such licensee prior
35 to or coincident with election to exercise such option to purchase
36 reveals in writing to the employer the full amount of licensee's
37 profit and obtains the written consent of the employer approving
38 the amount of such profit.

1 ~~(8) Any other conduct, whether of the same or a different~~
2 ~~character than specified in this section, which constitutes fraud or~~
3 ~~dishonest dealing.~~

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

5 ~~SEC. 120. Section 10561 is added to the Business and~~
6 ~~Professions Code, to read:~~

7 ~~10561. (a) The commissioner may, upon his own motion, and~~
8 ~~shall, upon the verified complaint in writing of any person,~~
9 ~~investigate the actions of any person engaged in the business or~~
10 ~~acting in the capacity of a mineral, oil, and gas licensee within this~~
11 ~~state, and he may temporarily suspend or permanently revoke a~~
12 ~~mineral, oil, and gas license at any time if the licensee, while a~~
13 ~~mineral, oil, and gas licensee, in performing or attempting to~~
14 ~~perform any of the acts within the scope of this chapter has been~~
15 ~~guilty of any of the following:~~

16 ~~(1) Making any substantial misrepresentation.~~

17 ~~(2) Making any false promises of a character likely to influence,~~
18 ~~persuade, or induce.~~

19 ~~(3) Acting for more than one party in a transaction without the~~
20 ~~knowledge or consent of all parties thereto.~~

21 ~~(4) Commingling with his or her own money or property or the~~
22 ~~money or property of others that is received and held by him or~~
23 ~~her.~~

24 ~~(5) Claiming or demanding a fee, compensation, or commission~~
25 ~~under any exclusive agreement authorizing or retaining a licensee~~
26 ~~to sell, buy, or exchange mineral, oil, or gas property for~~
27 ~~compensation, or commission where that agreement does not~~
28 ~~contain a definite, specified date of final and complete termination.~~

29 ~~(6) Claiming or taking by a licensee of any secret or undisclosed~~
30 ~~amount of compensation, commission, or profit or the failure of a~~
31 ~~licensee to reveal to the principal retaining the licensee the full~~
32 ~~amount of the licensee's compensation, commission, or profit~~
33 ~~under any agreement retaining the licensee to do any acts for which~~
34 ~~a license is required under this chapter for compensation or~~
35 ~~commission prior to or coincident with the signing of an agreement~~
36 ~~evidencing the meeting of the minds of the contracting parties,~~
37 ~~regardless of the form of such agreement, whether evidenced by~~
38 ~~documents in an escrow or by any other or different procedure.~~

39 ~~(7) The use by a licensee of any provision allowing the licensee~~
40 ~~an option to purchase in an agreement authorizing or retaining the~~

1 licensee to sell, buy, or exchange mineral, oil, or gas property for
2 compensation or commission, except when the licensee prior to
3 or coincident with election to exercise the option to purchase
4 reveals in writing to the responsible broker the full amount of the
5 licensee's profit and obtains the written consent of the responsible
6 broker approving the amount of that profit.

7 ~~(8) Any other conduct, whether of the same or a different~~
8 ~~character than specified in this section, that constitutes fraud or~~
9 ~~dishonest dealing.~~

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

11 ~~SEC. 121.~~

12 *SEC. 32.* Section 11212 of the Business and Professions Code
13 is amended to read:

14 11212. As used in this chapter, the following definitions apply:

15 (a) "Accommodation" means any apartment, condominium or
16 cooperative unit, cabin, lodge, hotel or motel room, or other private
17 or commercial structure containing toilet facilities therein that is
18 designed and available, pursuant to applicable law, for use and
19 occupancy as a residence by one or more individuals, or any unit
20 or berth on a commercial passenger ship, which is included in the
21 offering of a time-share plan.

22 (b) "Advertisement" means any written, oral, or electronic
23 communication that is directed to or targeted to persons within the
24 state or such a communication made from this state or relating to
25 a time-share plan located in this state and contains a promotion,
26 inducement, or offer to sell a time-share plan, including, but not
27 limited to, brochures, pamphlets, radio and television scripts,
28 electronic media, telephone and direct mail solicitations, and other
29 means of promotion.

30 (c) "Association" means the organized body consisting of the
31 purchasers of time-share interests in a time-share plan.

32 (d) "Assessment" means the share of funds required for the
33 payment of common expenses ~~which~~ *that* is assessed from time
34 to time against each purchaser by the managing entity.

35 (e) "*Bureau*" means *the Bureau of Real Estate*.

36 ~~(e)~~

37 (f) "Commissioner" means the Real Estate Commissioner.

38 ~~(f)~~

39 (g) "Component site" means a specific geographic location
40 where accommodations that are part of a multisite time-share plan

1 are located. Separate phases of a time-share property in a specific
2 geographic location and under common management shall not be
3 deemed a component site.

4 ~~(g)~~

5 (h) “Conspicuous type” means either of the following:

6 (1) Type in upper and lower case letters two point sizes larger
7 than the nearest nonconspicuous type, exclusive of headings, on
8 the page on which it appears but in at least 10-point type.

9 (2) Conspicuous type may be utilized in contracts for purchase
10 or public permits only where required by law or as authorized by
11 the commissioner.

12 ~~(h) “Department” means the Department of Real Estate.~~

13 (i) “Developer” means and includes any person who creates a
14 time-share plan or is in the business of selling time-share interests,
15 other than those employees or agents of the developer who sell
16 time-share interests on the developer’s behalf, or employs agents
17 to do the same, or any person who succeeds to the interest of a
18 developer by sale, lease, assignment, mortgage, or other transfer,
19 but the term includes only those persons who offer time-share
20 interests for disposition in the ordinary course of business.

21 (j) “Dispose” or “disposition” means a voluntary transfer or
22 assignment of any legal or equitable interest in a time-share plan,
23 other than the transfer, assignment, or release of a security interest.

24 (k) “Exchange company” means any person owning or
25 operating, or both owning and operating, an exchange program.

26 (l) “Exchange program” means any method, arrangement, or
27 procedure for the voluntary exchange of time-share interests or
28 other property interests. The term does not include the assignment
29 of the right to use and occupy accommodations to owners of
30 time-share interests within a single site time-share plan. Any
31 method, arrangement, or procedure that otherwise meets this
32 definition in which the purchaser’s total contractual financial
33 obligation exceeds three thousand dollars (\$3,000) per any
34 individual, recurring time-share period, shall be regulated as a
35 time-share plan in accordance with this chapter. For purposes of
36 determining the purchaser’s total contractual financial obligation,
37 amounts to be paid as a result of renewals and options to renew
38 shall be included in the term except for the following: (1) amounts
39 to be paid as a result of any optional renewal that a purchaser, in
40 his or her sole discretion may elect to exercise, (2) amounts to be

1 paid as a result of any automatic renewal in which the purchaser
2 has a right to terminate during the renewal period at any time and
3 receive a pro rata refund for the remaining unexpired renewal term,
4 or (3) amounts to be paid as a result of an automatic renewal in
5 which the purchaser receives a written notice no less than 30 nor
6 more than 90 days prior to the date of renewal informing the
7 purchaser of the right to terminate prior to the date of renewal.
8 Notwithstanding these exceptions, if the contractual financial
9 obligation exceeds three thousand dollars (\$3,000) for any
10 three-year period of any renewal term, amounts to be paid as a
11 result of that renewal shall be included in determining the
12 purchaser's total contractual financial obligation.

13 (m) "Incidental benefit" is an accommodation, product, service,
14 discount, or other benefit, other than an exchange program, that
15 is offered to a prospective purchaser of a time-share interest prior
16 to the end of the rescission period set forth in Section 11238, the
17 continuing availability of which for the use and enjoyment of
18 owners of time-share interests in the time-share plan is limited to
19 a term of not more than three years, subject to renewal or extension.
20 The term shall not include an offer of the use of the
21 accommodation, product, service, discount, or other benefit on a
22 free or discounted one-time basis.

23 (n) "Managing entity" means the person who undertakes the
24 duties, responsibilities, and obligations of the management of a
25 time-share plan.

26 (o) "Offer" means any inducement, solicitation, or other attempt,
27 whether by marketing, advertisement, oral or written presentation,
28 or any other means, to encourage a person to acquire a time-share
29 interest in a time-share plan, other than as security for an
30 obligation.

31 (p) "Person" means a natural person, corporation, limited
32 liability company, partnership, joint venture, association, estate,
33 trust, government, governmental subdivision or agency, or other
34 legal entity, or any combination thereof.

35 (q) "Promotion" means a plan or device, including one involving
36 the possibility of a prospective purchaser receiving a vacation,
37 discount vacation, gift, or prize, used by a developer, or an agent,
38 independent contractor, or employee of any of the same on behalf
39 of the developer, in connection with the offering and sale of
40 time-share interests in a time-share plan.

1 (r) “Public report” means a preliminary public report, conditional
2 public report, final public report, or other such disclosure document
3 authorized for use in connection with the offering of time-share
4 interests pursuant to this chapter.

5 (s) “Purchaser” means any person, other than a developer, who
6 by means of a voluntary transfer for consideration acquires a legal
7 or equitable interest in a time-share plan other than as security for
8 an obligation.

9 (t) “Purchase contract” means a document pursuant to which a
10 developer becomes legally obligated to sell, and a purchaser
11 becomes legally obligated to buy, a time-share interest.

12 (u) “Reservation system” means the method, arrangement, or
13 procedure by which a purchaser, in order to reserve the use or
14 occupancy of any accommodation of a multisite time-share plan
15 for one or more time-share periods, is required to compete with
16 other purchasers in the same multisite time-share plan, regardless
17 of whether the reservation system is operated and maintained by
18 the multisite time-share plan managing entity, an exchange
19 company, or any other person. If a purchaser is required to use an
20 exchange program as the purchaser’s principal means of obtaining
21 the right to use and occupy accommodations in a multisite
22 time-share plan, that arrangement shall be deemed a reservation
23 system. When an exchange company utilizes a mechanism for the
24 exchange of use of time-share periods among members of an
25 exchange program, that utilization is not a reservation system of
26 a multisite time-share plan.

27 (v) “Short-term product” means the right to use accommodations
28 on a one-time or recurring basis for a period or periods not to
29 exceed 30 days per stay and for a term of three years or less, and
30 that includes an agreement that all or a portion of the consideration
31 paid by a person for the short-term product will be applied to or
32 credited against the price of a future purchase of a time-share
33 interest or that the cost of a future purchase of a time-share interest
34 will be fixed or locked-in at a specified price.

35 (w) “Time-share instrument” means one or more documents,
36 by whatever name denominated, creating or governing the
37 operation of a time-share plan and includes the declaration
38 dedicating accommodations to the time-share plan.

39 (x) “Time-share interest” means and includes either of the
40 following:

1 (1) A “time-share estate,” which is the right to occupy a
2 time-share property, coupled with a freehold estate or an estate for
3 years with a future interest in a time-share property or a specified
4 portion thereof.

5 (2) A “time-share use,” which is the right to occupy a time-share
6 property, which right is neither coupled with a freehold interest,
7 nor coupled with an estate for years with a future interest, in a
8 time-share property.

9 (y) “Time-share period” means the period or periods of time
10 when the purchaser of a time-share plan is afforded the opportunity
11 to use the accommodations of a time-share plan.

12 (z) “Time-share plan” means any arrangement, plan, scheme,
13 or similar device, other than an exchange program, whether by
14 membership agreement, sale, lease, deed, license, right to use
15 agreement, or by any other means, whereby a purchaser, in
16 exchange for consideration, receives ownership rights in or the
17 right to use accommodations for a period of time less than a full
18 year during any given year, on a recurring basis for more than one
19 year, but not necessarily for consecutive years. A time-share plan
20 may be either of the following:

21 (1) A “single site time-share plan,” which is the right to use
22 accommodations at a single time-share property.

23 (2) A “multisite time-share plan,” which includes either of the
24 following:

25 (A) A “specific time-share interest,” which is the right to use
26 accommodations at a specific time-share property, together with
27 use rights in accommodations at one or more other component
28 sites created by or acquired through the time-share plan’s
29 reservation system.

30 (B) A “nonspecific time-share interest,” which is the right to
31 use accommodations at more than one component site created by
32 or acquired through the time-share plan’s reservation system, but
33 including no specific right to use any particular accommodations.

34 (aa) “Time-share property” means one or more accommodations
35 subject to the same time-share instrument, together with any other
36 property or rights to property appurtenant to those
37 accommodations.

38 ~~This section shall repeal on July 1, 2018.~~

39 ~~SEC. 122. Section 11212 is added to the Business and~~
40 ~~Professions Code, to read:~~

- 1 11212. As used in this chapter, the following definitions apply:
- 2 (a) “Accommodation” means any apartment, condominium, or
- 3 cooperative unit, cabin, lodge, hotel or motel room, or other private
- 4 or commercial structure containing toilet facilities therein that is
- 5 designed and available, pursuant to applicable law, for use and
- 6 occupancy as a residence by one or more individuals, or any unit
- 7 or berth on a commercial passenger ship that is included in the
- 8 offering of a time-share plan.
- 9 (b) “Advertisement” means any written, oral, or electronic
- 10 communication that is directed to or targeted to persons within the
- 11 state or such a communication made from this state or relating to
- 12 a time-share plan located in this state and contains a promotion,
- 13 inducement, or offer to sell a time-share plan, including, but not
- 14 limited to, brochures, pamphlets, radio and television scripts,
- 15 electronic media, telephone and direct mail solicitations, and other
- 16 means of promotion.
- 17 (c) “Association” means the organized body consisting of the
- 18 purchasers of time-share interests in a time-share plan.
- 19 (d) “Assessment” means the share of funds required for the
- 20 payment of common expenses that is assessed from time to time
- 21 against each purchaser by the managing entity.
- 22 (e) “Bureau” means the Bureau of Real Estate.
- 23 (f) “Commissioner” means the Real Estate Commissioner.
- 24 (g) “Component site” means a specific geographic location
- 25 where accommodations that are part of a multisite time-share plan
- 26 are located. Separate phases of a time-share property in a specific
- 27 geographic location and under common management shall not be
- 28 deemed a component site.
- 29 (h) “Conspicuous type” means either of the following:
- 30 (1) Type in uppercase and lowercase letters two point sizes
- 31 larger than the nearest nonconspicuous type, exclusive of headings,
- 32 on the page on which it appears but in at least 10-point type.
- 33 (2) Conspicuous type may be utilized in contracts for purchase
- 34 or public permits only where required by law or as authorized by
- 35 the commissioner.
- 36 (i) “Developer” means and includes any person who creates a
- 37 time-share plan or is in the business of selling time-share interests,
- 38 other than those employees or agents of the developer who sell
- 39 time-share interests on the developer’s behalf, or retains agents to
- 40 do the same, or any person who succeeds to the interest of a

1 developer by sale, lease, assignment, mortgage, or other transfer,
2 but the term includes only those persons who offer time-share
3 interests for disposition in the ordinary course of business.

4 (j) “Dispose” or “disposition” means a voluntary transfer or
5 assignment of any legal or equitable interest in a time-share plan,
6 other than the transfer, assignment, or release of a security interest.

7 (k) “Exchange company” means any person owning or
8 operating, or both owning and operating, an exchange program.

9 (l) “Exchange program” means any method, arrangement, or
10 procedure for the voluntary exchange of time-share interests or
11 other property interests. The term does not include the assignment
12 of the right to use and occupy accommodations to owners of
13 time-share interests within a single-site time-share plan. Any
14 method, arrangement, or procedure that otherwise meets this
15 definition in which the purchaser’s total contractual financial
16 obligation exceeds three thousand dollars (\$3,000) per any
17 individual, recurring time-share period, shall be regulated as a
18 time-share plan in accordance with this chapter. For purposes of
19 determining the purchaser’s total contractual financial obligation,
20 amounts to be paid as a result of renewals and options to renew
21 shall be included in the term except for the following: (1) amounts
22 to be paid as a result of any optional renewal that a purchaser, in
23 his or her sole discretion may elect to exercise, (2) amounts to be
24 paid as a result of any automatic renewal in which the purchaser
25 has a right to terminate during the renewal period at any time and
26 receive a pro rata refund for the remaining unexpired renewal term,
27 or (3) amounts to be paid as a result of an automatic renewal in
28 which the purchaser receives a written notice no less than 30 nor
29 more than 90 days prior to the date of renewal informing the
30 purchaser of the right to terminate prior to the date of renewal.
31 Notwithstanding these exceptions, if the contractual financial
32 obligation exceeds three thousand dollars (\$3,000) for any
33 three-year period of any renewal term, amounts to be paid as a
34 result of that renewal shall be included in determining the
35 purchaser’s total contractual financial obligation.

36 (m) “Incidental benefit” is an accommodation, product, service,
37 discount, or other benefit, other than an exchange program, that
38 is offered to a prospective purchaser of a time-share interest prior
39 to the end of the rescission period set forth in Section 11238, the
40 continuing availability of which for the use and enjoyment of

1 owners of time-share interests in the time-share plan is limited to
2 a term of not more than three years, subject to renewal or extension.
3 The term shall not include an offer of the use of the
4 accommodation, product, service, discount, or other benefit on a
5 free or discounted one-time basis.

6 (n) “Managing entity” means the person who undertakes the
7 duties, responsibilities, and obligations of the management of a
8 time-share plan.

9 (o) “Offer” means any inducement, solicitation, or other attempt,
10 whether by marketing, advertisement, oral or written presentation,
11 or any other means, to encourage a person to acquire a time-share
12 interest in a time-share plan, other than as security for an
13 obligation.

14 (p) “Person” means a natural person, corporation, limited
15 liability company, partnership, joint venture, association, estate,
16 trust, government, governmental subdivision or agency, or other
17 legal entity, or any combination thereof.

18 (q) “Promotion” means a plan or device, including one involving
19 the possibility of a prospective purchaser receiving a vacation,
20 discount vacation, gift, or prize, used by a developer, or an agent,
21 independent contractor, or employee of any of the same on behalf
22 of the developer, in connection with the offering and sale of
23 time-share interests in a time-share plan.

24 (r) “Public report” means a preliminary public report, conditional
25 public report, final public report, or other such disclosure document
26 authorized for use in connection with the offering of time-share
27 interests pursuant to this chapter.

28 (s) “Purchaser” means any person, other than a developer, who
29 by means of a voluntary transfer for consideration acquires a legal
30 or equitable interest in a time-share plan other than as security for
31 an obligation.

32 (t) “Purchase contract” means a document pursuant to which a
33 developer becomes legally obligated to sell, and a purchaser
34 becomes legally obligated to buy, a time-share interest.

35 (u) “Reservation system” means the method, arrangement, or
36 procedure by which a purchaser, in order to reserve the use or
37 occupancy of any accommodation of a multisite time-share plan
38 for one or more time-share periods, is required to compete with
39 other purchasers in the same multisite time-share plan regardless
40 of whether the reservation system is operated and maintained by

1 ~~the multisite time-share plan managing entity, an exchange~~
2 ~~company, or any other person. If a purchaser is required to use an~~
3 ~~exchange program as the purchaser's principal means of obtaining~~
4 ~~the right to use and occupy accommodations in a multisite~~
5 ~~time-share plan, that arrangement shall be deemed a reservation~~
6 ~~system. When an exchange company utilizes a mechanism for the~~
7 ~~exchange of use of time-share periods among members of an~~
8 ~~exchange program, that utilization is not a reservation system of~~
9 ~~a multisite time-share plan.~~

10 ~~(v) "Short-term product" means the right to use accommodations~~
11 ~~on a one-time or recurring basis for a period or periods not to~~
12 ~~exceed 30 days per stay and for a term of three years or less, and~~
13 ~~that includes an agreement that all or a portion of the consideration~~
14 ~~paid by a person for the short-term product will be applied to or~~
15 ~~credited against the price of a future purchase of a time-share~~
16 ~~interest or that the cost of a future purchase of a time-share interest~~
17 ~~will be fixed or locked-in at a specified price.~~

18 ~~(w) "Time-share instrument" means one or more documents,~~
19 ~~by whatever name denominated, creating or governing the~~
20 ~~operation of a time-share plan and includes the declaration~~
21 ~~dedicating accommodations to the time-share plan.~~

22 ~~(x) "Time-share interest" means and includes either of the~~
23 ~~following:~~

24 ~~(1) A "time-share estate," which is the right to occupy a~~
25 ~~time-share property, coupled with a freehold estate or an estate for~~
26 ~~years with a future interest in a time-share property or a specified~~
27 ~~portion thereof.~~

28 ~~(2) A "time-share use," which is the right to occupy a time-share~~
29 ~~property, which right is neither coupled with a freehold interest,~~
30 ~~nor coupled with an estate for years with a future interest, in a~~
31 ~~time-share property.~~

32 ~~(y) "Time-share period" means the period or periods of time~~
33 ~~when the purchaser of a time-share plan is afforded the opportunity~~
34 ~~to use the accommodations of a time-share plan.~~

35 ~~(z) "Time-share plan" means any arrangement, plan, scheme,~~
36 ~~or similar device, other than an exchange program, whether by~~
37 ~~membership agreement, sale, lease, deed, license, right to use~~
38 ~~agreement, or by any other means, whereby a purchaser, in~~
39 ~~exchange for consideration, receives ownership rights in or the~~
40 ~~right to use accommodations for a period of time less than a full~~

1 year during any given year, on a recurring basis for more than one
2 year, but not necessarily for consecutive years. A time-share plan
3 may be either of the following:

4 (1) A “single-site time-share plan” that is the right to use
5 accommodations at a single time-share property.

6 (2) A “multisite time-share plan” that includes either of the
7 following:

8 (A) A “specific time-share interest” that is the right to use
9 accommodations at a specific time-share property, together with
10 use rights in accommodations at one or more other component
11 sites created by or acquired through the time-share plan’s
12 reservation system.

13 (B) A “nonspecific time-share interest” that is the right to use
14 accommodations at more than one component site created by or
15 acquired through the time-share plan’s reservation system, but
16 including no specific right to use any particular accommodations.

17 (aa) “Time-share property” means one or more accommodations
18 subject to the same time-share instrument, together with any other
19 property or rights to property appurtenant to those
20 accommodations.

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

22 SEC. 123. Section 11267 of the Business and Professions Code
23 is amended to read:

24 11267. (a) The time-share instruments shall require the
25 employment of a managing entity for the time-share plan or
26 component site pursuant to a written management agreement that
27 shall include all of the following provisions:

28 (1) Delegation of authority to the managing entity to carry out
29 the duties and obligations of the association or the developer to
30 the time-share interest owners.

31 (2) Authority of the managing entity to employ subagents, if
32 applicable.

33 (3) A term of not more than five years with automatic renewals
34 for successive three-year periods after expiration of the first term
35 unless the association by the vote or written assent of a majority
36 of the voting power residing in members other than the developer
37 determines not to renew the contract and gives appropriate notice
38 of that determination. However, in those time-share plans where
39 the association is controlled by owners other than the developer,
40 the management agreement shall not be subject to the term

1 limitations set forth in this section, and any longer term shall not
2 be grounds for denial of a public report, unless the longer term of
3 the management contract is the result of the developer exercising
4 control.

5 (4) Termination for cause at any time by the governing body of
6 the association. If the single site time-share plan or the component
7 site of a multisite time-share plan is located within the state, then
8 that termination provision shall include a provision for arbitration
9 in accordance with the Commercial Arbitration Rules of the
10 American Arbitration Association if requested by or on behalf of
11 the managing entity.

12 (5) Not less than 90 days' written notice to the association of
13 the intention of the managing entity to resign.

14 (6) Enumeration of the powers and duties of the managing entity
15 in the operation of time-share plan and the maintenance of the
16 accommodations comprising the time-share plan.

17 (7) Compensation to be paid to the managing entity.

18 (8) Records to be maintained by the managing entity.

19 (9) A requirement that the managing entity provide a policy for
20 fidelity insurance or bond for the activities of the managing entity,
21 payable to the association, which shall be in an amount no less
22 than the sum of the largest amount of funds expected to be held
23 or controlled by the managing entity at any time during the year,
24 pursuant to the budget. The commissioner may provide a reduction
25 in the insurance policy or bond amounts required by this paragraph.

26 (10) Errors and omissions insurance coverage for the managing
27 entity, if available.

28 (11) Delineation of the authority of the managing entity and
29 persons authorized by the managing entity to enter into
30 accommodations of the time-share plan for the purpose of cleaning,
31 maid service, maintenance and repair including emergency repairs,
32 and for the purpose of abating a nuisance or dangerous, unlawful,
33 or prohibited activity being conducted in the accommodation.

34 (12) Description of the duties of the managing entity, including,
35 but not limited to, the following:

36 (A) Collection of all assessments as provided in the time-share
37 instruments.

38 (B) Maintenance of all books and records concerning the
39 time-share plan.

1 ~~(C) Scheduling occupancy of accommodations, when purchasers~~
2 ~~are not entitled to use specific time-share periods, so that all~~
3 ~~purchasers will be provided the opportunity for use and possession~~
4 ~~of the accommodations of the time-share plan, that they have~~
5 ~~purchased.~~

6 ~~(D) Providing for the annual meeting of the association of~~
7 ~~owners.~~

8 ~~(E) Performing any other functions and duties related to the~~
9 ~~maintenance of the accommodations or that are required by the~~
10 ~~time-share instrument.~~

11 ~~(b) Any written management agreement in existence as of the~~
12 ~~effective date of this chapter shall not be subject to the term~~
13 ~~limitations set forth above.~~

14 ~~(e) For single site time-share plans and component sites of a~~
15 ~~multisite time-share plan located outside of the state, the time-share~~
16 ~~instruments shall include the subject matter set forth in subdivision~~
17 ~~(a). The time-share instruments shall be in compliance with the~~
18 ~~applicable laws of the state or jurisdiction in which the time-share~~
19 ~~property or component site is located, and if a conflict exists~~
20 ~~between laws of the situs state and the requirements set forth in~~
21 ~~this section, the law of the situs state shall control. If the time-share~~
22 ~~instruments provide for the matters contained in subdivision (a),~~
23 ~~the time-share instruments shall be deemed to be in compliance~~
24 ~~with the requirements of subdivision (a) and the developer shall~~
25 ~~not be required to make revisions in order to comply with~~
26 ~~subdivision (a) and this subdivision.~~

27 ~~(d) This section shall repeal on July 1, 2018.~~

28 ~~SEC. 124. Section 11267 is added to the Business and~~
29 ~~Professions Code, to read:~~

30 ~~11267. (a) The time-share instruments shall require the use of~~
31 ~~a managing entity for the time-share plan or component site~~
32 ~~pursuant to a written management agreement that shall include all~~
33 ~~of the following provisions:~~

34 ~~(1) Delegation of authority to the managing entity to carry out~~
35 ~~the duties and obligations of the association or the developer to~~
36 ~~the time-share interest owners.~~

37 ~~(2) Authority of the managing entity to use subagents, if~~
38 ~~applicable.~~

39 ~~(3) A term of not more than five years with automatic renewals~~
40 ~~for successive three-year periods after expiration of the first term~~

1 unless the association by the vote or written assent of a majority
2 of the voting power residing in members other than the developer
3 determines not to renew the contract and gives appropriate notice
4 of that determination. However, in those time-share plans where
5 the association is controlled by owners other than the developer,
6 the management agreement shall not be subject to the term
7 limitations set forth in this section, and any longer term shall not
8 be grounds for denial of a public report, unless the longer term of
9 the management contract is the result of the developer exercising
10 control.

11 (4) Termination for cause at any time by the governing body of
12 the association. If the single-site time-share plan or the component
13 site of a multisite time-share plan is located within the state, then
14 that termination provision shall include a provision for arbitration
15 in accordance with the Commercial Arbitration Rules of the
16 American Arbitration Association if requested by or on behalf of
17 the managing entity.

18 (5) Not less than 90 days' written notice to the association of
19 the intention of the managing entity to resign.

20 (6) Enumeration of the powers and duties of the managing entity
21 in the operation of the time-share plan and the maintenance of the
22 accommodations comprising the time-share plan.

23 (7) Compensation to be paid to the managing entity.

24 (8) Records to be maintained by the managing entity.

25 (9) A requirement that the managing entity provide a policy for
26 fidelity insurance or bond for the activities of the managing entity,
27 payable to the association, that shall be in an amount no less than
28 the sum of the largest amount of funds expected to be held or
29 controlled by the managing entity at any time during the year,
30 pursuant to the budget. The commissioner may provide a reduction
31 in the insurance policy or bond amounts required by this paragraph.

32 (10) Errors and omissions of insurance coverage for the
33 managing entity, if available.

34 (11) Delineation of the authority of the managing entity and
35 persons authorized by the managing entity to enter into
36 accommodations of the time-share plan for the purpose of cleaning,
37 maid service, maintenance, and repair, including emergency repairs,
38 and for the purpose of abating a nuisance or dangerous, unlawful,
39 or prohibited activity being conducted in the accommodation.

1 ~~(12) Description of the duties of the managing entity, including,~~
2 ~~but not limited to, the following:~~
3 ~~(A) Collection of all assessments as provided in the time-share~~
4 ~~instruments.~~
5 ~~(B) Maintenance of all books and records concerning the~~
6 ~~time-share plan.~~
7 ~~(C) Scheduling occupancy of accommodations, when purchasers~~
8 ~~are not entitled to use specific time-share periods, so that all~~
9 ~~purchasers will be provided the opportunity for use and possession~~
10 ~~of the accommodations of the time-share plan, that they have~~
11 ~~purchased.~~
12 ~~(D) Providing for the annual meeting of the association of~~
13 ~~owners.~~
14 ~~(E) Performing any other functions and duties related to the~~
15 ~~maintenance of the accommodations or that are required by the~~
16 ~~time-share instrument.~~
17 ~~(b) Any written management agreement in existence as of the~~
18 ~~effective date of this chapter shall not be subject to the term~~
19 ~~limitations set forth above.~~
20 ~~(c) For single-site time-share plans and component sites of a~~
21 ~~multisite time-share plan located outside of the state, the time-share~~
22 ~~instruments shall include the subject matter set forth in subdivision~~
23 ~~(a). The time-share instruments shall be in compliance with the~~
24 ~~applicable laws of the state or jurisdiction in which the time-share~~
25 ~~property or component site is located, and if a conflict exists~~
26 ~~between laws of the situs state and the requirements set forth in~~
27 ~~this section, the law of the situs state shall control. If the time-share~~
28 ~~instruments provide for the matters contained in subdivision (a),~~
29 ~~the time-share instruments shall be deemed to be in compliance~~
30 ~~with the requirements of subdivision (a), and the developer shall~~
31 ~~not be required to make revisions in order to comply with~~
32 ~~subdivision (a) and this subdivision.~~
33 ~~(d) This section shall become operative on July 1, 2018.~~
34 ~~SEC. 125. Article 6 (commencing with Section 1086) is added~~
35 ~~to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code,~~
36 ~~to read:~~

1 Article 6. Real Estate License Listings for the Transfer of
2 Certain Property
3

4 1086. ~~(a) For the purposes of this article, the definitions in~~
5 ~~Chapter 1 (commencing with Section 10000) of Part 1 of Division~~
6 ~~4 of the Business and Professions Code shall apply.~~

7 1087. ~~(a) A multiple listing service (MLS) is a facility of~~
8 ~~cooperation of real estate brokers and appraisers, operating through~~
9 ~~an intermediary that does not itself act as a real estate licensee or~~
10 ~~appraiser, through which real estate brokers establish express or~~
11 ~~implied contracts for compensation between real estate brokers~~
12 ~~that are MLS participants in accordance with its MLS rules with~~
13 ~~respect to listed properties, or that may be used by real estate~~
14 ~~licensees and appraisers, pursuant to the rules of the service, to~~
15 ~~prepare market evaluations and appraisals of real property.~~

16 1088. ~~A listing may not be placed in a multiple listing service~~
17 ~~unless authorized or directed by the owner in the listing.~~

18 ~~If a real estate licensee or appraiser places a listing or other~~
19 ~~information in the multiple listing service, that real estate licensee~~
20 ~~or appraiser shall be responsible for the truth of all representations~~
21 ~~and statements made by the real estate licensee or appraiser of~~
22 ~~which that real estate licensee or appraiser had knowledge or~~
23 ~~reasonably should have had knowledge to anyone injured by their~~
24 ~~falsehood or inaccuracy.~~

25 1089.5. ~~Subject to the limitations, conditions, and requirements~~
26 ~~of Chapter 18 (commencing with Section 10000) of Part 5 of~~
27 ~~Division 7 of the Probate Code, this article applies to real property~~
28 ~~defined in Section 1086 that is covered by a contract described in~~
29 ~~Section 10150 of the Probate Code.~~

30 1090. ~~Nothing in this article shall preclude a listing licensee~~
31 ~~from also being the buyer's licensee.~~

32 1090.2. ~~This article shall become operative on July 1, 2018.~~

33 SEC. 126. ~~Section 1090.2 is added to the Civil Code, to read:~~

34 1090.2. ~~This article shall repeal on July 1, 2018.~~

35 SEC. 127. ~~Section 1102 of the Civil Code is amended to read:~~

36 1102. ~~(a) Except as provided in Section 1102.2, this article~~
37 ~~applies to any transfer by sale, exchange, installment land sale~~
38 ~~contract, as defined in Section 2985, lease with an option to~~
39 ~~purchase, any other option to purchase, or ground lease coupled~~
40 ~~with improvements, of real property or residential stock~~

1 cooperative, improved with or consisting of not less than one nor
2 more than four dwelling units.

3 ~~(b) Except as provided in Section 1102.2, this article shall apply~~
4 ~~to a resale transaction entered into on or after January 1, 2000, for~~
5 ~~a manufactured home, as defined in Section 18007 of the Health~~
6 ~~and Safety Code, or a mobilehome, as defined in Section 18008~~
7 ~~of the Health and Safety Code, which manufactured home or~~
8 ~~mobilehome is classified as personal property and intended for~~
9 ~~use as a residence.~~

10 ~~(c) Any waiver of the requirements of this article is void as~~
11 ~~against public policy.~~

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

13 ~~SEC. 128. Section 1102 is added to the Civil Code, to read:~~

14 ~~1102. (a) Except as provided in Section 1102.2, this article~~
15 ~~applies to any sales of residential property.~~

16 ~~(b) For the purposes of this article, the definitions in Chapter 1~~
17 ~~(commencing with Section 10000) of Part 1 of Division 4 of the~~
18 ~~Business and Professions Code shall apply.~~

19 ~~(c) Any waiver of the requirements of this article is void as~~
20 ~~against public policy.~~

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

22 ~~SEC. 129. Section 1102.1 of the Civil Code is amended to~~
23 ~~read:~~

24 ~~1102.1. (a) In enacting Chapter 817 of the Statutes of 1994,~~
25 ~~it was the intent of the Legislature to clarify and facilitate the use~~
26 ~~of the real estate disclosure statement, as specified in Section~~
27 ~~1102.6. The Legislature intended the statement to be used by~~
28 ~~transferors making disclosures required under this article and by~~
29 ~~agents making disclosures required by Section 2079 on the agent's~~
30 ~~portion of the real estate disclosure statement, in transfers subject~~
31 ~~to this article. In transfers not subject to this article, agents may~~
32 ~~make required disclosures in a separate writing. The Legislature~~
33 ~~did not intend to affect the existing obligations of the parties to a~~
34 ~~real estate contract, or their agents, to disclose any fact materially~~
35 ~~affecting the value and desirability of the property, including, but~~
36 ~~not limited to, the physical conditions of the property and~~
37 ~~previously received reports of physical inspections noted on the~~
38 ~~disclosure form set forth in Section 1102.6 or 1102.6a, and that~~
39 ~~nothing in this article shall be construed to change the duty of a~~
40 ~~real estate broker or salesperson pursuant to Section 2079.~~

1 It is also the intent of the Legislature that the delivery of a real
2 estate transfer disclosure statement may not be waived in an “as
3 is” sale, as held in *Loughrin v. Superior Court* (1993) 15 Cal. App.
4 4th 1188.

5 (b) In enacting Chapter 677 of the Statutes of 1996, it was the
6 intent of the Legislature to clarify and facilitate the use of the
7 manufactured home and mobilehome transfer disclosure statement
8 applicable to the resale of a manufactured home or mobilehome
9 pursuant to subdivision (b) of Section 1102. The Legislature
10 intended the statements to be used by transferors making
11 disclosures required under this article and by agents making
12 disclosures required by Section 2079 on the agent’s portion of the
13 disclosure statement and as required by Section 18046 of the Health
14 and Safety Code on the dealer’s portion of the manufactured home
15 and mobilehome transfer disclosure statement, in transfers subject
16 to this article. In transfers not subject to this article, agents may
17 make required disclosures in a separate writing. The Legislature
18 did not intend to affect the existing obligations of the parties to a
19 real estate contract, or their agents, to disclose any fact materially
20 affecting the value and desirability of the property, including, but
21 not limited to, the physical conditions of the property and
22 previously received reports of physical inspections noted on the
23 disclosure form set forth in Section 1102.6 or 1102.6a or to affect
24 the existing obligations of the parties to a manufactured home or
25 mobilehome purchase contract, and nothing in this article shall be
26 construed to change the duty of a real estate broker or salesperson
27 pursuant to Section 2079 or the duty of a manufactured home or
28 mobilehome dealer or salesperson pursuant to Section 18046 of
29 the Health and Safety Code.

30 It is also the intent of the Legislature that the delivery of a
31 mobilehome transfer disclosure statement may not be waived in
32 an “as is” sale.

33 (c) It is the intent of the Legislature that manufactured home
34 and mobilehome dealers and salespersons and real estate brokers
35 and salespersons use the form provided pursuant to Section
36 1102.6d. It is also the intent of the Legislature for sellers of
37 manufactured homes or mobilehomes who are neither manufactured
38 home dealers or salespersons nor real estate brokers or salespersons
39 to use the Manufactured Home/Mobilehome Transfer Disclosure
40 Statement contained in Section 1102.6d.

1 ~~(d) This section shall repeal on July 1, 2018.~~
2 ~~SEC. 130. Section 1102.1 is added to the Civil Code, to read:~~
3 ~~1102.1. (a) In enacting Chapter 817 of the Statutes of 1994,~~
4 ~~it was the intent of the Legislature to clarify and facilitate the use~~
5 ~~of the real estate disclosure statement, as specified in Section~~
6 ~~1102.6. The Legislature intended the statement to be used by sellers~~
7 ~~making disclosures required under this article and by real estate~~
8 ~~licensees making disclosures required by Section 2079 on the real~~
9 ~~estate licensee’s portion of the real estate disclosure statement, in~~
10 ~~transfers subject to this article. In transfers not subject to this~~
11 ~~article, real estate licensees may make required disclosures in a~~
12 ~~separate writing. The Legislature did not intend to affect the~~
13 ~~existing obligations of the parties to a real estate contract, or their~~
14 ~~retained real estate licensees, to disclose any known fact materially~~
15 ~~affecting the value and desirability of the property, including, but~~
16 ~~not limited to, the physical conditions of the property and~~
17 ~~previously received reports of physical inspections noted on the~~
18 ~~disclosure form set forth in Section 1102.6 or 1102.6a, and that~~
19 ~~nothing in this article shall be construed to change the duty of a~~
20 ~~real estate broker or salesperson pursuant to Section 2079.~~
21 ~~It is also the intent of the Legislature that the delivery of a real~~
22 ~~estate transfer disclosure statement may not be waived in an “as~~
23 ~~is” sale, as held in Loughrin v. Superior Court (1993) 15~~
24 ~~Cal.App.4th 1188.~~
25 ~~(b) In enacting Chapter 677 of the Statutes of 1996, it was the~~
26 ~~intent of the Legislature to clarify and facilitate the use of the~~
27 ~~manufactured home and mobilehome transfer disclosure statement~~
28 ~~applicable to the resale of a manufactured home or mobilehome~~
29 ~~pursuant to subdivision (b) of Section 1102. The Legislature~~
30 ~~intended the statements to be used by sellers making disclosures~~
31 ~~required under this article and by real estate licensees making~~
32 ~~disclosures required by Section 2079 on the real estate licensee’s~~
33 ~~portion of the disclosure statement and as required by Section~~
34 ~~18046 of the Health and Safety Code on the dealer’s portion of~~
35 ~~the manufactured home and mobilehome transfer disclosure~~
36 ~~statement, in transfers subject to this article. In transfers not subject~~
37 ~~to this article, real estate licensees may make required disclosures~~
38 ~~in a separate writing. The Legislature did not intend to affect the~~
39 ~~existing obligations of the parties to a real estate contract, or their~~
40 ~~real estate licensees, to disclose any fact materially affecting the~~

1 value and desirability of the property, including, but not limited
2 to, the physical conditions of the property and previously received
3 reports of physical inspections noted on the disclosure form set
4 forth in Section 1102.6 or 1102.6a or to affect the existing
5 obligations of the parties to a manufactured home or mobilehome
6 purchase contract, and nothing in this article shall be construed to
7 change the duty of a real estate broker or salesperson pursuant to
8 Section 2079 or the duty of a manufactured home or mobilehome
9 dealer or salesperson pursuant to Section 18046 of the Health and
10 Safety Code.

11 It is also the intent of the Legislature that the delivery of a
12 mobilehome transfer disclosure statement may not be waived in
13 an “as is” sale.

14 (e) It is the intent of the Legislature that manufactured home
15 and mobilehome dealers and salespersons and real estate brokers
16 and salespersons use the form provided pursuant to Section
17 1102.6d. It is also the intent of the Legislature for sellers of
18 manufactured homes or mobilehomes who are neither manufactured
19 home dealers or salespersons nor real estate brokers or salespersons
20 to use the Manufactured Home/Mobilehome Transfer Disclosure
21 Statement contained in Section 1102.6d.

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

23 SEC. 131. Section 1102.2 of the Civil Code is amended to
24 read:

25 1102.2. This article does not apply to the following:

26 (a) Transfers which are required to be preceded by the furnishing
27 to a prospective transferee of a copy of a public report pursuant to
28 Section 11018.1 of the Business and Professions Code and transfers
29 which can be made without a public report pursuant to Section
30 11010.4 of the Business and Professions Code.

31 (b) Transfers pursuant to court order, including, but not limited
32 to, transfers ordered by a probate court in the administration of an
33 estate, transfers pursuant to a writ of execution, transfers by any
34 foreclosure sale, transfers by a trustee in bankruptcy, transfers by
35 eminent domain, and transfers resulting from a decree for specific
36 performance.

37 (c) Transfers to a mortgagee by a mortgagor or successor in
38 interest who is in default, transfers to a beneficiary of a deed of
39 trust by a trustor or successor in interest who is in default, transfers
40 by any foreclosure sale after default, transfers by any foreclosure

1 ~~sale after default in an obligation secured by a mortgage, transfers~~
2 ~~by a sale under a power of sale or any foreclosure sale under a~~
3 ~~decree of foreclosure after default in an obligation secured by a~~
4 ~~deed of trust or secured by any other instrument containing a power~~
5 ~~of sale, transfers by a mortgagee or a beneficiary under a deed of~~
6 ~~trust who has acquired the real property at a sale conducted~~
7 ~~pursuant to a power of sale under a mortgage or deed of trust or a~~
8 ~~sale pursuant to a decree of foreclosure or has acquired the real~~
9 ~~property by a deed in lieu of foreclosure, transfers to the legal~~
10 ~~owner or lienholder of a manufactured home or mobilehome by a~~
11 ~~registered owner or successor in interest who is in default, or~~
12 ~~transfers by reason of any foreclosure of a security interest in a~~
13 ~~manufactured home or mobilehome.~~

14 ~~(d) Transfers by a fiduciary in the course of the administration~~
15 ~~of a decedent's estate, guardianship, conservatorship, or trust. This~~
16 ~~exemption shall not apply to a transfer if the trustee is a natural~~
17 ~~person who is sole trustee of a revocable trust and he or she is a~~
18 ~~former owner of the property or an occupant in possession of the~~
19 ~~property within the preceding year.~~

20 ~~(e) Transfers from one coowner to one or more other coowners.~~

21 ~~(f) Transfers made to a spouse, or to a person or persons in the~~
22 ~~lineal line of consanguinity of one or more of the transferors.~~

23 ~~(g) Transfers between spouses resulting from a judgment of~~
24 ~~dissolution of marriage or of legal separation or from a property~~
25 ~~settlement agreement incidental to that judgment.~~

26 ~~(h) Transfers by the Controller in the course of administering~~
27 ~~Chapter 7 (commencing with Section 1500) of Title 10 of Part 3~~
28 ~~of the Code of Civil Procedure.~~

29 ~~(i) Transfers under Chapter 7 (commencing with Section 3691)~~
30 ~~or Chapter 8 (commencing with Section 3771) of Part 6 of Division~~
31 ~~1 of the Revenue and Taxation Code.~~

32 ~~(j) Transfers or exchanges to or from any governmental entity.~~
33 ~~This section shall repeal on July 1, 2018.~~

34 ~~SEC. 132. Section 1102.2 is added to the Civil Code, to read:~~
35 ~~1102.2. This article does not apply to the following:~~

36 ~~(a) Sales which are required to be preceded by the furnishing~~
37 ~~to a prospective buyer of a copy of a public report pursuant to~~
38 ~~Section 11018.1 of the Business and Professions Code and transfers~~
39 ~~that can be made without a public report pursuant to Section~~
40 ~~11010.4 of the Business and Professions Code.~~

1 ~~(b) Sales pursuant to court order, including, but not limited to,~~
2 ~~sales ordered by a probate court in the administration of an estate,~~
3 ~~sales pursuant to a writ of execution, transfers by any foreclosure~~
4 ~~sale, sales by a trustee in bankruptcy, sales by eminent domain,~~
5 ~~and sales resulting from a decree for specific performance.~~

6 ~~(c) Sales to a mortgagee by a mortgagor or successor in interest~~
7 ~~who is in default, sales to a beneficiary of a deed of trust by a~~
8 ~~trustor or successor in interest who is in default, sales by any~~
9 ~~foreclosure sale after default, sales by any foreclosure sale after~~
10 ~~default in an obligation secured by a mortgage, a sale under a~~
11 ~~power of sale or any foreclosure sale under a decree of foreclosure~~
12 ~~after default in an obligation secured by a deed of trust or secured~~
13 ~~by any other instrument containing a power of sale, sales by a~~
14 ~~mortgagee or a beneficiary under a deed of trust who has acquired~~
15 ~~the real property at a sale conducted pursuant to a power of sale~~
16 ~~under a mortgage or deed of trust or a sale pursuant to a decree of~~
17 ~~foreclosure or has acquired the real property by a deed in lieu of~~
18 ~~foreclosure, sales to the legal owner or lienholder of a manufactured~~
19 ~~home or mobilehome by a registered owner or successor in interest~~
20 ~~who is in default, or sales by reason of any foreclosure of a security~~
21 ~~interest in a manufactured home or mobilehome.~~

22 ~~(d) Sales by a fiduciary in the course of the administration of a~~
23 ~~trust, guardianship, conservatorship, or decedent's estate. This~~
24 ~~exemption shall not apply to a transfer if the trustee is a natural~~
25 ~~person who is sole trustee of a revocable trust and he or she is a~~
26 ~~former owner of the property or an occupant in possession of the~~
27 ~~property within the preceding year.~~

28 ~~(e) Sales from one coowner to one or more other coowners.~~

29 ~~(f) Sales made to a spouse, or to a person or persons in the lineal~~
30 ~~line of consanguinity of one or more of the sellers.~~

31 ~~(g) Sales between spouses resulting from a judgment of~~
32 ~~dissolution of marriage or of legal separation or from a property~~
33 ~~settlement agreement incidental to that judgment.~~

34 ~~(h) Sales by the Controller in the course of administering~~
35 ~~Chapter 7 (commencing with Section 1500) of Title 10 of Part 3~~
36 ~~of the Code of Civil Procedure.~~

37 ~~(i) Sales under Chapter 7 (commencing with Section 3691) or~~
38 ~~Chapter 8 (commencing with Section 3771) of Part 6 of Division~~
39 ~~1 of the Revenue and Taxation Code.~~

40 ~~(j) Transfers or exchanges to or from any governmental entity.~~

1 ~~(k) With regard to transfers of multiuse properties, the transfer~~
2 ~~of any portion of the property not constituting residential property~~
3 ~~with one-to-four dwelling units.~~

4 ~~This section shall become operative on July 1, 2018.~~

5 ~~SEC. 133. Section 1102.3 of the Civil Code is amended to~~
6 ~~read:~~

7 ~~1102.3. The transferor of any real property subject to this article~~
8 ~~shall deliver to the prospective transferee the written statement~~
9 ~~required by this article, as follows:~~

10 ~~(a) In the case of a sale, as soon as practicable before transfer~~
11 ~~of title.~~

12 ~~(b) In the case of transfer by a real property sales contract, as~~
13 ~~defined in Section 2985, or by a lease together with an option to~~
14 ~~purchase, or a ground lease coupled with improvements, as soon~~
15 ~~as practicable before execution of the contract. For the purpose of~~
16 ~~this subdivision, "execution" means the making or acceptance of~~
17 ~~an offer.~~

18 ~~With respect to any transfer subject to subdivision (a) or (b), the~~
19 ~~transferor shall indicate compliance with this article either on the~~
20 ~~receipt for deposit, the real property sales contract, the lease, or~~
21 ~~any addendum attached thereto or on a separate document.~~

22 ~~If any disclosure, or any material amendment of any disclosure,~~
23 ~~required to be made by this article, is delivered after the execution~~
24 ~~of an offer to purchase, the transferee shall have three days after~~
25 ~~delivery in person or five days after delivery by deposit in the mail,~~
26 ~~to terminate his or her offer by delivery of a written notice of~~
27 ~~termination to the transferor or the transferor's agent.~~

28 ~~This section shall repeal on July 1, 2018.~~

29 ~~SEC. 134. Section 1102.3 is added to the Civil Code, to read:~~

30 ~~1102.3. The seller of any real property subject to this article~~
31 ~~shall deliver to the prospective buyer the written statement required~~
32 ~~by this article, as follows:~~

33 ~~(a) In the case of a sale, as soon as practicable before transfer~~
34 ~~of title.~~

35 ~~(b) In the case of sale by a real property sales contract, as defined~~
36 ~~in Section 2985, or by a lease together with an option to purchase,~~
37 ~~or a ground lease coupled with improvements, as soon as~~
38 ~~practicable before execution of the contract. For the purpose of~~
39 ~~this subdivision, "execution" means the making or acceptance of~~
40 ~~an offer.~~

1 ~~(e) With respect to any sale subject to subdivision (a) or (b), the~~
2 ~~seller shall indicate compliance with this article on the real property~~
3 ~~sales contract, the lease, or any addendum attached thereto or on~~
4 ~~a separate document.~~

5 ~~If any disclosure, or any material amendment of any disclosure,~~
6 ~~required to be made by this article, is delivered after the execution~~
7 ~~of an offer to purchase, the prospective buyer shall have three days~~
8 ~~after delivery in person or five days after delivery by deposit in~~
9 ~~the mail, to terminate his or her offer by delivery of a written notice~~
10 ~~of termination to the seller or the seller's licensee. The disclosure~~
11 ~~is complete when sections I, II, and III in the form described in~~
12 ~~Section 1102.6 are completed and delivered. A real estate licensee~~
13 ~~may complete his or her portion of the required disclosure by using~~
14 ~~a comparable form that includes all of the information on the~~
15 ~~licensee's inspection disclosure set forth in Section 1102.6.~~

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

17 ~~SEC. 135. Section 1102.4 of the Civil Code is amended to~~
18 ~~read:~~

19 ~~1102.4. (a) Neither the transferor nor any listing or selling~~
20 ~~agent shall be liable for any error, inaccuracy, or omission of any~~
21 ~~information delivered pursuant to this article if the error,~~
22 ~~inaccuracy, or omission was not within the personal knowledge~~
23 ~~of the transferor or that listing or selling agent, was based on~~
24 ~~information timely provided by public agencies or by other persons~~
25 ~~providing information as specified in subdivision (c) that is~~
26 ~~required to be disclosed pursuant to this article, and ordinary care~~
27 ~~was exercised in obtaining and transmitting it.~~

28 ~~(b) The delivery of any information required to be disclosed by~~
29 ~~this article to a prospective transferee by a public agency or other~~
30 ~~person providing information required to be disclosed pursuant to~~
31 ~~this article shall be deemed to comply with the requirements of~~
32 ~~this article and shall relieve the transferor or any listing or selling~~
33 ~~agent of any further duty under this article with respect to that item~~
34 ~~of information.~~

35 ~~(c) The delivery of a report or opinion prepared by a licensed~~
36 ~~engineer, land surveyor, geologist, structural pest control operator,~~
37 ~~contractor, or other expert, dealing with matters within the scope~~
38 ~~of the professional's license or expertise, shall be sufficient~~
39 ~~compliance for application of the exemption provided by~~
40 ~~subdivision (a) if the information is provided to the prospective~~

1 transferee pursuant to a request therefor, whether written or oral.
 2 In responding to such a request, an expert may indicate, in writing,
 3 an understanding that the information provided will be used in
 4 fulfilling the requirements of Section 1102.6 and, if so, shall
 5 indicate the required disclosures, or parts thereof, to which the
 6 information being furnished is applicable. Where such a statement
 7 is furnished, the expert shall not be responsible for any items of
 8 information, or parts thereof, other than those expressly set forth
 9 in the statement.

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

11 SEC. 136. Section 1102.4 is added to the Civil Code, to read:

12 1102.4. (a) Neither the seller nor any listing or buyer's licensee
 13 shall be liable for any error, inaccuracy, or omission of any
 14 information delivered pursuant to this article if the error,
 15 inaccuracy, or omission was not within the personal knowledge
 16 of the seller or that listing or buyer's licensee, was based on
 17 information timely provided by public agencies or by other persons
 18 providing information as specified in subdivision (e) that is
 19 required to be disclosed pursuant to this article, and ordinary care
 20 was exercised in obtaining and transmitting it.

21 (b) The delivery of any information required to be disclosed by
 22 this article to a prospective buyer by a public agency or other
 23 person providing information required to be disclosed pursuant to
 24 this article shall be deemed to comply with the requirements of
 25 this article and shall relieve the seller or any listing or buyer's
 26 licensee of any further duty under this article with respect to that
 27 item of information.

28 (c) The delivery of a report or opinion prepared by a licensed
 29 engineer, land surveyor, geologist, structural pest control operator,
 30 contractor, or other expert, dealing with matters within the scope
 31 of the professional's license or expertise, shall be sufficient
 32 compliance for application of the exemption provided by
 33 subdivision (a) if the information is provided to the prospective
 34 buyer pursuant to a request therefor, whether written or oral.

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

36 SEC. 137. Section 1102.5 of the Civil Code is amended to
 37 read:

38 1102.5. (a) If information disclosed in accordance with this
 39 article is subsequently rendered inaccurate as a result of any act,
 40 occurrence, or agreement subsequent to the delivery of the required

1 disclosures, the inaccuracy resulting therefrom does not constitute
2 a violation of this article. If at the time the disclosures are required
3 to be made, an item of information required to be disclosed is
4 unknown or not available to the transferor, and the transferor or
5 his or her agent has made a reasonable effort to ascertain it, the
6 transferor may use an approximation of the information, provided
7 the approximation is clearly identified as such, is reasonable, is
8 based on the best information available to the transferor or his or
9 her agent, and is not used for the purpose of circumventing or
10 evading this article.

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

12 SEC. 138. Section 1102.5 is added to the Civil Code, to read:

13 1102.5. (a) If information disclosed in accordance with this
14 article is subsequently rendered inaccurate as a result of any act,
15 occurrence, or agreement subsequent to the delivery of the required
16 disclosures, any inaccuracy resulting therefrom does not constitute
17 a violation of this article. If at the time the disclosures are required
18 to be made, an item of information required to be disclosed is
19 unknown or not available to the seller, and the seller or his or her
20 real estate licensee has made a reasonable effort to ascertain it, the
21 seller may use an approximation of the information, provided the
22 approximation is clearly identified as such, is reasonable, is based
23 on the best information reasonably available to the seller or his or
24 her real estate licensee, and is not used for the purpose of
25 circumventing or evading this article.

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

27 SEC. 139. Section 1102.6a of the Civil Code is amended to
28 read:

29 1102.6a. (a) On and after July 1, 1990, any city or county may
30 elect to require disclosures on the form set forth in subdivision (b)
31 in addition to those disclosures required by Section 1102.6.
32 However, this section does not affect or limit the authority of a
33 city or county to require disclosures on a different disclosure form
34 in connection with transactions subject to this article pursuant to
35 an ordinance adopted prior to July 1, 1990. An ordinance like this
36 adopted prior to July 1, 1990, may be amended thereafter to revise
37 the disclosure requirements of the ordinance, in the discretion of
38 the city council or county board of supervisors.

- 1 ~~(b) Disclosures required pursuant to this section pertaining to~~
- 2 ~~the property proposed to be transferred, shall be set forth in, and~~
- 3 ~~shall be made on a copy of, the following disclosure form:~~

1 -

1 ~~(e) 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 adopted~~
29 ~~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 be~~
32 ~~made on a copy of, the following disclosure form:~~

1 -

1 ~~(e) 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 sales of real~~
20 ~~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 (e) (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 agency.~~

33 ~~(c) (1) The seller of real property subject to this section may~~
34 ~~satisfy the disclosure notice requirements in regard to the bonds~~
35 ~~issued pursuant to the Improvement Bond Act of 1915 (Division~~
36 ~~10 (commencing with Section 8500) of the Streets and Highways~~
37 ~~Code) by delivering a disclosure notice that is substantially~~
38 ~~equivalent and obtained from another source.~~

39 ~~(2) The seller of real property subject to this section may satisfy~~
40 ~~the disclosure notice requirements in regard to the assessments~~

1 ~~collected under the contractual assessment program authorized~~
2 ~~pursuant to Chapter 29 (commencing with Section 5898.10) of~~
3 ~~Part 3 of Division 7 of the Streets and Highway Code by delivering~~
4 ~~a disclosure notice that is substantially equivalent and obtained~~
5 ~~from another source.~~

6 ~~(3) For the purposes of this section, a substantially equivalent~~
7 ~~disclosure notice includes, but is not limited to, a copy of the most~~
8 ~~recent year's property tax bill or an itemization of current~~
9 ~~assessment amounts applicable to the property.~~

10 ~~(d) (1) Notwithstanding subdivision (c), the seller of real~~
11 ~~property subject to this section may satisfy the disclosure notice~~
12 ~~requirements of this section by delivering a disclosure notice~~
13 ~~obtained from a nongovernmental source that satisfies the~~
14 ~~requirements of paragraph (2):~~

15 ~~(2) A notice provided by a private entity other than a designated~~
16 ~~office, department, or bureau of the levying entity may be modified~~
17 ~~as needed to clearly and accurately describe a special tax pursuant~~
18 ~~to the Mello-Roos Community Facilities Act levied against the~~
19 ~~property or to clearly and accurately consolidate information about~~
20 ~~two or more districts that levy or are authorized to levy a special~~
21 ~~tax pursuant to the Mello-Roos Community Facilities Act against~~
22 ~~the property, and shall include the name of the Mello-Roos entity~~
23 ~~levying taxes against the property, the annual tax due for the~~
24 ~~Mello-Roos entity for the current tax year, the maximum tax that~~
25 ~~may be levied against the property in any year, the percentage by~~
26 ~~which the maximum tax for the Mello-Roos entity may increase~~
27 ~~per year, and the date until the tax may be levied against the~~
28 ~~property for the Mello-Roos entity and a contact telephone number,~~
29 ~~if available, for further information about the Mello-Roos entity.~~
30 ~~A notice provided by a private entity other than a designated office,~~
31 ~~department, or bureau of the levying entity may be modified as~~
32 ~~needed to clearly and accurately describe special assessments and~~
33 ~~bonds pursuant to the Improvement Bond Act of 1915 levied~~
34 ~~against the property, or to clearly and accurately consolidate~~
35 ~~information about two or more districts that levy or are authorized~~
36 ~~to levy special assessments and bonds pursuant to the Improvement~~
37 ~~Bond Act of 1915 against the property, and shall include the name~~
38 ~~of the special assessments and bonds issued pursuant to the~~
39 ~~Improvement Bond Act of 1915, the current annual tax on the~~
40 ~~property for the special assessments and bonds issued pursuant to~~

1 the Improvement Bond Act of 1915, and a contact telephone
2 number, if available, for further information about the special
3 assessments and bonds issued pursuant to the Improvement Bond
4 Act of 1915.

5 (3) This section does not change the ability to make disclosures
6 pursuant to Section 1102.4 of the Civil Code.

7 (e) If a disclosure received pursuant to subdivision (b), (c), or
8 (d) has been delivered to the buyer, a seller or his or her real estate
9 licensee is not required to provide additional information
10 concerning, and information in the disclosure shall be deemed to
11 satisfy the responsibility of the seller or his or her real estate
12 licensee to inform the buyer regarding the special tax or assessment
13 installments and the district. Notwithstanding subdivision (b), (c),
14 or (d), nothing in this section imposes a duty to discover a special
15 tax or assessment installments or the existence of any levying
16 district not actually known to the real estate licensees.

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

18 SEC. 143. Section 1102.6c of the Civil Code is amended to
19 read:

20 1102.6c.— (a) In addition to any other disclosure required
21 pursuant to this article, it shall be the sole responsibility of the
22 seller of any real property subject to this article, or his or her agent,
23 to deliver to the prospective purchaser a disclosure notice that
24 includes both of the following:

25 (1) A notice, in at least 12-point type or a contrasting color, as
26 follows:

27 “California property tax law requires the Assessor to revalue
28 real property at the time the ownership of the property changes.
29 Because of this law, you may receive one or two supplemental tax
30 bills, depending on when your loan closes.

31 The supplemental tax bills are not mailed to your lender. If you
32 have arranged for your property tax payments to be paid through
33 an impound account, the supplemental tax bills will not be paid
34 by your lender. It is your responsibility to pay these supplemental
35 bills directly to the Tax Collector.

36 If you have any question concerning this matter, please call your
37 local Tax Collector’s Office.”

38 (2) A title, in at least 14-point type or a contrasting color, that
39 reads as follows: “Notice of Your ‘Supplemental’ Property Tax
40 Bill.”

1 ~~(b) The disclosure notice requirements of this section may be~~
2 ~~satisfied by delivering a disclosure notice pursuant to Section~~
3 ~~1102.6b that satisfies the requirements of subdivision (a).~~

4 ~~(c) This section shall repeal on July 1, 2018.~~

5 SEC. 144. Section 1102.6c is added to the Civil Code, to read:

6 1102.6c. ~~(a) In addition to any other disclosure required~~
7 ~~pursuant to this article, it shall be the sole responsibility of the~~
8 ~~seller of any real property subject to this article, or his or her real~~
9 ~~estate licensee, to deliver to the prospective buyer a disclosure~~
10 ~~notice that includes both of the following:~~

11 ~~(1) A notice, in at least 12-point type or a contrasting color, as~~
12 ~~follows:~~

13 ~~“California property tax law requires the Assessor to revalue~~
14 ~~real property at the time the ownership of the property changes.~~
15 ~~Because of this law, you may receive one or two supplemental tax~~
16 ~~bills, depending on when your loan closes.~~

17 ~~The supplemental tax bills are not mailed to your lender. If you~~
18 ~~have arranged for your property tax payments to be paid through~~
19 ~~an impound account, the supplemental tax bills will not be paid~~
20 ~~by your lender. It is your responsibility to pay these supplemental~~
21 ~~bills directly to the tax collector.~~

22 ~~If you have any question concerning this matter, please call your~~
23 ~~local tax collector’s office.”~~

24 ~~(2) A title, in at least 14-point type or a contrasting color, that~~
25 ~~reads as follows: “Notice of Your ‘Supplemental’ Property Tax~~
26 ~~Bill.”~~

27 ~~(b) The disclosure notice requirements of this section may be~~
28 ~~satisfied by delivering a disclosure notice pursuant to Section~~
29 ~~1102.6b that satisfies the requirements of subdivision (a).~~

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

31 SEC. 145. Section 1102.9 of the Civil Code is amended to
32 read:

33 1102.9. ~~(a) Any disclosure made pursuant to this article may~~
34 ~~be amended in writing by the transferor or his or her agent, but the~~
35 ~~amendment shall be subject to Section 1102.3 or 1102.3a.~~

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

37 SEC. 146. Section 1102.9 is added to the Civil Code, to read:

38 1102.9. ~~(a) Any disclosure made pursuant to this article may~~
39 ~~be amended in writing by the seller or his or her real estate licensee,~~
40 ~~but the amendment shall be subject to Section 1102.3 or 1102.3a.~~

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

2 ~~SEC. 147. Section 1102.12 of the Civil Code is amended to~~
3 ~~read:~~

4 ~~1102.12. (a) If more than one licensed real estate broker is~~
5 ~~acting as an agent in a transaction subject to this article, the broker~~
6 ~~who has obtained the offer made by the transferee shall, except as~~
7 ~~otherwise provided in this article, deliver the disclosure required~~
8 ~~by this article to the transferee, unless the transferor has given~~
9 ~~other written instructions for delivery.~~

10 ~~(b) If a licensed real estate broker responsible for delivering the~~
11 ~~disclosures under this section cannot obtain the disclosure~~
12 ~~document required and does not have written assurance from the~~
13 ~~transferee that the disclosure has been received, the broker shall~~
14 ~~advise the transferee in writing of his or her rights to the disclosure.~~
15 ~~A licensed real estate broker responsible for delivering disclosures~~
16 ~~under this section shall maintain a record of the action taken to~~
17 ~~effect compliance in accordance with Section 10148 of the~~
18 ~~Business and Professions Code.~~

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

20 ~~SEC. 148. Section 1102.12 is added to the Civil Code, to read:~~

21 ~~1102.12. (a) If more than one licensed real estate broker is~~
22 ~~acting as a real estate licensee in a transaction subject to this article,~~
23 ~~the buyer's licensee shall, except as otherwise provided in this~~
24 ~~article, deliver the disclosure required by this article to the buyer~~
25 ~~unless the seller has given other written instructions for delivery.~~
26 ~~If there is only one real estate licensee in a transaction subject to~~
27 ~~this article, that real estate licensee shall deliver the disclosure~~
28 ~~required by this article to the buyer. If there is no real estate~~
29 ~~licensee in a transaction, the seller shall deliver the disclosure~~
30 ~~required by this article to the buyer.~~

31 ~~(b) If a real estate licensee responsible for delivering the~~
32 ~~disclosures under this section cannot obtain the disclosure~~
33 ~~document required and does not have written assurance from the~~
34 ~~buyer that the disclosure has been received, the real estate licensee~~
35 ~~shall advise the buyer in writing of his or her rights to the~~
36 ~~disclosure. A real estate licensee responsible for delivering~~
37 ~~disclosures under this section shall maintain a record of the action~~
38 ~~taken to effect compliance in accordance with Section 10148 of~~
39 ~~the Business and Professions Code.~~

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

1 SEC. 149. ~~Section 1102.14 of the Civil Code is amended to~~
2 ~~read:~~

3 ~~1102.14. (a) As used in this article, “listing agent” means~~
4 ~~listing agent as defined in subdivision (f) of Section 1086.~~

5 ~~(b) As used in this article, “selling agent” means selling agent~~
6 ~~as defined in subdivision (g) of Section 1086, exclusive of the~~
7 ~~requirement that the agent be a participant in a multiple listing~~
8 ~~service as defined in Section 1087.~~

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

10 SEC. 150. ~~Section 1102.155 of the Civil Code is amended to~~
11 ~~read:~~

12 ~~1102.155. (a) (1) The seller of residential real property subject~~
13 ~~to this article shall disclose, in writing, that Section 1101.4 of the~~
14 ~~Civil Code requires that California single-family residences be~~
15 ~~equipped with water-conserving plumbing fixtures on or before~~
16 ~~January 1, 2017, and shall disclose whether the property includes~~
17 ~~any noncompliant plumbing fixtures.~~

18 ~~(2) The seller shall affirm that this representation is that of the~~
19 ~~seller and not a representation of any agent, and that this disclosure~~
20 ~~is not intended to be part of any contract between the buyer and~~
21 ~~the seller. The seller shall further affirm that this disclosure is not~~
22 ~~a warranty of any kind by the seller or any agent representing any~~
23 ~~principal in the transaction and is not a substitute for any~~
24 ~~inspections that or warranties any principal may wish to obtain.~~

25 ~~(b) This section shall become operative on January 1, 2017.~~

26 ~~(c) This section shall repeal on July 1, 2018.~~

27 SEC. 151. ~~Section 1102.155 is added to the Civil Code, to read:~~

28 ~~1102.155. (a) (1) The seller of residential property subject to~~
29 ~~this article shall disclose, in writing, that Section 1101.4 requires~~
30 ~~that California single-family residences be equipped with~~
31 ~~water-conserving plumbing fixtures on or before January 1, 2017,~~
32 ~~and shall disclose whether the property includes any noncompliant~~
33 ~~plumbing fixtures as defined in subdivision (c) of Section 1101.3.~~

34 ~~(2) The seller shall affirm that this representation is that of the~~
35 ~~seller and not a representation of any real estate licensee and that~~
36 ~~this disclosure is not intended to be part of any contract between~~
37 ~~the buyer and the seller. The seller shall further affirm that this~~
38 ~~disclosure is not a warranty of any kind by the seller or any real~~
39 ~~estate licensee representing any principal in the transaction and is~~

1 not a substitute for any inspections or warranties that any principal
2 may wish to obtain.

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

4 SEC. 152. Section 1103 of the Civil Code is amended to read:

5 1103. ~~(a) Except as provided in Section 1103.1, this article~~
6 ~~applies to the transfer by sale, exchange, installment land sale~~
7 ~~contract, as defined in Section 2985, lease with an option to~~
8 ~~purchase, any other option to purchase, or ground lease coupled~~
9 ~~with improvements, of any real property described in subdivision~~
10 ~~(e), or residential stock cooperative, improved with or consisting~~
11 ~~of not less than one nor more than four dwelling units.~~

12 ~~(b) Except as provided in Section 1103.1, this article shall apply~~
13 ~~to a resale transaction entered into on or after January 1, 2000, for~~
14 ~~a manufactured home, as defined in Section 18007 of the Health~~
15 ~~and Safety Code, that is classified as personal property intended~~
16 ~~for use as a residence, or a mobilehome, as defined in Section~~
17 ~~18008 of the Health and Safety Code, that is classified as personal~~
18 ~~property intended for use as a residence, if the real property on~~
19 ~~which the manufactured home or mobilehome is located is real~~
20 ~~property described in subdivision (c).~~

21 ~~(c) This article shall apply to the transactions described in~~
22 ~~subdivisions (a) and (b) only if the transferor or his or her agent~~
23 ~~is required by one or more of the following to disclose the~~
24 ~~property's location within a hazard zone:~~

25 ~~(1) A person who is acting as an agent for a transferor of real~~
26 ~~property that is located within a special flood hazard area (any~~
27 ~~type Zone "A" or "V") designated by the Federal Emergency~~
28 ~~Management Agency, or the transferor if he or she is acting without~~
29 ~~an agent, shall disclose to any prospective transferee the fact that~~
30 ~~the property is located within a special flood hazard area if either:~~

31 ~~(A) The transferor, or the transferor's agent, has actual~~
32 ~~knowledge that the property is within a special flood hazard area.~~

33 ~~(B) The local jurisdiction has compiled a list, by parcel, of~~
34 ~~properties that are within the special flood hazard area and a notice~~
35 ~~has been posted at the offices of the county recorder, county~~
36 ~~assessor, and county planning agency that identifies the location~~
37 ~~of the parcel list.~~

38 ~~(2) A person who is acting as an agent for a transferor of real~~
39 ~~property that is located within an area of potential flooding~~
40 ~~designated pursuant to Section 8589.5 of the Government Code,~~

1 or the transferor if he or she is acting without an agent, shall
2 disclose to any prospective transferee the fact that the property is
3 located within an area of potential flooding if either:

4 (A) The transferor, or the transferor's agent, has actual
5 knowledge that the property is within an inundation area.

6 (B) The local jurisdiction has compiled a list, by parcel, of
7 properties that are within the inundation area and a notice has been
8 posted at the offices of the county recorder, county assessor, and
9 county planning agency that identifies the location of the parcel
10 list.

11 (3) A transferor of real property that is located within a very
12 high fire hazard severity zone, designated pursuant to Section
13 51178 of the Government Code, shall disclose to any prospective
14 transferee the fact that the property is located within a very high
15 fire hazard severity zone and is subject to the requirements of
16 Section 51182 of the Government Code if either:

17 (A) The transferor, or the transferor's agent, has actual
18 knowledge that the property is within a very high fire hazard
19 severity zone.

20 (B) A map that includes the property has been provided to the
21 local agency pursuant to Section 51178 of the Government Code
22 and a notice has been posted at the offices of the county recorder,
23 county assessor, and county planning agency that identifies the
24 location of the map and any information regarding changes to the
25 map received by the local agency.

26 (4) A person who is acting as an agent for a transferor of real
27 property that is located within an earthquake fault zone, designated
28 pursuant to Section 2622 of the Public Resources Code, or the
29 transferor if he or she is acting without an agent, shall disclose to
30 any prospective transferee the fact that the property is located
31 within a delineated earthquake fault zone if either:

32 (A) The transferor, or the transferor's agent, has actual
33 knowledge that the property is within a delineated earthquake fault
34 zone.

35 (B) A map that includes the property has been provided to the
36 city or county pursuant to Section 2622 of the Public Resources
37 Code and a notice has been posted at the offices of the county
38 recorder, county assessor, and county planning agency that
39 identifies the location of the map and any information regarding
40 changes to the map received by the county.

1 ~~(5) A person who is acting as an agent for a transferor of real~~
2 ~~property that is located within a seismic hazard zone, designated~~
3 ~~pursuant to Section 2696 of the Public Resources Code, or the~~
4 ~~transferor if he or she is acting without an agent, shall disclose to~~
5 ~~any prospective transferee the fact that the property is located~~
6 ~~within a seismic hazard zone if either:~~

7 ~~(A) The transferor, or the transferor's agent, has actual~~
8 ~~knowledge that the property is within a seismic hazard zone.~~

9 ~~(B) A map that includes the property has been provided to the~~
10 ~~city or county pursuant to Section 2696 of the Public Resources~~
11 ~~Code and a notice has been posted at the offices of the county~~
12 ~~recorder, county assessor, and county planning agency that~~
13 ~~identifies the location of the map and any information regarding~~
14 ~~changes to the map received by the county.~~

15 ~~(6) A transferor of real property that is located within a state~~
16 ~~responsibility area determined by the board, pursuant to Section~~
17 ~~4125 of the Public Resources Code, shall disclose to any~~
18 ~~prospective transferee the fact that the property is located within~~
19 ~~a wildland area that may contain substantial forest fire risks and~~
20 ~~hazards and is subject to the requirements of Section 4291 if either:~~

21 ~~(A) The transferor, or the transferor's agent, has actual~~
22 ~~knowledge that the property is within a wildland fire zone.~~

23 ~~(B) A map that includes the property has been provided to the~~
24 ~~city or county pursuant to Section 4125 of the Public Resources~~
25 ~~Code and a notice has been posted at the offices of the county~~
26 ~~recorder, county assessor, and county planning agency that~~
27 ~~identifies the location of the map and any information regarding~~
28 ~~changes to the map received by the county.~~

29 ~~(d) Any waiver of the requirements of this article is void as~~
30 ~~against public policy.~~

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

32 ~~SEC. 153. Section 1103 is added to the Civil Code, to read:~~

33 ~~1103. (a) Except as provided in Section 1103.1, this article~~
34 ~~applies to a sale, exchange, installment land sale contract, as~~
35 ~~defined in Section 2985, lease with an option to purchase, any~~
36 ~~other option to purchase, or ground lease coupled with~~
37 ~~improvements, of any real property described in subdivision (c),~~
38 ~~or residential stock cooperative, improved with or consisting of~~
39 ~~not less than one nor more than four dwelling units.~~

1 ~~(b) Except as provided in Section 1103.1, this article applies to~~
2 ~~a resale transaction entered into for a manufactured home, as~~
3 ~~defined in Section 18007 of the Health and Safety Code, that is~~
4 ~~classified as personal property intended for use as a residence, or~~
5 ~~a mobilehome, as defined in Section 18008 of the Health and Safety~~
6 ~~Code, that is classified as personal property intended for use as a~~
7 ~~residence, if the real property on which the manufactured home~~
8 ~~or mobilehome is located is real property described in subdivision~~
9 ~~(e):~~

10 ~~(e) This article shall apply to the transactions described in~~
11 ~~subdivisions (a) and (b) only if the seller or his or her real estate~~
12 ~~licensee is required by one or more of the following to disclose~~
13 ~~the property's location within a hazard zone:~~

14 ~~(1) A person who is acting as a real estate licensee for a seller~~
15 ~~of real property that is located within a special flood hazard area~~
16 ~~(any type Zone "A" or "V") designated by the Federal Emergency~~
17 ~~Management Agency, or the seller if he or she is acting without a~~
18 ~~real estate licensee, shall disclose to any prospective buyer the fact~~
19 ~~that the property is located within a special flood hazard area if~~
20 ~~either:~~

21 ~~(A) The seller, or the seller's real estate licensee, has actual~~
22 ~~knowledge that the property is within a special flood hazard area.~~

23 ~~(B) The local jurisdiction has compiled a list, by parcel, of~~
24 ~~properties that are within the special flood hazard area and a notice~~
25 ~~has been posted at the offices of the county recorder, county~~
26 ~~assessor, and county planning agency that identifies the location~~
27 ~~of the parcel list.~~

28 ~~(2) A person who is acting as a real estate licensee for a seller~~
29 ~~of real property that is located within an area of potential flooding~~
30 ~~designated pursuant to Section 8589.5 of the Government Code,~~
31 ~~or the seller if he or she is acting without a real estate licensee,~~
32 ~~shall disclose to any prospective buyer the fact that the property~~
33 ~~is located within an area of potential flooding if either:~~

34 ~~(A) The seller, or the seller's real estate licensee, has actual~~
35 ~~knowledge that the property is within an inundation area.~~

36 ~~(B) The local jurisdiction has compiled a list, by parcel, of~~
37 ~~properties that are within the inundation area and a notice has been~~
38 ~~posted at the offices of the county recorder, county assessor, and~~
39 ~~county planning agency that identifies the location of the parcel~~
40 ~~list.~~

1 ~~(3) A seller of real property that is located within a very high~~
2 ~~fire hazard severity zone, designated pursuant to Section 51178~~
3 ~~of the Government Code, shall disclose to any prospective buyer~~
4 ~~the fact that the property is located within a very high fire hazard~~
5 ~~severity zone and is subject to the requirements of Section 51182~~
6 ~~of the Government Code if either:~~

7 ~~(A) The seller, or the seller's real estate licensee, has actual~~
8 ~~knowledge that the property is within a very high fire hazard~~
9 ~~severity zone.~~

10 ~~(B) A map that includes the property has been provided to the~~
11 ~~local agency pursuant to Section 51178 of the Government Code~~
12 ~~and a notice has been posted at the offices of the county recorder,~~
13 ~~county assessor, and county planning agency that identifies the~~
14 ~~location of the map and any information regarding changes to the~~
15 ~~map received by the local agency.~~

16 ~~(4) A person who is acting as a real estate licensee for a seller~~
17 ~~of real property that is located within an earthquake fault zone,~~
18 ~~designated pursuant to Section 2622 of the Public Resources Code,~~
19 ~~or the seller if he or she is acting without a real estate licensee,~~
20 ~~shall disclose to any prospective buyer the fact that the property~~
21 ~~is located within a delineated earthquake fault zone if either:~~

22 ~~(A) The seller, or the seller's real estate licensee, has actual~~
23 ~~knowledge that the property is within a delineated earthquake fault~~
24 ~~zone.~~

25 ~~(B) A map that includes the property has been provided to the~~
26 ~~city or county pursuant to Section 2622 of the Public Resources~~
27 ~~Code and a notice has been posted at the offices of the county~~
28 ~~recorder, county assessor, and county planning agency that~~
29 ~~identifies the location of the map and any information regarding~~
30 ~~changes to the map received by the county.~~

31 ~~(5) A person who is acting as a real estate licensee for a seller~~
32 ~~of real property that is located within a seismic hazard zone,~~
33 ~~designated pursuant to Section 2696 of the Public Resources Code,~~
34 ~~or the seller if he or she is acting without a real estate licensee,~~
35 ~~shall disclose to any prospective buyer the fact that the property~~
36 ~~is located within a seismic hazard zone if either:~~

37 ~~(A) The seller, or the seller's real estate licensee, has actual~~
38 ~~knowledge that the property is within a seismic hazard zone.~~

39 ~~(B) A map that includes the property has been provided to the~~
40 ~~city or county pursuant to Section 2696 of the Public Resources~~

1 Code and a notice has been posted at the offices of the county
2 recorder, county assessor, and county planning agency that
3 identifies the location of the map and any information regarding
4 changes to the map received by the county.

5 (6) A seller of real property that is located within a state
6 responsibility area determined by the board, pursuant to Section
7 4125 of the Public Resources Code, shall disclose to any
8 prospective buyer the fact that the property is located within a
9 wildland area that may contain substantial forest fire risks and
10 hazards and is subject to the requirements of Section 4291 of the
11 Public Resources Code if either:

12 (A) The seller, or the seller's real estate licensee, has actual
13 knowledge that the property is within a wildland fire zone.

14 (B) A map that includes the property has been provided to the
15 city or county pursuant to Section 4125 of the Public Resources
16 Code and a notice has been posted at the offices of the county
17 recorder, county assessor, and county planning agency that
18 identifies the location of the map and any information regarding
19 changes to the map received by the county.

20 (d) Any waiver of the requirements of this article is void as
21 against public policy.

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

23 SEC. 154. Section 1103.1 of the Civil Code is amended to
24 read:

25 1103.1. (a) This article does not apply to the following
26 transfers:

27 (1) Transfers pursuant to court order, including, but not limited
28 to, transfers ordered by a probate court in administration of an
29 estate, transfers pursuant to a writ of execution, transfers by any
30 foreclosure sale, transfers by a trustee in bankruptcy, transfers by
31 eminent domain, and transfers resulting from a decree for specific
32 performance.

33 (2) Transfers to a mortgagee by a mortgagor or successor in
34 interest who is in default, transfers to a beneficiary of a deed of
35 trust by a trustor or successor in interest who is in default, transfers
36 by any foreclosure sale after default, transfers by any foreclosure
37 sale after default in an obligation secured by a mortgage, transfers
38 by a sale under a power of sale or any foreclosure sale under a
39 decree of foreclosure after default in an obligation secured by a
40 deed of trust or secured by any other instrument containing a power

1 of sale, or transfers by a mortgagee or a beneficiary under a deed
2 of trust who has acquired the real property at a sale conducted
3 pursuant to a power of sale under a mortgage or deed of trust or a
4 sale pursuant to a decree of foreclosure or has acquired the real
5 property by a deed in lieu of foreclosure.

6 ~~(3) Transfers by a fiduciary in the course of the administration
7 of a decedent's estate, guardianship, conservatorship, or trust.~~

8 ~~(4) Transfers from one coowner to one or more other coowners.~~

9 ~~(5) Transfers made to a spouse, or to a person or persons in the
10 lineal line of consanguinity of one or more of the transferors.~~

11 ~~(6) Transfers between spouses resulting from a judgment of
12 dissolution of marriage or of legal separation of the parties or from
13 a property settlement agreement incidental to that judgment.~~

14 ~~(7) Transfers by the Controller in the course of administering
15 Chapter 7 (commencing with Section 1500) of Title 10 of Part 3
16 of the Code of Civil Procedure.~~

17 ~~(8) Transfers under Chapter 7 (commencing with Section 3691)
18 or Chapter 8 (commencing with Section 3771) of Part 6 of Division
19 1 of the Revenue and Taxation Code.~~

20 ~~(9) Transfers or exchanges to or from any governmental entity.~~

21 ~~(b) Transfers not subject to this article may be subject to other
22 disclosure requirements, including those under Sections 8589.3,
23 8589.4, and 51183.5 of the Government Code and Sections 2621.9,
24 2694, and 4136 of the Public Resources Code. In transfers not
25 subject to this article, agents may make required disclosures in a
26 separate writing.~~

27 ~~(c) This section shall repeal on July 1, 2018.~~

28 ~~SEC. 155. Section 1103.1 is added to the Civil Code, to read:~~

29 ~~1103.1. (a) This article does not apply to the following sales:~~

30 ~~(1) Sales pursuant to court order, including, but not limited to,
31 sales ordered by a probate court in administration of an estate,
32 sales pursuant to a writ of execution, sales by any foreclosure sale,
33 sales by a trustee in bankruptcy, sales by eminent domain, and
34 sales resulting from a decree for specific performance.~~

35 ~~(2) Sales to a mortgagee by a mortgagor or successor in interest
36 who is in default, sales to a beneficiary of a deed of trust by a
37 trustor or successor in interest who is in default, sales by any
38 foreclosure sale after default, sales by any foreclosure sale after
39 default in an obligation secured by a mortgage, sale under a power
40 of sale or any foreclosure sale under a decree of foreclosure after~~

1 default in an obligation secured by a deed of trust or secured by
 2 any other instrument containing a power of sale, or sales by a
 3 mortgagee or a beneficiary under a deed of trust who has acquired
 4 the real property at a sale conducted pursuant to a power of sale
 5 under a mortgage or deed of trust or a sale pursuant to a decree of
 6 foreclosure or has acquired the real property by a deed in lieu of
 7 foreclosure.

8 (3) Sales by a fiduciary in the course of the administration of a
 9 trust, guardianship, conservatorship, or the decedent's estate. This
 10 exemption shall not apply to a sale if the trustee is a natural person
 11 who is a trustee of a revocable trust and he or she is a former owner
 12 of the property or an occupant in possession of the property within
 13 the preceding year.

14 (4) Sales from one coowner to one or more other coowners.

15 (5) Sales made to a spouse, or to a person or persons in the lineal
 16 line of consanguinity of one or more of the sellers.

17 (6) Sales between spouses resulting from a judgment of
 18 dissolution of marriage or of legal separation of the parties or from
 19 a property settlement agreement incidental to that judgment.

20 (7) Sales by the Controller in the course of administering
 21 Chapter 7 (commencing with Section 1500) of Title 10 of Part 3
 22 of the Code of Civil Procedure.

23 (8) Sales under Chapter 7 (commencing with Section 3691) or
 24 Chapter 8 (commencing with Section 3771) of Part 6 of Division
 25 1 of the Revenue and Taxation Code.

26 (9) Sales or exchanges to or from any governmental entity.

27 (b) Sales not subject to this article may be subject to other
 28 disclosure requirements, including those under Sections 8589.3,
 29 8589.4, and 51183.5 of the Government Code and Sections 2621.9,
 30 2694, and 4136 of the Public Resources Code. In sales not subject
 31 to this article, real estate licensees may make required disclosures
 32 in a separate writing.

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

34 SEC. 156. Section 1103.1.5 is added to the Civil Code, to read:

35 1103.1.5. (a) For the purposes of this article, the definitions
 36 in Chapter 1 (commencing with Section 10000) of Part 1 of
 37 Division 4 of the Business and Professions Code shall apply.

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

39 SEC. 157. Section 1103.2 of the Civil Code is amended to
 40 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
5
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7
8
9

Signature of Transferor(s) _____ Date _____
Signature of Transferor(s) _____ Date _____
Agent(s) _____ Date _____
Agent(s) _____ Date _____

10 Check only one of the following:

11
12
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27

Transferor(s) and their agent(s) represent that the information herein is true and correct to the best of their knowledge as of the date signed by the transferor(s) and agent(s).

Transferor(s) and their agent(s) acknowledge that they have exercised good faith in the selection of a third-party report provider as required in Civil Code Section 1103.7, and that the representations made in this Natural Hazard Disclosure Statement are based upon information provided by the independent third-party disclosure provider as a substituted disclosure pursuant to Civil Code Section 1103.4. Neither transferor(s) nor their agent(s) (1) has independently verified the information contained in this statement and report or (2) is personally aware of any errors or inaccuracies in the information contained on the statement. This statement was prepared by the provider below:

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
38
39

Signature of Transferee(s) _____ Date _____
Signature of Transferee(s) _____ Date _____

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.~~

~~(3) In a disclosure statement required by this section, an agent and third-party provider may cause his or her name to be preprinted in lieu of an original signature in the portions of the form reserved for signatures. The use of a preprinted name shall not change the legal effect of the acknowledgment.~~

~~(g) The disclosure required by this article is only a disclosure between the transferor, the transferor’s agents, and the transferee, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose.~~

~~(h) In any transaction in which a transferor has accepted, prior to June 1, 1998, an offer to purchase, the transferor, or his or her agent, shall be deemed to have complied with the requirement of subdivision (a) if the transferor or agent delivers to the prospective transferee a statement that includes substantially the same information and warning as the Natural Hazard Disclosure Statement.~~

~~(i) This section shall repeal on July 1, 2018.~~

~~SEC. 158. Section 1103.2 is added to the Civil Code, to read:~~

~~1103.2. (a) The disclosures required by this article are set forth in, and shall be made on a copy of, the following Natural Hazard Disclosure Statement:~~

~~NATURAL HAZARD DISCLOSURE STATEMENT~~

~~This statement applies to the following property: _____~~

~~The seller and his or her real estate licensee(s) or a third-party consultant disclose 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 action 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 and his or her real estate licensee(s) based on their knowledge and maps drawn by the state and federal governments. This information is a disclosure and is not intended to be part of any contract between the seller and buyer.~~

~~THIS REAL PROPERTY LIES WITHIN THE FOLLOWING~~

- 1 HAZARDOUS AREA(S):
- 2
- 3 - A SPECIAL FLOOD HAZARD AREA (Any type Zone “A” or “V”)
- 4 designated by the Federal Emergency Management Agency:
- 5
- 6 - Yes No Do not know and
- 7 information not
- 8 available from local
- 9 jurisdiction
- 10
- 11 - AN AREA OF POTENTIAL FLOODING shown on a dam failure
- 12 inundation map pursuant to Section 8589.5 of the Government Code:
- 13
- 14 - Yes No Do not know and
- 15 information not
- 16 available from local
- 17 jurisdiction
- 18
- 19 - A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to
- 20 Section 51178 or 51179 of the Government Code. The owner of this
- 21 property is subject to the maintenance requirements of Section 51182
- 22 of the Government Code:
- 23
- 24 - Yes No
- 25
- 26 - A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL
- 27 FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of
- 28 the Public Resources Code. The owner of this property is subject to
- 29 the maintenance requirements of Section 4291 of the Public Resources
- 30 Code. Additionally, it is not the state’s responsibility to provide fire
- 31 protection services to any building or structure located within the
- 32 wildlands unless the Department of Forestry and Fire Protection has
- 33 entered into a cooperative agreement with a local agency for those
- 34 purposes pursuant to Section 4142 of the Public Resources Code:
- 35
- 36 - Yes No
- 37
- 38 - AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the
- 39 Public Resources Code:
- 40

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
11 REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE
12 ASSISTANCE 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
17 AFFECTED BY A NATURAL DISASTER. SELLER(S) AND BUYER(S)
18 MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE
19 HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE
20 PROPERTY.

21

22 Signature of Seller(s) _____ Date _____

23 Signature of Seller(s) _____ Date _____

24

25 Seller's Licensee(s) _____ Date _____

26 Seller's Licensee(s) _____ Date _____

27

28 Check only one of the following:

29

30 Seller(s) and their real estate licensee(s) represent that the information
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 exercised good faith in the selection of a third-party report provider
36 as required in Civil Code Section 1103.7, and that the
37 representations made in this Natural Hazard Disclosure Statement
38 are based upon information provided by the independent third-party
39 disclosure provider as a substituted disclosure pursuant to Civil Code
40 Section 1103.4. Neither seller(s) nor their real estate licensee(s) (1) has

1 independently verified the information contained in this statement
2 and report or (2) is personally aware of any errors or inaccuracies
3 in the information contained on the statement. This statement was
4 prepared by the provider below:

5
6 Third-Party
7 Disclosure Provider(s) _____ Date _____
8

9 Buyer represents that he or she has read and understands this
10 document. Pursuant to Civil Code Section 1103.8, the
11 representations made in this Natural Hazard Disclosure Statement
12 do not constitute all of the seller's or real estate licensee's disclosure
13 obligations in this transaction.

14
15 Signature of Buyer(s) _____ Date _____
16 Signature of Buyer(s) _____ Date _____
17

18 ~~(b) If an earthquake fault zone, seismic hazard zone, very high
19 fire hazard severity zone, or wildland fire area map or
20 accompanying information is not of sufficient accuracy or scale
21 that a reasonable person can determine if the subject real property
22 is included in a natural hazard area, the seller or seller's real estate
23 licensee shall mark "Yes" on the Natural Hazard Disclosure
24 Statement. The seller or seller's real estate licensee may mark
25 "No" on the Natural Hazard Disclosure Statement if he or she
26 attaches a report prepared pursuant to subdivision (c) of Section
27 1103.4 that verifies the property is not in the hazard zone. Nothing
28 in this subdivision is intended to limit or abridge any existing duty
29 of the seller or the seller's real estate licensees to exercise
30 reasonable care in making a determination under this subdivision.~~

31 ~~(c) If the Federal Emergency Management Agency has issued
32 a Letter of Map Revision confirming that a property is no longer
33 within a special flood hazard area, then the seller or seller's real
34 estate licensee may mark "No" on the Natural Hazard Disclosure
35 Statement, even if the map has not yet been updated. The seller or
36 seller's real estate licensee shall attach a copy of the Letter of Map
37 Revision to the disclosure statement.~~

38 ~~(d) If the Federal Emergency Management Agency has issued
39 a Letter of Map Revision confirming that a property is within a
40 special flood hazard area and the location of the letter has been~~

1 posted pursuant to subdivision (g) of Section 8589.3 of the
2 Government Code, then the seller or seller's real estate licensee
3 shall mark "Yes" on the Natural Hazard Disclosure Statement,
4 even if the map has not yet been updated. The seller or seller's
5 real estate licensee shall attach a copy of the Letter of Map
6 Revision to the disclosure statement.

7 (e) The disclosure required pursuant to this article may be
8 provided by the seller or seller's real estate licensee in the Local
9 Option Real Estate Disclosure Statement described in Section
10 1102.6a, provided that the Local Option Real Estate Disclosure
11 Statement includes substantially the same information and
12 substantially the same warnings that are required by this section.

13 (f) (1) The legal effect of a consultant's report delivered to
14 satisfy the exemption provided by Section 1103.4 is not changed
15 when it is accompanied by a Natural Hazard Disclosure Statement.

16 (2) A consultant's report shall always be accompanied by a
17 completed and signed Natural Hazard Disclosure Statement.

18 (3) In a disclosure statement required by this section, a real
19 estate licensee and third-party provider may cause his or her name
20 to be preprinted in lieu of an original signature in the portions of
21 the form reserved for signatures. The use of a preprinted name
22 shall not change the legal effect of the acknowledgment.

23 (g) The disclosure required by this article is only a disclosure
24 between the seller, the seller's real estate licensees, and the
25 prospective buyer, and shall not be used by any other party,
26 including, but not limited to, insurance companies, lenders, or
27 governmental agencies, for any purpose.

28 (h) In any transaction in which a seller has accepted, prior to
29 June 1, 1998, an offer to purchase, the seller, or his or her real
30 estate licensee, shall be deemed to have complied with the
31 requirement of subdivision (a) if the seller or real estate licensee
32 delivers to the prospective buyer a statement that includes
33 substantially the same information and warning as the Natural
34 Hazard Disclosure Statement.

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

36 SEC. 159. Section 1103.3 of the Civil Code is amended to
37 read:

38 1103.3. (a) The transferor of any real property subject to this
39 article shall deliver to the prospective transferee the written
40 statement required by this article, as follows:

1 ~~(1) In the case of a sale, as soon as practicable before transfer~~
2 ~~of title.~~

3 ~~(2) In the case of transfer by a real property sales contract, as~~
4 ~~defined in Section 2985, or by a lease together with an option to~~
5 ~~purchase, or a ground lease coupled with improvements, as soon~~
6 ~~as practicable before execution of the contract. For the purpose of~~
7 ~~this subdivision, “execution” means the making or acceptance of~~
8 ~~an offer.~~

9 ~~(b) The transferor shall indicate compliance with this article~~
10 ~~either on the receipt for deposit, the real property sales contract,~~
11 ~~the lease, any addendum attached thereto, or on a separate~~
12 ~~document.~~

13 ~~(c) If any disclosure, or any material amendment of any~~
14 ~~disclosure, required to be made pursuant to this article is delivered~~
15 ~~after the execution of an offer to purchase, the transferee shall have~~
16 ~~three days after delivery in person or five days after delivery by~~
17 ~~deposit in the mail to terminate his or her offer by delivery of a~~
18 ~~written notice of termination to the transferor or the transferor’s~~
19 ~~agent.~~

20 ~~(d) This section shall repeal on July 1, 2018.~~

21 ~~SEC. 160. Section 1103.3 is added to the Civil Code, to read:~~

22 ~~1103.3. (a) The seller of any real property subject to this article~~
23 ~~shall deliver to the prospective buyer the written statement required~~
24 ~~by this article, as follows:~~

25 ~~(1) In the case of a sale, as soon as practicable before transfer~~
26 ~~of title.~~

27 ~~(2) In the case of sale by a real property sales contract, as defined~~
28 ~~in Section 2985, or by a lease together with an option to purchase,~~
29 ~~or a ground lease coupled with improvements, as soon as~~
30 ~~practicable before the prospective buyer’s execution of the contract.~~
31 ~~For the purpose of this subdivision, “execution” means the making~~
32 ~~or acceptance of an offer.~~

33 ~~(b) The seller shall indicate compliance with this article on the~~
34 ~~real property sales contract, the lease, any addendum attached~~
35 ~~thereto, or on a separate document.~~

36 ~~(c) If any disclosure, or any material amendment of any~~
37 ~~disclosure, required to be made pursuant to this article is delivered~~
38 ~~after the execution of an offer to purchase, the prospective buyer~~
39 ~~shall have three days after delivery in person or five days after~~
40 ~~delivery by deposit in the mail to terminate his or her offer by~~

1 delivery of a written notice of termination to the seller or the
2 seller's real estate licensee.

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

4 SEC. 161. Section 1103.4 of the Civil Code is amended to
5 read:

6 ~~1103.4. (a) Neither the transferor nor any listing or selling
7 agent shall be liable for any error, inaccuracy, or omission of any
8 information delivered pursuant to this article if the error,
9 inaccuracy, or omission was not within the personal knowledge
10 of the transferor or the listing or selling agent, and was based on
11 information timely provided by public agencies or by other persons
12 providing information as specified in subdivision (e) that is
13 required to be disclosed pursuant to this article, and ordinary care
14 was exercised in obtaining and transmitting the information.~~

15 ~~(b) The delivery of any information required to be disclosed by
16 this article to a prospective transferee by a public agency or other
17 person providing information required to be disclosed pursuant to
18 this article shall be deemed to comply with the requirements of
19 this article and shall relieve the transferor or any listing or selling
20 agent of any further duty under this article with respect to that item
21 of 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 transferee pursuant to
28 a request therefor, whether written or oral. In responding to that
29 request, an expert may indicate, in writing, an understanding that
30 the information provided will be used in fulfilling the requirements
31 of Section 1103.2 and, if so, shall indicate the required disclosures,
32 or parts thereof, to which the information being furnished is
33 applicable. Where that statement is furnished, the expert shall not
34 be responsible for any items of information, or parts thereof, other
35 than those expressly set forth in the statement.~~

36 ~~(1) In responding to the request, the expert shall determine
37 whether the property is within an airport influence area as defined
38 in subdivision (b) of Section 11010 of the Business and Professions
39 Code. If the property is within an airport influence area, the report
40 shall contain the following statement:~~

NOTICE OF AIRPORT IN VICINITY

1
 2
 3 — This property is presently located in the vicinity of an
 4 airport, within what is known as an airport influence area. For that
 5 reason, the property may be subject to some of the annoyances or
 6 inconveniences associated with proximity to airport operations
 7 (for example: noise, vibration, or odors). Individual sensitivities
 8 to those annoyances can vary from person to person. You may wish to
 9 consider what airport annoyances, if any, are associated with the
 10 property before you complete your purchase and determine whether they
 11 are acceptable to you.

12
 13 ~~(2) In responding to the request, the expert shall determine~~
 14 ~~whether the property is within the jurisdiction of the San Francisco~~
 15 ~~Bay Conservation and Development Commission, as defined in~~
 16 ~~Section 66620 of the Government Code. If the property is within~~
 17 ~~the commission’s jurisdiction, the report shall contain the following~~
 18 ~~notice:~~

19 ~~NOTICE OF SAN FRANCISCO BAY CONSERVATION AND~~
 20 ~~DEVELOPMENT COMMISSION JURISDICTION~~

21 ~~This property is located within the jurisdiction of the San~~
 22 ~~Francisco Bay Conservation and Development Commission. Use~~
 23 ~~and development of property within the commission’s jurisdiction~~
 24 ~~may be subject to special regulations, restrictions, and permit~~
 25 ~~requirements. You may wish to investigate and determine whether~~
 26 ~~they are acceptable to you and your intended use of the property~~
 27 ~~before you complete your transaction.~~

28 ~~(3) In responding to the request, the expert shall determine~~
 29 ~~whether the property is presently located within one mile of a~~
 30 ~~parcel of real property designated as “Prime Farmland,” “Farmland~~
 31 ~~of Statewide Importance,” “Unique Farmland,” “Farmland of Local~~
 32 ~~Importance,” or “Grazing Land” on the most current “Important~~
 33 ~~Farmland Map” issued by the California Department of~~
 34 ~~Conservation, Division of Land Resource Protection, utilizing~~
 35 ~~solely the county-level GIS map data, if any, available on the~~
 36 ~~Farmland Mapping and Monitoring Program Web site. If the~~
 37 ~~residential property is within one mile of a designated farmland~~
 38 ~~area, the report shall contain the following notice:~~

39 -

40 NOTICE OF RIGHT TO FARM

1 This property is located within one mile of a farm or ranch land
2 designated on the current county-level GIS “Important Farmland
3 Map,” issued by the California Department of Conservation,
4 Division of Land Resource Protection. Accordingly, the property
5 may be subject to inconveniences or discomforts resulting from
6 agricultural operations that are a normal and necessary aspect of
7 living in a community with a strong rural character and a healthy
8 agricultural sector. Customary agricultural practices in farm
9 operations may include, but are not limited to, noise, odors, dust,
10 light, insects, the operation of pumps and machinery, the storage
11 and disposal of manure, bee pollination, and the ground or aerial
12 application of fertilizers, pesticides, and herbicides. These
13 agricultural practices may occur at any time during the 24-hour
14 day. Individual sensitivities to those practices can vary from person
15 to person. You may wish to consider the impacts of such
16 agricultural practices before you complete your purchase. Please
17 be advised that you may be barred from obtaining legal remedies
18 against agricultural practices conducted in a manner consistent
19 with proper and accepted customs and standards pursuant to
20 Section 3482.5 of the Civil Code or any pertinent local ordinance.

21 (4) In responding to the request, the expert shall determine,
22 utilizing map coordinate data made available by the Office of Mine
23 Reclamation, whether the property is presently located within one
24 mile of a mine operation for which map coordinate data has been
25 reported to the director pursuant to Section 2207 of the Public
26 Resources Code. If the expert determines, from the available map
27 coordinate data, that the residential property is located within one
28 mile of a mine operation, the report shall contain the following
29 notice:

30 -

31 **NOTICE OF MINING OPERATIONS:**

32 This property is located within one mile of a mine operation for
33 which the mine owner or operator has reported mine location data
34 to the Department of Conservation pursuant to Section 2207 of
35 the Public Resources Code. Accordingly, the property may be
36 subject to inconveniences resulting from mining operations. You
37 may wish to consider the impacts of these practices before you
38 complete your transaction.

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

40 SEC. 162. Section 1103.4 is added to the Civil Code, to read:

1 ~~1103.4. (a) Neither the seller nor any listing licensee or buyer’s~~
 2 ~~licensee shall be liable for any error, inaccuracy, or omission of~~
 3 ~~any information delivered pursuant to this article if the error,~~
 4 ~~inaccuracy, or omission was not within the personal knowledge~~
 5 ~~of the seller or the listing licensee or buyer’s licensee, and was~~
 6 ~~based on information timely provided by public agencies or by~~
 7 ~~other persons providing information as specified in subdivision~~
 8 ~~(c) that is required to be disclosed pursuant to this article, and~~
 9 ~~ordinary care was exercised in obtaining and transmitting the~~
 10 ~~information.~~

11 ~~(b) The delivery of any information required to be disclosed by~~
 12 ~~this article to a prospective buyer by a public agency or other~~
 13 ~~person providing information required to be disclosed pursuant to~~
 14 ~~this article shall be deemed to comply with the requirements of~~
 15 ~~this article and shall relieve the seller and buyer’s licensee of any~~
 16 ~~further duty under this article with respect to that item of~~
 17 ~~information.~~

18 ~~(c) The delivery of a report or opinion prepared by a licensed~~
 19 ~~engineer, land surveyor, geologist, or expert in natural hazard~~
 20 ~~discovery dealing with matters within the scope of the~~
 21 ~~professional’s license or expertise shall be sufficient compliance~~
 22 ~~for application of the exemption provided by subdivision (a) if the~~
 23 ~~information is provided to the prospective buyer pursuant to a~~
 24 ~~request therefor, whether written or oral.~~

25 ~~(1) In responding to the request, the expert shall determine~~
 26 ~~whether the property is within an airport influence area as defined~~
 27 ~~in subdivision (b) of Section 11010 of the Business and Professions~~
 28 ~~Code. If the property is within an airport influence area, the report~~
 29 ~~shall contain the following statement:~~

30
 31 NOTICE OF AIRPORT IN VICINITY

32
 33 ~~— This property is presently located in the vicinity of an~~
 34 ~~airport, within what is known as an airport influence area. For that~~
 35 ~~reason, the property may be subject to some of the annoyances or~~
 36 ~~inconveniences associated with proximity to airport operations~~
 37 ~~(for example: noise, vibration, or odors). Individual sensitivities~~
 38 ~~to those annoyances can vary from person to person. You may wish to~~
 39 ~~consider what airport annoyances, if any, are associated with the~~
 40 ~~property before you complete your purchase and determine whether they~~

1 are acceptable to you.

2

3 ~~(2) In responding to the request, the expert shall determine~~
4 ~~whether the property is within the jurisdiction of the San Francisco~~
5 ~~Bay Conservation and Development Commission, as defined in~~
6 ~~Section 66620 of the Government Code. If the property is within~~
7 ~~the commission's jurisdiction, the report shall contain the following~~
8 ~~notice:~~

9 ~~NOTICE OF SAN FRANCISCO BAY CONSERVATION AND~~
10 ~~DEVELOPMENT COMMISSION JURISDICTION~~

11 ~~This property is located within the jurisdiction of the San~~
12 ~~Francisco Bay Conservation and Development Commission. Use~~
13 ~~and development of property within the commission's jurisdiction~~
14 ~~may be subject to special regulations, restrictions, and permit~~
15 ~~requirements. You may wish to investigate and determine whether~~
16 ~~they are acceptable to you and your intended use of the property~~
17 ~~before you complete your transaction.~~

18 ~~(3) In responding to the request, the expert shall determine~~
19 ~~whether the property is presently located within one mile of a~~
20 ~~parcel of real property designated as "Prime Farmland," "Farmland~~
21 ~~of Statewide Importance," "Unique Farmland," "Farmland of Local~~
22 ~~Importance," or "Grazing Land" on the most current "Important~~
23 ~~Farmland Map" issued by the California Department of~~
24 ~~Conservation, Division of Land Resource Protection, utilizing~~
25 ~~solely the county-level GIS map data, if any, available on the~~
26 ~~Farmland Mapping and Monitoring Program Web site. If the~~
27 ~~residential property is within one mile of a designated farmland~~
28 ~~area, the report shall contain the following notice:~~

29 -

30 ~~NOTICE OF RIGHT TO FARM~~

31 ~~This property is located within one mile of a farm or ranch land~~
32 ~~designated on the current county-level GIS "Important Farmland~~
33 ~~Map," issued by the California Department of Conservation,~~
34 ~~Division of Land Resource Protection. Accordingly, the property~~
35 ~~may be subject to inconveniences or discomforts resulting from~~
36 ~~agricultural operations that are a normal and necessary aspect of~~
37 ~~living in a community with a strong rural character and a healthy~~
38 ~~agricultural sector. Customary agricultural practices in farm~~
39 ~~operations may include, but are not limited to, noise, odors, dust,~~
40 ~~light, insects, the operation of pumps and machinery, the storage~~

1 and disposal of manure, bee pollination, and the ground or aerial
2 application of fertilizers, pesticides, and herbicides. These
3 agricultural practices may occur at any time during the 24-hour
4 day. Individual sensitivities to those practices can vary from person
5 to person. You may wish to consider the impacts of such
6 agricultural practices before you complete your purchase. Please
7 be advised that you may be barred from obtaining legal remedies
8 against agricultural practices conducted in a manner consistent
9 with proper and accepted customs and standards pursuant to
10 Section 3482.5 of the Civil Code or any pertinent local ordinance.

11 (4) In responding to the request, the expert shall determine,
12 utilizing map coordinate data made available by the Office of Mine
13 Reclamation, whether the property is presently located within one
14 mile of a mine operation for which map coordinate data has been
15 reported to the director pursuant to Section 2207 of the Public
16 Resources Code. If the expert determines, from the available map
17 coordinate data, that the residential property is located within one
18 mile of a mine operation, the report shall contain the following
19 notice:

20 -

21 **NOTICE OF MINING OPERATIONS:**

22 This property is located within one mile of a mine operation for
23 which the mine owner or operator has reported mine location data
24 to the Department of Conservation pursuant to Section 2207 of
25 the Public Resources Code. Accordingly, the property may be
26 subject to inconveniences resulting from mining operations. You
27 may wish to consider the impacts of these practices before you
28 complete your transaction.

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

30 SEC. 163. Section 1103.5 of the Civil Code is amended to
31 read:

32 1103.5. (a) After a transferor and his or her agent comply with
33 Section 1103.2, they shall be relieved of further duty under this
34 article with respect to those items of information. The transferor
35 and his or her agent shall not be required to provide notice to the
36 transferee if the information provided subsequently becomes
37 inaccurate as a result of any governmental action, map revision,
38 changed information, or other act or occurrence, unless the
39 transferor or agent has actual knowledge that the information has
40 become inaccurate.

1 ~~(b) If information disclosed in accordance with this article is~~
2 ~~subsequently rendered inaccurate as a result of any governmental~~
3 ~~action, map revision, changed information, or other act or~~
4 ~~occurrence subsequent to the delivery of the required disclosures,~~
5 ~~the inaccuracy resulting therefrom does not constitute a violation~~
6 ~~of this article.~~

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

8 ~~SEC. 164. Section 1103.5 is added to the Civil Code, to read:~~

9 ~~1103.5. (a) After a seller and his or her real estate licensee~~
10 ~~comply with Section 1103.2, they shall be relieved of further duty~~
11 ~~under this article with respect to those items of information. The~~
12 ~~seller and his or her real estate licensee shall not be required to~~
13 ~~provide notice to the prospective buyer if the information provided~~
14 ~~subsequently becomes inaccurate as a result of any governmental~~
15 ~~action, map revision, changed information, or other act or~~
16 ~~occurrence, unless the seller or real estate licensee has actual~~
17 ~~knowledge that the information has become inaccurate.~~

18 ~~(b) If information disclosed in accordance with this article is~~
19 ~~subsequently rendered inaccurate as a result of any governmental~~
20 ~~action, map revision, changed information, or other act or~~
21 ~~occurrence subsequent to the delivery of the required disclosures,~~
22 ~~the inaccuracy resulting therefrom does not constitute a violation~~
23 ~~of this article.~~

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

25 ~~SEC. 165. Section 1103.8 of the Civil Code is amended to~~
26 ~~read:~~

27 ~~1103.8. (a) The specification of items for disclosure in this~~
28 ~~article does not limit or abridge any obligation for disclosure~~
29 ~~created by any other provision of law or that may exist in order to~~
30 ~~avoid fraud, misrepresentation, or deceit in the transfer transaction.~~
31 ~~The Legislature does not intend to affect the existing obligations~~
32 ~~of the parties to a real estate contract, or their agents, to disclose~~
33 ~~any fact materially affecting the value and desirability of the~~
34 ~~property, including, but not limited to, the physical condition of~~
35 ~~the property and previously received reports of physical inspection~~
36 ~~noted on the disclosure form provided pursuant to Section 1102.6~~
37 ~~or 1102.6a.~~

38 ~~(b) Nothing in this article shall be construed to change the duty~~
39 ~~of a real estate broker or salesperson pursuant to Section 2079.~~

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

1 ~~SEC. 166.— Section 1103.8 is added to the Civil Code, to read:~~

2 ~~1103.8.— (a) The specification of items for disclosure in this~~
3 ~~article does not limit or abridge any obligation for disclosure~~
4 ~~created by any other provision of law or that may exist in order to~~
5 ~~avoid fraud, misrepresentation, or deceit in the sale transaction.~~
6 ~~The Legislature does not intend to affect the existing obligations~~
7 ~~of the parties to a real estate contract, or their licensees, to disclose~~
8 ~~any fact materially affecting the value and desirability of the~~
9 ~~property, including, but not limited to, the physical condition of~~
10 ~~the property and previously received reports of physical inspection~~
11 ~~noted on the disclosure form provided pursuant to Section 1102.6~~
12 ~~or 1102.6a.~~

13 ~~(b) Nothing in this article shall be construed to change the duty~~
14 ~~of a real estate licensee pursuant to Section 2079.~~

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

16 ~~SEC. 167.— Section 1103.9 of the Civil Code is amended to~~
17 ~~read:~~

18 ~~1103.9.— (a) Any disclosure made pursuant to this article may~~
19 ~~be amended in writing by the transferor or his or her agent, but the~~
20 ~~amendment shall be subject to Section 1103.3.~~

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

22 ~~SEC. 168.— Section 1103.9 is added to the Civil Code, to read:~~

23 ~~1103.9.— (a) Any disclosure made pursuant to this article may~~
24 ~~be amended in writing by the seller or his or her real estate licensee,~~
25 ~~but the amendment shall be subject to Section 1103.3.~~

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

27 ~~SEC. 169.— Section 1103.12 of the Civil Code is amended to~~
28 ~~read:~~

29 ~~1103.12.— (a) If more than one licensed real estate broker is~~
30 ~~acting as an agent in a transaction subject to this article, the broker~~
31 ~~who has obtained the offer made by the transferee shall, except as~~
32 ~~otherwise provided in this article, deliver the disclosure required~~
33 ~~by this article to the transferee, unless the transferor has given~~
34 ~~other written instructions for delivery.~~

35 ~~(b) If a licensed real estate broker 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 ~~transferee that the disclosure has been received, the broker shall~~
39 ~~advise the transferee in writing of his or her rights to the disclosure.~~
40 ~~A licensed real estate broker responsible for delivering disclosures~~

1 under this section shall maintain a record of the action taken to
2 effect compliance in accordance with Section 10148 of the
3 Business and Professions Code.

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

5 SEC. 170. Section 1103.12 is added to the Civil Code, to read:

6 1103.12. (a) If more than one real estate broker is acting in a
7 transaction subject to this article, the buyer's licensee shall, except
8 as otherwise provided in this article, deliver the disclosure required
9 by this article to the buyer, unless the seller has given other written
10 instructions for delivery.

11 (b) If a licensed real estate broker responsible for delivering the
12 disclosures under this section cannot obtain the disclosure
13 document required and does not have written assurance from the
14 buyer that the disclosure has been received, the broker shall advise
15 the buyer in writing of his or her rights to the disclosure. A licensed
16 real estate broker responsible for delivering disclosures under this
17 section shall maintain a record of the action taken to effect
18 compliance in accordance with Section 10148 of the Business and
19 Professions Code.

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

21 SEC. 171. Section 1103.14 of the Civil Code is amended to
22 read:

23 1103.14. (a) As used in this article, "listing agent" means
24 listing agent as defined in subdivision (f) of Section 1086.

25 (b) As used in this article, "selling agent" means selling agent
26 as defined in subdivision (g) of Section 1086, exclusive of the
27 requirement that the agent be a participant in a multiple listing
28 service as defined in Section 1087.

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

30 SEC. 172. Section 2079 of the Civil Code is amended to read:

31 2079. (a) It is the duty of a real estate broker or salesperson,
32 licensed under Division 4 (commencing with Section 10000) of
33 the Business and Professions Code, to a prospective purchaser of
34 residential real property comprising one to four dwelling units, or
35 a manufactured home as defined in Section 18007 of the Health
36 and Safety Code, to conduct a reasonably competent and diligent
37 visual inspection of the property offered for sale and to disclose
38 to that prospective purchaser all facts materially affecting the value
39 or desirability of the property that an investigation would reveal,
40 if that broker has a written contract with the seller to find or obtain

1 a buyer or is a broker who acts in cooperation with that broker to
2 find and obtain a buyer.

3 (b) ~~It is the duty of a real estate broker or salesperson licensed
4 under Division 4 (commencing with Section 10000) of the Business
5 and Professions Code to comply with this section and any
6 regulations imposing standards of professional conduct adopted
7 pursuant to Section 10080 of the Business and Professions Code
8 with reference to Sections 10176 and 10177 of the Business and
9 Professions Code.~~

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

11 SEC. 173. ~~Section 2079 is added to the Civil Code, to read:~~

12 2079. (a) ~~It is the duty of a real estate licensee, licensed under
13 Division 4 (commencing with Section 10000) of the Business and
14 Professions Code, to a prospective buyer of residential real property
15 comprising one to four dwelling units, or a manufactured home as
16 defined in Section 18007 of the Health and Safety Code, to conduct
17 a reasonably competent and diligent visual inspection of the
18 property offered for sale and to disclose to that prospective buyer
19 all facts materially affecting the value or desirability of the property
20 that an investigation would reveal, if that broker has a written
21 contract with the seller to find or obtain a buyer or is a broker who
22 acts in cooperation with that broker to find and obtain a buyer.~~

23 (b) ~~It is the duty of a real estate licensee, licensed under Division
24 4 (commencing with Section 10000) of the Business and
25 Professions Code, to comply with this section and any regulations
26 imposing standards of professional conduct adopted pursuant to
27 Section 10080 of the Business and Professions Code with reference
28 to Sections 10176 and 10177 of the Business and Professions Code.~~

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

30 SEC. 174. ~~Section 2079.6 of the Civil Code is amended to
31 read:~~

32 2079.6. (a) ~~This article does not apply to transfers which are
33 required to be preceded by the furnishing, to a prospective
34 transferee, of a copy of a public report pursuant to Section 11018.1
35 or Section 11234 of the Business and Professions Code and
36 transfers that can be made without a public report pursuant to
37 Section 11010.4 of the Business and Professions Code, unless the
38 property has been previously occupied.~~

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

40 SEC. 175. ~~Section 2079.6 is added to the Civil Code, to read:~~

1 ~~2079.6. (a) This article does not apply to sales which are~~
2 ~~required to be preceded by the furnishing, to a prospective buyer,~~
3 ~~of a copy of a public report pursuant to Section 11018.1 or Section~~
4 ~~11234 of the Business and Professions Code and sales that can be~~
5 ~~made without a public report pursuant to Section 11010.4 of the~~
6 ~~Business and Professions Code, unless the property has been~~
7 ~~previously occupied.~~

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

9 ~~SEC. 176. Section 2079.7 of the Civil Code is amended to~~
10 ~~read:~~

11 ~~2079.7. (a) If a consumer information booklet described in~~
12 ~~Section 10084.1 of the Business and Professions Code is delivered~~
13 ~~to a transferee in connection with the transfer of real property,~~
14 ~~including property specified in Section 1102 of the Civil Code, or~~
15 ~~manufactured housing, as defined in Section 18007 of the Health~~
16 ~~and Safety Code, a seller or broker is not required to provide~~
17 ~~additional information concerning, and the information shall be~~
18 ~~deemed to be adequate to inform the transferee regarding, common~~
19 ~~environmental hazards, as described in the booklet, that can affect~~
20 ~~real property.~~

21 ~~(b) Notwithstanding subdivision (a), nothing in this section~~
22 ~~either increases or decreases the duties, if any, of sellers or brokers,~~
23 ~~including, but not limited to, the duties of a seller or broker under~~
24 ~~this article, Article 1.5 (commencing with Section 1102) of Chapter~~
25 ~~2 of Title 4 of Part 4 of Division 2, or Section 25359.7 of the Health~~
26 ~~and Safety Code, or alters the duty of a seller or broker to disclose~~
27 ~~the existence of known environmental hazards on or affecting the~~
28 ~~real property.~~

29 ~~(c) This section shall repeal on July 1, 2018.~~

30 ~~SEC. 177. Section 2079.7 is added to the Civil Code, to read:~~

31 ~~2079.7. (a) If a consumer information booklet described in~~
32 ~~Section 10084.1 of the Business and Professions Code is delivered~~
33 ~~to a buyer in connection with the sale of real property, including~~
34 ~~property specified in Section 1102 of the Civil Code, or~~
35 ~~manufactured housing, as defined in Section 18007 of the Health~~
36 ~~and Safety Code, a seller or broker is not required to provide~~
37 ~~additional information concerning, and the information shall be~~
38 ~~deemed to be adequate to inform the buyer regarding, common~~
39 ~~environmental hazards, as described in the booklet, that can affect~~
40 ~~real property.~~

1 ~~(b) Notwithstanding subdivision (a), nothing in this section~~
 2 ~~either increases or decreases the duties, if any, of sellers or brokers,~~
 3 ~~including, but not limited to, the duties of a seller or broker under~~
 4 ~~this article, Article 1.5 (commencing with Section 1102) of Chapter~~
 5 ~~2 of Title 4 of Part 4 of Division 2, or Section 25359.7 of the Health~~
 6 ~~and Safety Code, or alters the duty of a seller or broker to disclose~~
 7 ~~the existence of known environmental hazards on or affecting the~~
 8 ~~real property.~~

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

10 ~~SEC. 178. Section 2079.8 of the Civil Code is amended to~~
 11 ~~read:~~

12 ~~2079.8.— (a) If a Homeowner’s Guide to Earthquake Safety~~
 13 ~~described in Section 10149 of the Business and Professions Code~~
 14 ~~is delivered to a transferee in connection with the transfer of real~~
 15 ~~property, including property specified in Section 1102 or under~~
 16 ~~Chapter 7.5 (commencing with Section 2621) of Division 2 of the~~
 17 ~~Public Resources 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, geologic~~
 20 ~~and seismic hazards, in general, as described in the guide, that may~~
 21 ~~affect real property and mitigating measures that the transferee or~~
 22 ~~seller might consider.~~

23 ~~(b) Notwithstanding subdivision (a), nothing in this section~~
 24 ~~increases or decreases the duties, if any, of sellers or brokers,~~
 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, or under Chapter 7.5~~
 28 ~~(commencing with Section 2621) of Division 2 of the Public~~
 29 ~~Resources Code, or alters the duty of a seller or broker to disclose~~
 30 ~~the existence of known hazards on or affecting the real property.~~

31 ~~(c) This section shall repeal on July 1, 2018.~~

32 ~~SEC. 179. Section 2079.8 is added to the Civil Code, to read:~~

33 ~~2079.8.— (a) If a Homeowner’s Guide to Earthquake Safety~~
 34 ~~described in Section 10149 of the Business and Professions Code~~
 35 ~~is delivered to a buyer in connection with the sale of real property,~~
 36 ~~including property specified in Section 1102 or under Chapter 7.5~~
 37 ~~(commencing with Section 2621) of Division 2 of the Public~~
 38 ~~Resources Code, a seller or broker is not required to provide~~
 39 ~~additional information concerning, and the information shall be~~
 40 ~~deemed to be adequate to inform the buyer regarding, geologic~~

1 and seismic hazards, in general, as described in the guide, that may
2 affect real property and mitigating measures that the buyer or seller
3 might consider.

4 (b) Notwithstanding subdivision (a), nothing in this section
5 increases or decreases the duties, if any, of sellers or brokers,
6 including, but not limited to, the duties of a seller or broker under
7 this article, Article 1.5 (commencing with Section 1102) of Chapter
8 2 of Title 4 of Part 4 of Division 2, or under Chapter 7.5
9 (commencing with Section 2621) of Division 2 of the Public
10 Resources Code, or alters the duty of a seller or broker to disclose
11 the existence of known hazards on or affecting the real property.

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

13 SEC. 180. Section 2079.9 of the Civil Code is amended to
14 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 with~~
9 ~~Section 2621) or Chapter 7.8 (commencing with Section 2690) of~~
10 ~~Division 2 of the Public Resources Code, or alters the duty of a~~
11 ~~seller or real estate licensee to disclose the existence of known~~
12 ~~hazards on or affecting the real property.~~

13 ~~(e) 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 be
39 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 not~~
40 ~~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 area.
12 Contact information for pipeline operators is searchable by ZIP
13 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 hazardous
18 liquid transmission pipelines in subdivision (a). The information
19 in the notice shall be deemed to be adequate to inform the buyer
20 about the existence of a statewide database of the locations of gas
21 and hazardous liquid transmission pipelines and information from
22 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
28 Part 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 maintain~~
17 ~~for public access a database of the locations of persons required~~
18 ~~to register pursuant to paragraph (1) of subdivision (a) of Section~~
19 ~~290.4 of the Penal Code. The database is updated on a quarterly~~
20 ~~basis and is a source of information about the presence of these~~
21 ~~individuals in any neighborhood. The Department of Justice also~~
22 ~~maintains a Sex Offender Identification Line through which~~
23 ~~inquiries about individuals may be made. This is a "900" telephone~~
24 ~~service. Callers shall have specific information about individuals~~
25 ~~they are checking. Information regarding neighborhoods is not~~
26 ~~available through the "900" telephone service.~~

27 ~~(2) A contract entered into by the parties on or after September~~
28 ~~1, 2005, and before April 1, 2006, shall contain either the notice~~
29 ~~specified in paragraph (1) or the notice specified in paragraph (3).~~

30 ~~(3) A contract entered into by the parties on or after April 1,~~
31 ~~2006, shall contain the following notice:~~

32 ~~Notice: Pursuant to Section 290.46 of the Penal Code,~~
33 ~~information about specified registered sex offenders is made~~
34 ~~available to the public via an Internet Web site maintained by the~~
35 ~~Department of Justice at www.meganslaw.ca.gov. Depending on~~
36 ~~an offender's criminal history, this information will include either~~
37 ~~the address at which the offender resides or the community of~~
38 ~~residence and ZIP Code in which he or she resides.~~

39 ~~(b) Subject to subdivision (c), upon delivery of the notice to the~~
40 ~~lessee or buyer of the real property, the lessor, seller, or broker is~~

1 not required to provide information in addition to that contained
2 in the notice regarding the proximity of registered sex offenders.
3 The information in the notice shall be deemed to be adequate to
4 inform the lessee or buyer about the existence of a statewide
5 database of the locations of registered sex offenders and
6 information from the database regarding those locations. The
7 information in the notice shall not give rise to any cause of action
8 against the disclosing party by a registered sex offender.

9 (e) Notwithstanding subdivisions (a) and (b), nothing in this
10 section shall alter any existing duty of the lessor, seller, or broker
11 under any other statute or decisional law including, but not limited
12 to, the duties of a lessor, seller, or broker under this article, or the
13 duties of a seller or broker under Article 1.5 (commencing with
14 Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2.

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

16 SEC. 188. Section 2079.13 of the Civil Code is amended to
17 read:

18 2079.13. As used in Sections 2079.14 to 2079.24, inclusive,
19 the following terms have the following meanings:

20 (a) “Agent” means a person acting under provisions of Title 9
21 (commencing with Section 2295) in a real property transaction,
22 and includes a person who is licensed as a real estate broker under
23 Chapter 3 (commencing with Section 10130) of Part 1 of Division
24 4 of the Business and Professions Code, and under whose license
25 a listing is executed or an offer to purchase is obtained.

26 (b) “Associate licensee” means a person who is licensed as a
27 real estate broker or salesperson under Chapter 3 (commencing
28 with Section 10130) of Part 1 of Division 4 of the Business and
29 Professions Code and who is either licensed under a broker or has
30 entered into a written contract with a broker to act as the broker’s
31 agent in connection with acts requiring a real estate license and to
32 function under the broker’s supervision in the capacity of an
33 associate licensee.

34 The agent in the real property transaction bears responsibility
35 for his or her associate licensees who perform as agents of the
36 agent. When an associate licensee owes a duty to any principal,
37 or to any buyer or seller who is not a principal, in a real property
38 transaction, that duty is equivalent to the duty owed to that party
39 by the broker for whom the associate licensee functions.

1 (e) “Buyer” means a transferee in a real property transaction,
2 and includes a person who executes an offer to purchase real
3 property from a seller through an agent, or who seeks the services
4 of an agent in more than a casual, transitory, or preliminary manner,
5 with the object of entering into a real property transaction. “Buyer”
6 includes vendee or lessee.

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

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

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

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

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

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

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

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

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

1 (m) ~~“Sell,” “sale,” or “sold” refers to a transaction for the~~
 2 ~~transfer of real property from the seller to the buyer, and includes~~
 3 ~~exchanges of real property between the seller and buyer,~~
 4 ~~transactions for the creation of a real property sales contract within~~
 5 ~~the meaning of Section 2985, and transactions for the creation of~~
 6 ~~a leasehold exceeding one year’s duration.~~

7 (n) ~~“Seller” means the transferor in a real property transaction,~~
 8 ~~and includes an owner who lists real property with an agent,~~
 9 ~~whether or not a transfer results, or who receives an offer to~~
 10 ~~purchase real property of which he or she is the owner from an~~
 11 ~~agent on behalf of another. “Seller” includes both a vendor and a~~
 12 ~~lessor.~~

13 (o) ~~“Selling agent” means a listing agent who acts alone, or an~~
 14 ~~agent who acts in cooperation with a listing agent, and who sells~~
 15 ~~or finds and obtains a buyer for the real property, or an agent who~~
 16 ~~locates property for a buyer or who finds a buyer for a property~~
 17 ~~for which no listing exists and presents an offer to purchase to the~~
 18 ~~seller.~~

19 (p) ~~“Subagent” means a person to whom an agent delegates~~
 20 ~~agency powers as provided in Article 5 (commencing with Section~~
 21 ~~2349) of Chapter 1 of Title 9. However, “subagent” does not~~
 22 ~~include an associate licensee who is acting under the supervision~~
 23 ~~of an agent in a real property transaction.~~

24 ~~This section shall repeal on July 1, 2018.~~

25 ~~SEC. 189. Section 2079.13 is added to the Civil Code, to read:~~

26 ~~2079.13. (a) For the purposes of this article, the definitions in~~
 27 ~~Chapter 1 (commencing with Section 10000) of Part 1 of Division~~
 28 ~~4 of the Business and Professions Code shall apply.~~

29 ~~(b) Notwithstanding subdivision (a), for the purposes of Sections~~
 30 ~~2079 through 2079.6, inclusive, and Sections 2079.9 through~~
 31 ~~2079.12, inclusive, owners and managers of multi-family~~
 32 ~~residential properties improved by more than four residential units~~
 33 ~~are not “sellers” and a lease of such property does not constitute~~
 34 ~~a “sale.”~~

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

36 ~~SEC. 190. Section 2079.14 of the Civil Code is amended to~~
 37 ~~read:~~

38 ~~2079.14. Listing agents and selling agents shall provide the~~
 39 ~~seller and buyer in a real property transaction with a copy of the~~
 40 ~~disclosure form specified in Section 2079.16, and, except as~~

1 provided in subdivision (c), shall obtain a signed acknowledgment
2 of receipt from that seller or buyer, except as provided in this
3 section or Section 2079.15, as follows:

4 (a) ~~The listing agent, if any, shall provide the disclosure form~~
5 ~~to the seller prior to entering into the listing agreement.~~

6 (b) ~~The selling agent shall provide the disclosure form to the~~
7 ~~seller as soon as practicable prior to presenting the seller with an~~
8 ~~offer to purchase, unless the selling agent previously provided the~~
9 ~~seller with a copy of the disclosure form pursuant to subdivision~~
10 ~~(a).~~

11 (c) ~~Where the selling agent does not deal on a face-to-face basis~~
12 ~~with the seller, the disclosure form prepared by the selling agent~~
13 ~~may be furnished to the seller (and acknowledgment of receipt~~
14 ~~obtained for the selling agent from the seller) by the listing agent,~~
15 ~~or the selling agent may deliver the disclosure form by certified~~
16 ~~mail addressed to the seller at his or her last known address, in~~
17 ~~which case no signed acknowledgment of receipt is required.~~

18 (d) ~~The selling agent shall provide the disclosure form to the~~
19 ~~buyer as soon as practicable prior to execution of the buyer's offer~~
20 ~~to purchase, except that if the offer to purchase is not prepared by~~
21 ~~the selling agent, the selling agent shall present the disclosure form~~
22 ~~to the buyer not later than the next business day after the selling~~
23 ~~agent receives the offer to purchase from the buyer.~~

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

25 SEC. 191. Section 2079.14 is added to the Civil Code, to read:

26 2079.14. A real estate broker shall provide the seller and buyer
27 in a real property transaction with a copy of the disclosure form
28 specified in Section 2079.16, and, except as provided in subdivision
29 (c), shall obtain a signed acknowledgment of receipt from that
30 seller or buyer, except as provided in this section or Section
31 2079.15, as follows:

32 (a) ~~The seller's broker, if any, shall provide the disclosure form~~
33 ~~to the seller prior to entering into the listing agreement.~~

34 (b) ~~The buyer's broker shall provide the disclosure form to the~~
35 ~~buyer as soon as practicable prior to execution of the buyer's offer~~
36 ~~to purchase, except that if the offer to purchase is not prepared by~~
37 ~~the buyer's broker, the buyer's broker shall present the disclosure~~
38 ~~form to the buyer not later than the next business day after the~~
39 ~~buyer's broker receives the offer to purchase from the buyer.~~

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

1 SEC. 192. ~~Section 2079.15 of the Civil Code is amended to~~
2 ~~read:~~

3 2079.15. (a) ~~In any circumstance in which the seller or buyer~~
4 ~~refuses to sign an acknowledgment of receipt pursuant to Section~~
5 ~~2079.14, the agent, or an associate licensee acting for an agent,~~
6 ~~shall set forth, sign, and date a written declaration of the facts of~~
7 ~~the refusal.~~

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

9 SEC. 193. ~~Section 2079.15 is added to the Civil Code, to read:~~

10 2079.15. (a) ~~In any circumstance in which the seller or buyer~~
11 ~~refuses to sign an acknowledgment of receipt pursuant to Section~~
12 ~~2079.14, the real estate broker, or an associate licensee acting for~~
13 ~~a real estate broker, shall set forth, sign, and date a written~~
14 ~~declaration of the facts of the refusal.~~

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

16 SEC. 194. ~~Section 2079.16 of the Civil Code is amended to~~
17 ~~read:~~

18 2079.16. ~~The disclosure form required by Section 2079.14~~
19 ~~shall have Sections 2079.13 to 2079.24, inclusive, excluding this~~
20 ~~section, printed on the back, and on the front of the disclosure form~~
21 ~~the following shall appear:~~

22
23 **DISCLOSURE REGARDING**
24 **REAL ESTATE AGENCY RELATIONSHIP**
25 **(As required by the Civil Code)**
26

27 ~~When you enter into a discussion with a real estate agent~~
28 ~~regarding a real estate transaction, you should from the outset~~
29 ~~understand what type of agency relationship or representation you~~
30 ~~wish to have with the agent in the transaction.~~

31
32 **SELLER’S AGENT**
33

34 ~~A Seller’s agent under a listing agreement with the Seller acts~~
35 ~~as the agent for the Seller only. A Seller’s agent or a subagent of~~
36 ~~that agent has the following affirmative obligations:~~

37 ~~To the Seller:~~

38 ~~A fiduciary duty of utmost care, integrity, honesty, and loyalty~~
39 ~~in dealings with the Seller.~~

40 ~~To the Buyer and the Seller:~~

1 ~~(a) Diligent exercise of reasonable skill and care in performance~~
2 ~~of the agent's duties.~~

3 ~~(b) A duty of honest and fair dealing and good faith.~~

4 ~~(c) A duty to disclose all facts known to the agent materially~~
5 ~~affecting the value or desirability of the property that are not known~~
6 ~~to, or within the diligent attention and observation of, the parties.~~

7 ~~An agent is not obligated to reveal to either party any confidential~~
8 ~~information obtained from the other party that does not involve~~
9 ~~the affirmative duties set forth above.~~

10
11 **BUYER'S AGENT**
12

13 ~~A selling agent can, with a Buyer's consent, agree to act as agent~~
14 ~~for the Buyer only. In these situations, the agent is not the Seller's~~
15 ~~agent, even if by agreement the agent may receive compensation~~
16 ~~for services rendered, either in full or in part from the Seller. An~~
17 ~~agent acting only for a Buyer has the following affirmative~~
18 ~~obligations:~~

19 ~~To the Buyer:~~

20 ~~A fiduciary duty of utmost care, integrity, honesty, and loyalty~~
21 ~~in dealings with the Buyer.~~

22 ~~To the Buyer and the Seller:~~

23 ~~(a) Diligent exercise of reasonable skill and care in performance~~
24 ~~of the agent's duties.~~

25 ~~(b) A duty of honest and fair dealing and good faith.~~

26 ~~(c) A duty to disclose all facts known to the agent materially~~
27 ~~affecting the value or desirability of the property that are not known~~
28 ~~to, or within the diligent attention and observation of, the parties.~~

29 ~~An agent is not obligated to reveal to either party any confidential~~
30 ~~information obtained from the other party that does not involve~~
31 ~~the affirmative duties set forth above.~~

32
33 **AGENT REPRESENTING BOTH SELLER AND BUYER**
34

35 ~~A real estate agent, either acting directly or through one or more~~
36 ~~associate licensees, can legally be the agent of both the Seller and~~
37 ~~the Buyer in a transaction, but only with the knowledge and consent~~
38 ~~of both the Seller and the Buyer.~~

39 ~~In a dual agency situation, the agent has the following affirmative~~
40 ~~obligations to both the Seller and the Buyer:~~

1 (a) ~~A fiduciary duty of utmost care, integrity, honesty, and~~
2 ~~loyalty in the dealings with either the Seller or the Buyer.~~

3 (b) ~~Other duties to the Seller and the Buyer as stated above in~~
4 ~~their respective sections.~~

5 In representing both Seller and Buyer, the agent may not, without
6 the express permission of the respective party, disclose to the other
7 party that the Seller will accept a price less than the listing price
8 or that the Buyer will pay a price greater than the price offered.

9 The above duties of the agent in a real estate transaction do not
10 relieve a Seller or Buyer from the responsibility to protect his or
11 her own interests. You should carefully read all agreements to
12 assure that they adequately express your understanding of the
13 transaction. A real estate agent is a person qualified to advise about
14 real estate. If legal or tax advice is desired, consult a competent
15 professional.

16 Throughout your real property transaction you may receive more
17 than one disclosure form, depending upon the number of agents
18 assisting in the transaction. The law requires each agent with whom
19 you have more than a casual relationship to present you with this
20 disclosure form. You should read its contents each time it is
21 presented to you, considering the relationship between you and
22 the real estate agent in your specific transaction.

23 This disclosure form includes the provisions of Sections 2079.13
24 to 2079.24, inclusive, of the Civil Code set forth on the reverse
25 hereof. Read it carefully.

26	_____	_____
27	_____	_____
28	Agent (date)	Buyer/Seller (date)
29	(Signature)	(Signature)

30	_____	_____
31	_____	_____
32	Associate Licensee (date)	Buyer/Seller (date)
33	(Signature)	(Signature)

34 This section shall repeal on July 1, 2018.
35 SEC. 195. Section 2079.16 is added to the Civil Code, to read:
36 2079.16. The disclosure form required by Section 2079.14
37 shall contain at a minimum the following:

38
39 **DISCLOSURE REGARDING**
40 **REAL ESTATE RELATIONSHIPS WITH LICENSEES**

1 (As required by Section 2079.14 of the Civil Code)

2
3 ~~When you enter into a relationship with a real estate broker~~
4 ~~regarding a real estate transaction, you should from the outset~~
5 ~~understand what type of representation you wish to have with the~~
6 ~~broker in the transaction.~~

7
8 **SELLER'S BROKER**

9
10 ~~A Seller's broker under a listing agreement with the Seller acts~~
11 ~~as the broker for the Seller only. A Seller's broker has the following~~
12 ~~affirmative obligations:~~

13 ~~To the Seller:~~

14 ~~A fiduciary duty of care, integrity, honesty, and loyalty in~~
15 ~~dealings with the Seller.~~

16 ~~To the Buyer and the Seller:~~

17 ~~(a) Diligent exercise of reasonable skill and care in performance~~
18 ~~of the broker's duties.~~

19 ~~(b) A duty of honest and fair dealing and good faith.~~

20 ~~(c) A duty to disclose all facts known to the broker materially~~
21 ~~affecting the value or desirability of the property that are not known~~
22 ~~to, or within the diligent attention and observation of, the parties.~~

23 ~~(d) A Seller's broker may have other listing agreements with~~
24 ~~other Sellers.~~

25 ~~A broker is not obligated to reveal to either party any confidential~~
26 ~~information obtained from the other party or from other clients~~
27 ~~that does not involve the affirmative duties set forth above.~~
28 ~~Confidential information includes, but is not limited to, facts~~
29 ~~relating to the party's financial position, motivations, bargaining~~
30 ~~position, or other personal information that may impact price or~~
31 ~~price-related issues.~~

32
33 **BUYER'S BROKER**

34
35 ~~A broker can, with the Buyer's agreement, agree to act as broker~~
36 ~~for the Buyer only. The Buyer's broker may receive compensation~~
37 ~~for services rendered, either in full or in part from the Seller, but~~
38 ~~that does not make the Buyer's broker the Seller's broker. A broker~~
39 ~~acting for a Buyer has the following affirmative obligations:~~

40 ~~To the Buyer:~~

1 ~~A fiduciary duty of care, integrity, honesty, and loyalty in~~
 2 ~~dealings with the Buyer.~~
 3 ~~To the Buyer and the Seller:~~
 4 ~~(a) Diligent exercise of reasonable skill and care in performance~~
 5 ~~of the broker'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 real estate broker~~
 8 ~~materially affecting the value or desirability of the property that~~
 9 ~~are not known to, or within the diligent attention and observation~~
 10 ~~of, the parties. A real estate broker is not obligated to reveal to~~
 11 ~~either party any confidential information obtained from the other~~
 12 ~~party or from other clients that does not involve the affirmative~~
 13 ~~duties set forth above. Confidential information includes, but is~~
 14 ~~not limited to, facts relating to the party's financial position;~~
 15 ~~motivations, bargaining position, or other personal information~~
 16 ~~that may impact price or price-related issues.~~
 17 ~~(d) The Buyer's broker may also be providing services to other~~
 18 ~~buyers in regard to the same or different properties.~~

19
 20 **BROKER REPRESENTING BOTH SELLER AND BUYER**

21
 22 ~~A real estate broker, either acting directly or through one or more~~
 23 ~~associate licensees, can legally represent both the Seller and the~~
 24 ~~Buyer in a transaction, but only with the knowledge and consent~~
 25 ~~of both the Seller and the Buyer.~~
 26 ~~In a dual brokerage or dual licensee situation, the broker and~~
 27 ~~dual licensees have the following affirmative obligations to both~~
 28 ~~the Seller and the Buyer:~~
 29 ~~(a) A fiduciary duty of care, integrity, honesty, and loyalty in~~
 30 ~~the dealings with either the Seller or the Buyer.~~
 31 ~~(b) Other duties to the Seller and the Buyer as stated above in~~
 32 ~~their respective sections.~~
 33 ~~In representing both Seller and Buyer, the broker or dual licensee~~
 34 ~~may not, without the express permission of the respective party,~~
 35 ~~disclose to the other party in that transaction any confidential~~
 36 ~~information obtained from the other party that does not involve~~
 37 ~~the affirmative duties set forth above. Confidential information~~
 38 ~~includes, but is not limited to, facts relating to the party's financial~~
 39 ~~position, motivations, bargaining position, or other personal~~
 40 ~~information that may impact price or price-related issues. A broker~~

1 is not obligated to reveal to either party any information obtained
2 from clients or reports regarding the property in a previous
3 transaction regarding the same property without the client's
4 consent.

5
6 CONSUMER RESPONSIBILITIES
7

8 The above duties of the broker in a real estate transaction do not
9 relieve a Seller or Buyer from the responsibility to protect his or
10 her own interests, including reading all documents, reports, and
11 disclosures. The Buyer has a duty to exercise reasonable care to
12 protect himself or herself, including obtaining and considering
13 those facts which are known to or within the diligent attention and
14 observation of the Buyer. You should carefully read all agreements
15 to assure that they adequately express your understanding of the
16 transaction. A real estate broker is a person qualified to advise
17 about real estate. If legal or tax advice is desired, consult a
18 competent professional.

19 Since you will likely not know who the Buyer is going to be, if
20 you are the Seller, or which property you are going to buy, if you
21 are the Buyer, consider the confirmation of relationships carefully
22 in the context of each offer as it may change as the property in the
23 transaction is identified and the respective parties and their brokers
24 become clear.

25 This disclosure form includes the provisions of Sections 2079.13
26 to 2079.24, inclusive, of the Civil Code set forth on the reverse
27 hereof. Read it carefully.

28	_____	_____
29	_____	_____
30	Real Estate Broker — (date)	Buyer/Seller — (date)
31	(Signature)	(Signature)
32	_____	_____
33	Associate Licensee — (date)	Buyer/Seller — (date)
34	(Signature)	(Signature)

35
36 This section shall become operative on July 1, 2018.

37 SEC. 196. Section 2079.17 of the Civil Code is amended to
38 read:

39 2079.17. (a) As soon as practicable, the selling agent shall
40 disclose to the buyer and seller whether the selling agent is acting

1 in the real property transaction exclusively as the buyer’s agent,
 2 exclusively as the seller’s agent, or as a dual agent representing
 3 both the buyer and the seller. This relationship shall be confirmed
 4 in the contract to purchase and sell real property or in a separate
 5 writing executed or acknowledged by the seller, the buyer, and the
 6 selling agent prior to or coincident with execution of that contract
 7 by the buyer and the seller, respectively.

8 (b) As soon as practicable, the listing agent shall disclose to the
 9 seller whether the listing agent is acting in the real property
 10 transaction exclusively as the seller’s agent, or as a dual agent
 11 representing both the buyer and seller. This relationship shall be
 12 confirmed in the contract to purchase and sell real property or in
 13 a separate writing executed or acknowledged by the seller and the
 14 listing agent prior to or coincident with the execution of that
 15 contract by the seller.

16 (c) The confirmation required by subdivisions (a) and (b) shall
 17 be in the following form:

18
 19 _____ is the agent of (check one):
 20 _____ (Name of Listing Agent)
 21 the seller exclusively; or
 22 both the buyer and seller.
 23 _____
 24 _____ (Name of Selling Agent if not the same as the Listing Agent)
 25 is the agent of (check one):
 26 the buyer exclusively; or
 27 the seller exclusively; or
 28 both the buyer and seller.

29
 30 (d) The disclosures and confirmation required by this section
 31 shall be in addition to the disclosure required by Section 2079.14.

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

33 SEC. 197. Section 2079.17 is added to the Civil Code, to read:

34 2079.17. (a) As soon as practicable, the buyer’s broker shall
 35 disclose to the buyer and seller whether the broker is acting in the
 36 real property transaction as the buyer’s broker or as a dual broker
 37 representing both the buyer and the seller. This relationship shall
 38 be confirmed in the contract to purchase and sell real property or
 39 in a separate writing executed or acknowledged by the seller, the
 40 buyer, and the buyer’s broker either directly or through an associate

1 licensee prior to or coincident with execution of that contract by
2 the buyer and the seller, respectively.

3 (b) ~~As soon as practicable, the seller's broker shall disclose to~~
4 ~~the seller whether the seller's licensee is acting in the real property~~
5 ~~transaction as the seller's broker or as a dual broker representing~~
6 ~~both the buyer and seller. This relationship shall be confirmed in~~
7 ~~the contract to purchase and sell real property or in a separate~~
8 ~~writing executed or acknowledged by the seller and the seller's~~
9 ~~broker either directly or through an associate licensee prior to or~~
10 ~~coincident with the execution of that contract by the seller.~~

11 (e) ~~The confirmation required by subdivisions (a) and (b) shall~~
12 ~~be in the following form:~~

13
14 - _____ is
15 (Name of Seller's Broker, Brokerage firm, and license number)

16 the broker of (check one):
17 the seller; or
18 both the buyer and seller. (dual broker)

19 - _____ is (check one):
20 (Name of Seller's Licensee and license number)

21 is the Seller's Licensee. (salesperson or associate broker)
22 is both the Buyer's and Seller's Licensee. (dual licensee)

23 - _____ is
24 (Name of Buyer's Broker, Brokerage firm, and license number)
25 the broker of (check one):

26 the buyer; or
27 both the buyer and seller. (dual broker)

28 - _____ is
29 (Name of Buyer's Licensee and license number)

30 the Buyer's Licensee. (salesperson or associate broker)
31 both the Buyer's and Seller's Licensee. (dual licensee)

32
33 (d) ~~The disclosures and confirmation required by this section~~
34 ~~shall be in addition to the disclosure required by Section 2079.14.~~
35 ~~A real estate salesperson or associate broker affiliated with a broker~~
36 ~~providing the required disclosures and confirmation on behalf of~~
37 ~~that broker shall satisfy the broker's duties of disclosure and~~
38 ~~confirmation.~~

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

1 SEC. 198. ~~Section 2079.18 of the Civil Code is amended to~~
2 ~~read:~~

3 ~~2079.18. (a) No selling agent in a real property transaction~~
4 ~~may act as an agent for the buyer only, when the selling agent is~~
5 ~~also acting as the listing agent in the transaction.~~

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

7 SEC. 199. ~~Section 2079.19 of the Civil Code is amended to~~
8 ~~read:~~

9 ~~2079.19. (a) The payment of compensation or the obligation~~
10 ~~to pay compensation to an agent by the seller or buyer is not~~
11 ~~necessarily determinative of a particular agency relationship~~
12 ~~between an agent and the seller or buyer. A listing agent and a~~
13 ~~selling agent may agree to share any compensation or commission~~
14 ~~paid, or any right to any compensation or commission for which~~
15 ~~an obligation arises as the result of a real estate transaction, and~~
16 ~~the terms of any such agreement shall not necessarily be~~
17 ~~determinative of a particular relationship.~~

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

19 SEC. 200. ~~Section 2079.19 is added to the Civil Code, to read:~~

20 ~~2079.19. (a) The payment of compensation or the obligation~~
21 ~~to pay compensation to a real estate broker by the seller or buyer~~
22 ~~is not necessarily determinative of a particular agency relationship~~
23 ~~between a real estate broker and the seller or buyer. The parties~~
24 ~~may agree to an agency relationship established and governed by~~
25 ~~a written agreement between the parties or an agreement for~~
26 ~~services for licensed activity without an agency relationship. A~~
27 ~~seller's broker and a buyer's broker may agree to share any~~
28 ~~compensation or commission paid, or any right to any~~
29 ~~compensation or commission for which an obligation arises as the~~
30 ~~result of a real estate transaction, and the terms of any such~~
31 ~~agreement shall not necessarily be determinative of a particular~~
32 ~~relationship.~~

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

34 SEC. 201. ~~Section 2079.20 of the Civil Code is amended to~~
35 ~~read:~~

36 ~~2079.20. (a) Nothing in this article prevents an agent from~~
37 ~~selecting, as a condition of the agent's employment, a specific~~
38 ~~form of agency relationship not specifically prohibited by this~~
39 ~~article if the requirements of Section 2079.14 and Section 2079.17~~
40 ~~are complied with.~~

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

2 ~~SEC. 202.—Section 2079.21 of the Civil Code is amended to~~
3 ~~read:~~

4 ~~2079.21.—A dual agent shall not disclose to the buyer that the~~
5 ~~seller is willing to sell the property at a price less than the listing~~
6 ~~price, without the express written consent of the seller. A dual~~
7 ~~agent shall not disclose to the seller that the buyer is willing to pay~~
8 ~~a price greater than the offering price, without the express written~~
9 ~~consent of the buyer.~~

10 ~~This section does not alter in any way the duty or responsibility~~
11 ~~of a dual agent to any principal with respect to confidential~~
12 ~~information other than price.~~

13 ~~This section shall repeal on July 1, 2018.~~

14 ~~SEC. 203.—Section 2079.21 is added to the Civil Code, to read:~~

15 ~~2079.21.—(a) A dual licensee may not, without the express~~
16 ~~permission of a client, disclose to the other client any confidential~~
17 ~~information obtained from the other client that does not involve~~
18 ~~the affirmative duties described in Section 2079.16. Confidential~~
19 ~~information includes, but is not limited to, facts relating to the~~
20 ~~client's financial position, motivations, bargaining position, or~~
21 ~~other personal information that may impact price or price-related~~
22 ~~issues.~~

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

24 ~~SEC. 204.—Section 2079.22 of the Civil Code is amended to~~
25 ~~read:~~

26 ~~2079.22.—(a) Nothing in this article precludes a listing agent~~
27 ~~from also being a selling agent, and the combination of these~~
28 ~~functions in one agent does not, of itself, make that agent a dual~~
29 ~~agent.~~

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

31 ~~SEC. 205.—Section 2079.22 is added to the Civil Code, to read:~~

32 ~~2079.22.—(a) Nothing in this article precludes a seller's broker,~~
33 ~~including through one or more associate licensees, from also being~~
34 ~~a buyer's broker. If one party to the transaction chooses to not be~~
35 ~~represented by a broker, that does not, of itself, make that broker~~
36 ~~a dual licensee without the written consent set forth in Section~~
37 ~~2079.18. An agency relationship between a client and a broker or~~
38 ~~associate licensee shall have the express written consent of all~~
39 ~~parties.~~

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

1 ~~SEC. 206.~~ Section 2079.23 of the Civil Code is amended to
2 read:

3 ~~2079.23. (a) A contract between the principal and agent may~~
4 ~~be modified or altered to change the agency relationship at any~~
5 ~~time before the performance of the act which is the object of the~~
6 ~~agency with the written consent of the parties to the agency~~
7 ~~relationship.~~

8 ~~(b) A lender or an auction company retained by a lender to~~
9 ~~control aspects of a transaction of real property subject to this part,~~
10 ~~including validating the sales price, shall not require, as a condition~~
11 ~~of receiving the lender's approval of the transaction, the~~
12 ~~homeowner or listing agent to defend or indemnify the lender or~~
13 ~~auction company from any liability alleged to result from the~~
14 ~~actions of the lender or auction company. Any clause, provision,~~
15 ~~covenant, or agreement purporting to impose an obligation to~~
16 ~~defend or indemnify a lender or an auction company in violation~~
17 ~~of this subdivision is against public policy, void, and unenforceable.~~

18 ~~(c) This section shall repeal on July 1, 2018.~~

19 ~~SEC. 207.~~ Section 2079.23 is added to the Civil Code, to read:

20 ~~2079.23. (a) A contract between the principal and the real~~
21 ~~estate broker may be modified or altered to change the relationship~~
22 ~~at any time before the performance of the act which is the object~~
23 ~~of the license services with the written consent of the parties to~~
24 ~~the relationship.~~

25 ~~(b) A lender or an auction company retained by a lender to~~
26 ~~control aspects of a transaction of real property subject to this part,~~
27 ~~including validating the sales price, shall not require, as a condition~~
28 ~~of receiving the lender's approval of the transaction, the~~
29 ~~homeowner or any licensee to defend or indemnify the lender or~~
30 ~~auction company from any liability alleged to result from the~~
31 ~~actions of the lender or auction company. Any clause, provision,~~
32 ~~covenant, or agreement purporting to impose an obligation to~~
33 ~~defend or indemnify a lender or an auction company in violation~~
34 ~~of this subdivision is against public policy, void, and unenforceable.~~

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

36 ~~SEC. 208.~~ Section 2079.24 of the Civil Code is amended to
37 read:

38 ~~2079.24. (a) Nothing in this article shall be construed to either~~
39 ~~diminish the duty of disclosure owed buyers and sellers by agents~~
40 ~~and their associate licensees, subagents, and employees or to relieve~~

1 ~~agents and their associate licensees, subagents, and employees~~
2 ~~from liability for their conduct in connection with acts governed~~
3 ~~by this article or for any breach of a fiduciary duty or a duty of~~
4 ~~disclosure.~~

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

6 ~~SEC. 209. Section 2079.24 is added to the Civil Code, to read:~~

7 ~~2079.24. (a) Nothing in this article shall be construed to either~~
8 ~~diminish the duty of disclosure owed to buyers and sellers by~~
9 ~~brokers, including their broker associates, salespersons, and~~
10 ~~employees, or to relieve brokers, including their broker associates,~~
11 ~~salespersons, and employees from liability for their conduct in~~
12 ~~connection with acts governed by this article.~~

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

14 ~~SEC. 210.~~

15 ~~SEC. 33. Section 31210 of the Corporations Code is amended~~
16 ~~to read:~~

17 ~~31210. (a) It is unlawful for any person to effect or attempt to~~
18 ~~effect a sale of a franchise in this state, except in transactions~~
19 ~~exempted under Chapter 1 (commencing with Section 31100) of~~
20 ~~Part 2 of this division, unless such person is: (1) identified in an~~
21 ~~application or amended application filed with the commissioner~~
22 ~~pursuant to Part 2 (commencing with Section 31100) of this~~
23 ~~division, (2) licensed by the Bureau of Real Estate as a real estate~~
24 ~~broker or real estate salesman, salesperson, or (3) licensed by the~~
25 ~~commissioner as a broker-dealer or agent pursuant to the Corporate~~
26 ~~Securities Law of 1968.~~

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

28 ~~SEC. 211. Section 31210 is added to the Corporations Code,~~
29 ~~to read:~~

30 ~~31210. (a) It is unlawful for any person to effect or attempt to~~
31 ~~effect a sale of a franchise in this state, except in transactions~~
32 ~~exempted under Chapter 1 (commencing with Section 31100) of~~
33 ~~Part 2 of this division, unless such person is: (1) identified in an~~
34 ~~application or amended application filed with the commissioner~~
35 ~~pursuant to Part 2 (commencing with Section 31100) of this~~
36 ~~division, (2) licensed by the Bureau of Real Estate as a real estate~~
37 ~~broker or real estate salesperson, or (3) licensed by the~~
38 ~~commissioner as a broker-dealer or agent pursuant to the Corporate~~
39 ~~Securities Law of 1968.~~

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

1 ~~SEC. 212. No reimbursement is required by this act pursuant~~
2 ~~to Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~
7 ~~the Government Code, or changes the definition of a crime within~~
8 ~~the meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~

O