



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites	
------	------------------	----------------	--------------	-----------------	------------------	--------------	--

Code: Section:

[Up^](#) [Add To My Favorites](#)

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 4. REAL ESTATE [10000 - 11506] (*Division 4 added by Stats. 1943, Ch. 127.*)

PART 1. LICENSING OF PERSONS [10000 - 10580] (*Part 1 added by Stats. 1943, Ch. 127.*)

CHAPTER 3. Real Estate Regulations [10130 - 10249.93] (*Chapter 3 added by Stats. 1943, Ch. 127.*)

ARTICLE 1. Scope of Regulation [10130 - 10149] (*Article 1 added by Stats. 1943, Ch. 127.*)

10130. It is unlawful for any person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or a real estate salesperson within this state without first obtaining a real estate license from the department, or to engage in the business of, act in the capacity of, advertise as, or assume to act as a mortgage loan originator within this state without having obtained a license endorsement.

The commissioner may prefer a complaint for violation of this section before any court of competent jurisdiction, and the commissioner and his or her counsel, deputies, or assistants may assist in presenting the law or facts at the trial.

It is the duty of the district attorney of each county in this state to prosecute all violations of this section in their respective counties in which the violations occur.

(Amended by Stats. 2012, Ch. 569, Sec. 2. (AB 1950) Effective January 1, 2013.)

10131. A real estate broker within the meaning of this part is a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, does or negotiates to do one or more of the following acts for another or others:

- (a) Sells or offers to sell, buys or offers to buy, solicits prospective sellers or buyers of, solicits or obtains listings of, or negotiates the purchase, sale, or exchange of real property or a business opportunity.
- (b) Leases or rents or offers to lease or rent, or places for rent, or solicits listings of places for rent, or solicits for prospective tenants, or negotiates the sale, purchase, or exchanges of leases on real property, or on a business opportunity, or collects rents from real property, or improvements thereon, or from business opportunities.
- (c) Assists or offers to assist in filing an application for the purchase or lease of, or in locating or entering upon, lands owned by the state or federal government.
- (d) Solicits borrowers or lenders for or negotiates loans or collects payments or performs services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.
- (e) Sells or offers to sell, buys or offers to buy, or exchanges or offers to exchange a real property sales contract, or a promissory note secured directly or collaterally by a lien on real property or on a business opportunity, and performs services for the holders thereof.

(Amended by Stats. 2018, Ch. 285, Sec. 27. (AB 2884) Effective January 1, 2019.)

10131.01. (a) Subdivision (b) of Section 10131 does not apply to (1) the manager of a hotel, motel, auto and trailer park, to the resident manager of an apartment building, apartment complex, or court, or to the employees of that manager, or (2) any person or entity, including a person employed by a real estate broker, who, on behalf of another or others, solicits or arranges, or accepts reservations or money, or both, for transient occupancies described in paragraphs (1) and (2) of subdivision (b) of Section 1940 of the Civil Code, in a dwelling unit in a common interest development, as defined in Section 4100 of the Civil Code, in a dwelling unit in an apartment building or complex, or in a single-family home, or (3) any person other than the resident manager or employees of that manager, performing the following functions, who is the employee of the property management firm retained to manage a residential apartment building or complex or court and who is performing under the supervision and control of a broker of record who is an employee of that property management firm or a salesperson licensed to the broker who meets certain minimum requirements as specified in a regulation issued by the commissioner:

- (A) Showing rental units and common areas to prospective tenants.

(B) Providing or accepting preprinted rental applications, or responding to inquiries from a prospective tenant concerning the completion of the application.

(C) Accepting deposits or fees for credit checks or administrative costs and accepting security deposits and rents.

(D) Providing information about rental rates and other terms and provisions of a lease or rental agreement, as set out in a schedule provided by an employer.

(E) Accepting signed leases and rental agreements from prospective tenants.

(b) A broker or salesperson shall exercise reasonable supervision and control over the activities of nonlicensed persons acting under paragraph (3) of subdivision (a).

(c) A broker employing nonlicensed persons to act under paragraph (3) of subdivision (a) shall comply with Section 10163 for each apartment building or complex or court where the nonlicensed persons are employed.

(Amended by Stats. 2012, Ch. 181, Sec. 1. (AB 806) Effective January 1, 2013. Operative January 1, 2014, by Sec. 86 of Ch. 181.)

10131.1. (a) A real estate broker within the meaning of this part is also a person who engages as a principal in the business of making loans or buying from, selling to, or exchanging with the public, real property sales contracts or promissory notes secured directly or collaterally by liens on real property, or who makes agreements with the public for the collection of payments or for the performance of services in connection with real property sales contracts or promissory notes secured directly or collaterally by liens on real property.

(b) As used in this section:

(1) "In the business" means any of the following:

(A) The acquisition for resale to the public, and not as an investment, of eight or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year.

(B) The sale to or exchange with the public of eight or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year. However, no transaction negotiated through a real estate licensee shall be considered in determining whether a person is a real estate broker within the meaning of this section.

(C) The making of eight or more loans in a calendar year from the person's own funds to the public when those loans are held or resold and are secured directly or collaterally by a lien on residential real property consisting of a single dwelling unit in a condominium or cooperative or on any parcel containing only residential buildings if the total number of units on the parcel is four or less. However, no transaction negotiated through a real estate broker who meets the criteria of subdivision (a) or (b) of Section 10232 shall be considered in determining whether a person is a real estate broker within the meaning of this section.

(2) "Sale," "resale," and "exchange" include every disposition of any interest in a real property sales contract or promissory note secured directly or collaterally by a lien on real property, except the original issuance of a promissory note by a borrower or a real property sales contract by a vendor, either of which is to be secured directly by a lien on real property owned by the borrower or vendor.

(3) "Own funds" means either of the following:

(A) Cash, corporate capital, or warehouse credit lines at commercial banks, savings banks, savings and loan associations, industrial loan companies, or other sources that are liability items on the person's financial statements, whether secured or unsecured.

(B) Cash, corporate capital, or warehouse credit lines at commercial banks, savings banks, savings and loan associations, industrial loan companies, or other sources that are liability items on the financial statement of an affiliate of the person, whether secured or unsecured.

(4) "Own funds" does not include funds provided by a third party to fund a loan on condition that the third party will subsequently purchase or accept an assignment of the loan.

(Amended by Stats. 2007, Ch. 301, Sec. 2. Effective January 1, 2008.)

10131.2. A real estate broker within the meaning of this part is also a person who engages in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to

promote the sale or lease of real property or of a business opportunity by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property or a business opportunity, or to obtain a loan or loans thereon.

(Amended by Stats. 1965, Ch. 172.)

10131.3. A real estate broker within the meaning of this part is also a person who, for another or others, for compensation or in expectation of compensation, issues or sells, solicits prospective sellers or purchasers of, solicits or obtains listings of, or negotiates the purchase, sale, or exchange of securities as specified in Section 25206 of the Corporations Code.

The provisions of this section do not apply to a broker-dealer or agent of a broker-dealer licensed by the Commissioner of Financial Protection and Innovation under the provisions of the Corporate Securities Law of 1968.

(Amended by Stats. 2022, Ch. 452, Sec. 8. (SB 1498) Effective January 1, 2023.)

10131.4. A real estate broker within the meaning of this part is also a person who acts for another or others for compensation or in expectation of compensation, to do one or more of the following acts:

- (a) To sell or offer for sale, buy or offer to buy, solicit prospective sellers or purchasers, solicit or obtain listings, or negotiate the purchase, sale, or exchange of mineral, oil, or gas property.
- (b) To solicit borrowers or lenders for or negotiate loans on mineral, oil, or gas property, or collect payments for lenders in connection with these loans.
- (c) To lease or offer to lease or negotiate the sale, purchase, or exchange of leases on mineral, oil, or gas property.
- (d) To rent or place for rent, mineral, oil, or gas property or to collect rent or royalties from mineral, oil, or gas property or improvements thereon.
- (e) Other than as an officer or employee of the state or federal government, to assist or offer to assist another or others in filing an application for the purchase or lease of, or to locate or enter upon mineral, oil, or gas property owned by the state or federal government.

(Added by Stats. 1993, Ch. 416, Sec. 1. Effective January 1, 1994.)

10131.45. A real estate broker within the meaning of this part is also a person who engages in the following businesses as a principal:

- (a) Except as provided in subdivision (d) of Section 10133.35, buying or leasing, or taking an option on mineral, oil, or gas property for the purpose of sale, exchange, lease, sublease, or assignment of a lease of the property or any part of the property.
- (b) Offering mining claims or any interest therein for sale or assignment.

(Added by Stats. 1993, Ch. 416, Sec. 2. Effective January 1, 1994.)

10131.5. A nonresident of California may become a real estate broker by conforming to all of the provisions of this part.

(Added by Stats. 1947, Ch. 455.)

10131.6. (a) Notwithstanding any other provision of law, a person licensed as a real estate broker may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or exchange of any manufactured home or mobilehome only if the manufactured home or mobilehome has been registered under Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code.

(b) No real estate broker who engages in the activities authorized by this section shall maintain any place of business where two or more manufactured homes or mobilehomes are displayed and offered for sale by the person, unless the broker is also licensed as a mobilehome dealer as provided for by Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code.

(c) As used in this chapter, "manufactured home" means a structure as defined in Section 18007 of the Health and Safety Code, and "mobilehome" means a structure as defined in Section 18008 of the Health and Safety Code. "Manufactured home" and "Mobilehome" do not include a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, a commercial modular, as defined in Section 18001.8 of the Health and Safety Code, or factory-built housing, as defined in Section 19971 of the Health and Safety Code.

(d) In order to carry out this section, the commissioner shall prescribe by regulation, after consultation with the Department of Housing and Community Development, methods and procedures to assure compliance with requirements of the Health and Safety Code pertaining to manufactured home and mobilehome registration, collection of sales and use taxes, and transaction documentation.

(e) Nothing in this section increases or decreases, or in any way preempts, consumer notice requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 and related regulations which are set forth in Sections 5414

and 5422 of Title 42 of the United States Code and Subparts E and I of Title 24 of the Code of Federal Regulations.

(Amended by Stats. 2010, Ch. 610, Sec. 1. (AB 2762) Effective January 1, 2011.)

10131.7. It is unlawful for any real estate licensee acting under authority of Section 10131.6 to do any of the following:

- (a) To advertise or offer for sale in any manner any manufactured home or mobilehome, unless it is either in place on a lot rented or leased for human habitation within an established mobilehome park as defined in Section 18214 of the Health and Safety Code and the advertising or offering for sale is not contrary to any terms of a contract between the seller of the manufactured home or mobilehome and the owner of the mobilehome park, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and that use would be authorized for a total and uninterrupted period of at least one year.
- (b) To fail to withdraw any advertisement of a manufactured home or mobilehome for sale, lease, or exchange within 48 hours after the real estate licensee's receipt of notice that the manufactured home or mobilehome is no longer available for sale, lease, or exchange.
- (c) To advertise or represent a mobilehome as a new mobilehome or a manufactured home as a new manufactured home.
- (d) To include as an added cost to the selling price of a mobilehome, an amount for licensing, as prescribed by Section 10751 of the Revenue and Taxation Code, except where the buyer and seller agree to the proration of the license fees for the applicable license period, or transfer of title of the mobilehome as a vehicle, which amount is not due to the state unless, prior to the sale, the amount has been paid by the licensee to the state in order to avoid penalties that would have accrued because of late payment of the fees.
- (e) To make any representation that a manufactured home or mobilehome is capable of being transported on California highways if the manufactured home or mobilehome does not meet all of the equipment requirements applicable to manufactured homes or mobilehomes of Division 12 (commencing with Section 24000) of the Vehicle Code, or to fail to disclose any material fact respecting those equipment requirements.
- (f) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on the real estate licensee's behalf or at the real estate licensee's place of business, that no downpayment is required in connection with the sale of a manufactured home or mobilehome when downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the manufactured home or mobilehome.
- (g) To fail or neglect properly to cause the endorsement, dating, and delivery (or fail to endorse, date, and deliver) of the certificate of ownership or certificate of title of the manufactured home or mobilehome, and, when having possession, to fail to deliver the registration card to a transferee who is lawfully entitled to a transfer of registration. Except when the certificate of ownership or certificate of title is demanded in writing by a purchaser, the licensee shall satisfy the delivery requirement of this subdivision by submitting appropriate documents and fees to the Department of Housing and Community Development for transfer of registration in accordance with Chapter 8 (commencing with Section 18075) of Part 2 of Division 13 of the Health and Safety Code and rules and regulations promulgated thereunder.

(Amended by Stats. 2010, Ch. 610, Sec. 1.3. (AB 2762) Effective January 1, 2011.)

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

- (1) A regular officer of a corporation or a general partner of a partnership with respect to real property owned or leased by the corporation or partnership, respectively, or in connection with the proposed purchase or leasing of real property by the corporation or partnership, respectively, if the acts are not performed by the officer or partner in expectation of special compensation.
- (2) A person holding a duly executed power of attorney from the owner of the real property with respect to which the acts are performed.
- (3) An attorney at law in rendering legal services to a client.
- (4) A receiver, trustee in bankruptcy or other person acting under order of a court of competent jurisdiction.
- (5) A trustee for the beneficiary of a deed of trust when selling under authority of that deed of trust.

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

(Amended by Stats. 1985, Ch. 476, Sec. 1.)

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

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

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

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

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

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

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

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

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

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

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

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

(12) Any person licensed as a PACE program administrator when acting under the authority of that license.

(13) A PACE solicitor, when enrolled by a person licensed as a program administrator and acting pursuant to an agreement with that program administrator licensee.

(14) A PACE solicitor agent, when enrolled by a person licensed as a program administrator and acting pursuant to an agreement between a PACE solicitor and that program administrator licensee.

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

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

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

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

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

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

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

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

(e) This section shall become operative on January 1, 2019.

(Amended (as added by Stats. 2017, Ch. 475, Sec. 2) by Stats. 2018, Ch. 285, Sec. 29. (AB 2884) Effective January 1, 2019.)

10133.15. The provisions of Article 5 (commencing with Section 10230) and Article 7 (commencing with Section 10240) do not apply to any person whose business is that of acting as an authorized representative, agent, or loan correspondent of any person or employee thereof doing business under any law of this state, any other state, or the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies or when making loans qualified for sale to any of the foregoing insofar as that business is concerned.

(Amended by Stats. 1998, Ch. 485, Sec. 9. Effective January 1, 1999.)

10133.2. The provisions of Sections 10016, 10131, 10131.1, and 10132 do not apply to any stenographer, bookkeeper, receptionist, telephone operator, or other clerical help in carrying out their functions as such.

(Amended by Stats. 2018, Ch. 285, Sec. 30. (AB 2884) Effective January 1, 2019.)

10133.3. The provisions of Sections 10131 and 10131.2 relating to business opportunities do not apply to any person, partnership, corporation, or other legal entity which for another or others sells or offers to sell, solicits prospective sellers or purchasers of, solicits or obtains listings of, advertises for sale, buys or offers to buy, or negotiates the purchase, sale, or exchange of radio, television, or cable enterprises which are licensed and regulated by the Federal Communications Commission, or any successor agency, pursuant to the Communications Act of 1934, as amended and which purchase, sale, or exchange is not in substance a transfer of real property.

(Added by Stats. 1990, Ch. 729, Sec. 1.)

10133.35. A real estate broker's license shall not be required to engage in any of the following activities with respect to a mineral, oil, or gas property:

(a) To act as a depository under an oil lease, gas lease, or oil and gas lease other than for purpose of sale.

(b) To engage in any transaction subject to an order of a court of competent jurisdiction.

(c) To engage in the business of drilling for or producing oil or gas or mining for or producing minerals.

(d) To negotiate leases or agreements between an owner of mineral, oil, or gas lands, leases, or mineral rights, and a person organized for or engaging in oil or gas or mineral or metal production, or to enter into leases or agreements with an owner of mineral, oil, or gas lands, leases, or mineral rights on behalf of a disclosed or undisclosed person organized for or engaging in oil or gas or mineral or metal production.

(e) To deal with mineral rights or land, other than oil or gas rights or land, as the owner of the rights or land.

(Added by Stats. 1993, Ch. 416, Sec. 3. Effective January 1, 1994.)

10133.4. (a) The provisions of subdivision (b) of Section 10131 do not apply to persons acting in the capacity of a film location representative in connection with a transaction which complies with the requirements of subdivision (c).

(b) As used in this section:

(1) "Film location representative" means an employee of a principal arranging for the use of real property for photographic purposes.

(2) "Principal" means the person who will use the real property for photographic purposes.

(c) In every transaction arranged by a film location representative, the principal shall maintain liability insurance insuring both that principal and the real property owner against death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the real property which is the subject of the transaction. The amount of the insurance coverage shall not be less than five hundred thousand dollars (\$500,000) per person or one million dollars (\$1,000,000) per occurrence for personal injury and five hundred thousand dollars (\$500,000) for property damage. It must be issued by an insurance carrier authorized to sell such insurance in California.

(Added by Stats. 1992, Ch. 396, Sec. 1. Effective January 1, 1993.)

10133.45. (a) Subdivisions (a) and (b) of Section 10131 do not apply to persons acting in the capacity of an outdoor advertising representative in connection with a transaction described in subdivision (c).

(b) For purposes of this section, "outdoor advertising representative" means an employee of a corporation or a limited liability company or a general partner of a partnership that holds a license issued by the Department of Transportation to engage in the business of outdoor advertising, arranging for the lease or transfer of real property by his or her employer or an interest in real property solely for the placement of, access to, or operation of, an advertising display and appurtenances thereto, as defined in Section 5202.

(c) In every transaction involving the transfer, lease, or use of real property for the operation of an advertising display negotiated by an outdoor advertising representative, the owner or operator of the advertising display shall maintain liability insurance coverage for death, bodily injury, and property damage arising out of, or in connection with, its acts, omissions, or operations on the real property. The amount of the insurance coverage shall not be less than five hundred thousand dollars (\$500,000) per person or one million dollars (\$1,000,000) per occurrence for personal injury and five hundred thousand dollars (\$500,000) for property damage. It must be issued by an insurance carrier authorized to sell such insurance in California.

(Added by Stats. 2016, Ch. 854, Sec. 1. (AB 1381) Effective January 1, 2017.)

10133.5. The provisions of Article 5 (commencing with Section 10230) do not apply to any person who is an approved lender, mortgagee, seller, or servicer for the Federal Housing Administration, United States Department of Veterans Affairs, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, when making loans to be sold to, or when servicing loans on behalf of and subject to audit by, any of the foregoing with respect to those loans.

(Amended by Stats. 1998, Ch. 485, Sec. 10. Effective January 1, 1999.)

10135. When a lease or leasing is referred to in this article, it includes any lease, whether such lease is the sole transaction involved, or the principal or an incidental part of the transaction involved.

(Added by Stats. 1943, Ch. 127.)

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

(Amended by Stats. 2016, Ch. 177, Sec. 22. (AB 685) Effective January 1, 2017.)

10137. It is unlawful for any licensed real estate broker to retain, compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed real estate broker, or a real estate salesperson licensed under the responsible broker retaining or compensating him or her, or to retain or compensate, directly or indirectly, any licensee for engaging in any activity for which a mortgage loan originator license endorsement is required, if that licensee does not hold a mortgage loan originator license endorsement; provided, however, that a licensed real estate broker may pay a commission to a broker of another state.

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

It is unlawful for any licensed real estate salesperson to pay any compensation for performing any of the acts within the scope of this chapter to any real estate licensee except through the broker under whom he or she is at the time licensed. A licensee may enter into an agreement with another licensee to share that compensation provided that any compensation is paid through the responsible broker.

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

(Amended by Stats. 2018, Ch. 285, Sec. 31. (AB 2884) Effective January 1, 2019.)

10137.1. Nothing contained in this division shall preclude a partnership from performing acts for which a real estate broker license is required, provided every partner through whom the partnership so acts is a licensed real estate broker.

(Added by Stats. 1968, Ch. 75.)

10138. It is a misdemeanor, punishable by a fine of not exceeding one hundred dollars (\$100) for each offense, for any person, whether obligor, escrowholder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this chapter, who is not known to be or who does not present evidence to such payor that he is a regularly licensed real estate broker at the time such compensation is earned.

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

(Amended by Stats. 1983, Ch. 1092, Sec. 38. Effective September 27, 1983. Operative January 1, 1984, by Sec. 427 of Ch. 1092.)

10139. Any person acting as a real estate broker, real estate salesperson, or mortgage loan originator without a license or license endorsement, or who advertises using words indicating that he or she is a real estate broker, real estate salesperson, or mortgage loan originator without being so licensed or without having obtained a license endorsement, shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars (\$60,000). If a Real Estate Fraud Prosecution Trust Fund, as described in Section 27388 of the Government Code, exists in the county where a person or corporation is convicted, any fine collected from the person in excess of ten thousand dollars (\$10,000) or any fine collected from the corporation in excess of fifty thousand dollars (\$50,000) shall be deposited in that Real Estate Fraud Prosecution Trust Fund.

(Amended by Stats. 2010, Ch. 287, Sec. 2. (SB 1137) Effective January 1, 2011.)

10140. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any land or subdivision thereof, as defined in Chapter 1 (commencing at Section 11000) of Part 2 of this division, offered for sale or lease, or, if the land is owned by the State or Federal Government, which such person offers to assist another or others to file an application for the purchase or lease of, or to locate or enter upon, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any said land or subdivision, as defined in Chapter 1 (commencing at Section 11000) of Part 2 of this division, contains any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or causes the same to be issued, circulated, published or distributed, or who, in any other respect, willfully violates or fails to comply with any of the provisions of this section, or who in any other respect willfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the commissioner under this section, is guilty of a public offense, and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment, and, if a real estate licensee, he shall be held to trial by the commissioner for a suspension or revocation of his license, as provided in the provisions of this part relating to hearings. The district attorney of each county in this State shall prosecute all violations of the provisions of this section in respective counties in which the violations occur.

(Amended by Stats. 1959, Ch. 2116.)

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

(Amended by Stats. 2016, Ch. 177, Sec. 24. (AB 685) Effective January 1, 2017.)

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

(b) (1) A real estate licensee shall disclose their name, license identification number and unique identifier assigned to that licensee by the Nationwide Multistate Licensing System and Registry, if that licensee is a mortgage loan originator, and responsible broker's identity, as defined in Section 10015.4, on all solicitation materials intended to be the first point of contact with consumers and on real property purchase agreements when acting in a manner that requires a real estate license or mortgage loan originator license endorsement in those transactions. The commissioner may adopt regulations identifying the materials in which a licensee must disclose a license identification number and unique identifier assigned to that licensee by the Nationwide Multistate Licensing System and Registry, and responsible broker's identity.

(2) A real estate licensee who is a natural person and who legally changes the surname in which their license was originally issued may continue to utilize their former surname for the purpose of conducting business associated with their license so long as both names are filed with the department. Use of a former surname shall not constitute a fictitious name for the purposes of Section 10159.5.

(3) For purposes of this section, "solicitation materials" include business cards, stationery, advertising flyers, advertisements on television, in print, or electronic media, "for sale," rent, lease, "open house," and directional signs, and other materials designed to solicit the creation of a professional relationship between the licensee and a consumer.

(4) This section does not limit or change the requirement described in Section 10236.4 as applicable to real estate brokers.

(c) This section shall not apply to "for sale," rent, lease, "open house," and directional signs that do either of the following:

(1) Display the responsible broker's identity, as defined in Section 10015.4, without reference to an associate broker or licensee.

(2) Display no licensee identification information.

(d) "Mortgage loan originator," "unique identifier," and "Nationwide Multistate Licensing System and Registry" have the meanings set forth in Section 10166.01.

(Amended by Stats. 2022, Ch. 511, Sec. 48. (SB 1495) Effective January 1, 2023.)

10141. Within one month after the closing of a transaction in which title to real property or in the sale of a business when real or personal property is conveyed from a seller to a purchaser through a licensed real estate broker, such broker shall inform or cause the information to be given to the seller and purchaser in writing of the selling price thereof and in event an exchange of real property or a business opportunity is involved, such information shall include a description of said property and amount of added money consideration, if any. If the transaction is closed through escrow and the escrow holder renders a closing statement which reveals such information, that shall be deemed compliance with this section on the part of the broker.

(Amended by Stats. 1965, Ch. 172.)

10141.5. Within one week after the closing of a transaction negotiated by a real estate broker in which title to real property is conveyed from a seller to a purchaser and a deed of trust secured by real property is executed, such broker shall cause such deed of trust to be recorded with the county recorder of the county in which the real property is located, or cause it to be delivered to the beneficiary with a written recommendation that it be recorded forthwith, unless written instructions not to record are received from the beneficiary. If the transaction is closed through escrow and the deed of trust is delivered to the escrow holder within the time prescribed by this section, that shall be deemed compliance with this section on the part of the broker. Nothing in this section shall affect the validity of a transfer of title to real property.

(Added by Stats. 1968, Ch. 163.)

10141.6. (a) A real estate broker who engages in escrow activities for five or more transactions in a calendar year pursuant to the exemption from the Escrow Law contained in Section 17006 of the Financial Code, or whose escrow activities pursuant to that exemption equal or exceed one million dollars (\$1,000,000) in a calendar year, shall file with the department a report, within 60 days following the completion of the calendar year, documenting the number of escrows conducted and the dollar volume escrowed during the calendar year in which the threshold was met. This report shall be made on a form acceptable to the commissioner.

(b) A real estate broker subject to this section and Section 10232.2 may file consolidated reports that include all of the information required under this section and Section 10232.2. Those consolidated reports shall clearly indicate that they are intended to satisfy the requirements of both sections.

(c) A real estate broker who fails to submit the report required pursuant to subdivision (a) shall be assessed a penalty of fifty dollars (\$50) per day for each day the report has not been received by the department, up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day, the penalty shall be one hundred dollars (\$100) per day, not to exceed a total penalty of ten thousand dollars (\$10,000), regardless of the number of days, until the department receives the report.

(d) The commissioner may suspend or revoke the license of a real estate broker who fails to pay a penalty imposed pursuant to this section. In addition, the commissioner may bring an action in an appropriate court of this state to collect payment of that penalty.

(e) All penalties paid or collected under this section shall be deposited into the Recovery Account of the Real Estate Fund and shall, upon appropriation by the Legislature, be available for expenditure for the purposes specified in Chapter 6.5 (commencing with Section 10470).

(f) The reports described in this section are exempted from any requirement of public disclosure by subdivision (b) of Section 7929.000 of the Government Code.

(g) This section shall become operative on July 1, 2012.

10142. When a licensee prepares or has prepared an agreement authorizing or retaining that licensee to perform any of the acts for which he or she is required to hold a license, or when that licensee secures the signature of any person to any contract pertaining to those services or transactions, he or she shall deliver a copy of the agreement to the person signing it as soon as reasonably practicable after the time the signature is obtained. The copy may be provided electronically in transactions pursuant to provisions of the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code), where the parties have agreed to conduct the transaction by electronic means.

(Amended by Stats. 2018, Ch. 285, Sec. 33. (AB 2884) Effective January 1, 2019.)

10143.5. Any real estate broker who assists another or others, or whose real estate salespersons assist another or others, for a compensation, in filing an application for the purchase or lease of, or in locating or entering upon, lands owned by the state or federal government shall report to the commissioner the names and addresses of all persons the broker or his or her salespersons have assisted in filing applications for land owned by the state or federal government and the amount of compensation received from those persons. The report shall be filed quarterly within 10 days after the end of each calendar quarter.

(Amended by Stats. 2018, Ch. 285, Sec. 34. (AB 2884) Effective January 1, 2019.)

10144. The commissioner may prescribe by regulation the information which shall be contained in contracts or other agreements by a real estate licensee to assist another or others in filing an application for the purchase or lease of, or in locating or entering upon, lands owned by the state or federal government, including, but not limited to, information with regard to the services agreed to be performed and information with regard to the hazards which may prevent the person to be assisted in filing an application with the state or federal government ever receiving any state or federal land under the application.

(Amended by Stats. 2018, Ch. 285, Sec. 35. (AB 2884) Effective January 1, 2019.)

10145. (a) (1) A real estate broker who accepts funds belonging to others in connection with a transaction subject to this part shall deposit all those funds that are not immediately placed into a neutral escrow depository or into the hands of the broker's principal, into a trust fund account maintained by the broker in a bank or recognized depository in this state. All funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds.

(2) Withdrawals may be made from a trust fund account of an individual broker only upon the signature of that broker, or in the case of a corporate broker, only upon the signature of an officer through whom the corporation is licensed pursuant to Section 10158 or 10211, or one, or more, of the following persons if specifically authorized in writing by the individual broker or officer:

(A) A real estate salesperson licensed to the broker.

(B) Another broker acting pursuant to a written agreement with the individual broker that conforms to the requirements of this part and any regulations promulgated pursuant to this part.

(C) An unlicensed employee of the individual broker, if the broker has fidelity bond or insurance coverage equal to at least the maximum amount of the trust funds to which the unlicensed employee has access at any time. For purposes of this section, bonds or insurance providing coverage shall protect the broker from intentional wrongful acts committed by an employee of that business, including theft, dishonest acts, or forgery. Bonds and insurance providing coverage may be written with a deductible of up to 5 percent of the coverage amount. For bonds and insurance with a deductible, the employing broker shall have evidence of financial responsibility that is sufficient to protect members of the public against a loss subject to the deductible amount.

Evidence of financial responsibility shall include one or more of the following:

(i) Separate bond or insurance coverage adequate to cover the amount of the deductible.

(ii) A cash deposit held in a separate account, apart from other funds of the broker, the broker's employees, or the broker's principals, in a bank or recognized depository in this state adequate to cover the amount of the fidelity bond deductible and held exclusively and solely for the purpose of paying the fidelity bond deductible amount.

(iii) Any other evidence of financial responsibility approved by the commissioner.

(3) An arrangement under which a person enumerated in subparagraph (A), (B), or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a broker shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from responsibility or liability as provided by law in handling trust funds in the broker's custody.

(4) Notwithstanding the provisions of paragraphs (1), (2), and (3), a real estate broker collecting payments or performing services for investors or note owners in connection with loans secured by a first lien on real property may deposit funds received in trust in an out-of-state depository institution insured by the Federal Deposit Insurance Corporation, if the investor or note owner is any one of the following:

(A) The Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or the United States Department of Veterans Affairs.

(B) A bank or subsidiary thereof, bank holding company or subsidiary thereof, trust company, savings bank or savings and loan association or subsidiary thereof, savings bank or savings association holding company or subsidiary thereof, credit union, industrial bank or industrial loan company, or insurance company doing business under the authority of, and in accordance with, the laws of this state, another state, or the United States relating to banks, trust companies, savings banks or savings associations, credit unions, industrial banks or industrial loan companies, or insurance companies, as evidenced by a license, certificate, or charter issued by the United States or a state, district, territory, or commonwealth of the United States.

(C) Trustees of a pension, profit-sharing, or welfare fund, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars (\$15,000,000).

(D) A corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or a wholly owned subsidiary of that corporation.

(E) A syndication or other combination of any of the entities specified in subparagraph (A), (B), (C), or (D) that is organized to purchase the promissory note.

(F) The California Housing Finance Agency or a local housing finance agency organized under the Health and Safety Code.

(G) A licensed residential mortgage lender or servicer acting under the authority of that license.

(H) A licensed real estate broker selling all or part of the loan, note, or contract to a lender or purchaser specified in subparagraphs (A) to (G), inclusive.

(5) A real estate broker who deposits funds held in trust in an out-of-state depository institution in accordance with paragraph (3) shall make available, in this state, the books, records, and files pertaining to the trust accounts to the commissioner or the commissioner's representatives or pay the reasonable expenses for travel and lodging incurred by the commissioner or the commissioner's representatives in order to conduct an examination at an out-of-state location.

(b) A real estate broker acting as a principal pursuant to Section 10131.1 shall place all funds received from others for the purchase of real property sales contracts or promissory notes secured directly or collaterally by liens on real property in a neutral escrow depository unless delivery of the contract or note is made simultaneously with the receipt of the purchase funds.

(c) A real estate salesperson who accepts trust funds from others on behalf of the broker under whom he or she is licensed shall immediately deliver the funds to the broker or, if so directed by the broker, shall deliver the funds into the custody of the broker's principal or a neutral escrow depository or shall deposit the funds into the broker's trust fund account.

(d) If not otherwise expressly prohibited by this part, a real estate broker may, at the request of the owner of trust funds or of the principals to a transaction or series of transactions from whom the broker has received trust funds, deposit the funds into an interest-bearing account in a bank, savings and loan association, credit union, or industrial loan company, the accounts of which are insured by the Federal Deposit Insurance Corporation, if all of the following requirements are met:

(1) The account is in the name of the broker as trustee for the designated beneficiary or principal of a transaction or series of transactions.

(2) All of the funds in the account are covered by insurance provided by an agency of the United States.

(3) The funds in the account are kept separate, distinct, and apart from funds belonging to the broker or to any other person for whom the broker holds funds in trust.

(4) The broker discloses to the person from whom the trust funds are received, and to a beneficiary whose identity is known to the broker at the time of establishing the account, the nature of the account, how interest will be calculated and paid under various circumstances, whether service charges will be paid to the depository and by whom, and possible notice requirements or penalties for withdrawal of funds from the account.

(5) Interest earned on funds in the account shall not inure directly or indirectly to the benefit of the broker or a person licensed to the broker.

(6) In an executory sale, lease, or loan transaction in which the broker accepts funds in trust to be applied to the purchase, lease, or loan, the parties to the contract shall have specified in the contract or by collateral written agreement the person to whom interest earned on the funds is to be paid or credited.

(e) The broker shall have no obligation to place trust funds into an interest-bearing account unless requested to do so and unless all of the conditions in subdivision (d) are met, nor, in any event, if he or she advises the party making the request that the funds will not be placed in an interest-bearing account.

(f) Subdivision (d) does not preclude the commissioner from prescribing, by regulation, circumstances in which, and conditions under which, a real estate broker is authorized to deposit funds received in trust into an interest-bearing trust fund account.

(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds.

(h) Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of those trust fund accounts maintained in a financial institution, in accordance with the procedures set forth in Section 7473 of the Government Code.

(i) As used in this section, "neutral escrow" means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code or by a person described in paragraph (1) or (3) of subdivision (a) of Section 17006 of that code.

(Amended by Stats. 2018, Ch. 92, Sec. 12. (SB 1289) Effective January 1, 2019.)

10146. Any real estate broker who contracts for or collects an advance fee from any other person, hereinafter referred to as the "principal," shall deposit any such amount or amounts, when collected in a trust account with a bank or other recognized depository. Such funds are trust funds and not the funds of the agent. Amounts may be withdrawn therefrom for the benefit of the agent only when actually expended for the benefit of the principal or five days after the verified accounts mentioned hereinafter have been mailed to the principal. Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of the trust account in accordance with the procedures set forth in Section 7473 of the Government Code.

The commissioner may issue such rules and regulations as he or she deems necessary to regulate the method of accounting, and to accomplish the purpose of the provisions of this code relating to advance fees including, but not limited to, establishing forms for and determining information to be included in such accountings. Each principal shall be furnished a verified copy of such accountings at the end of each calendar quarter and when the contract has been completely performed by the licensee. The commissioner shall be furnished a verified copy of any account or all accounts on his or her demand therefor.

Where advance fees actually paid by or on behalf of any principal are not handled in accordance with the preceding paragraph, it shall be presumed that the agent has violated Sections 506 and 506a of the Penal Code. The principal may recover treble damages for amounts so misapplied and shall be entitled to reasonable attorney's fees in any action brought to recover the same.

(Amended by Stats. 2009, Ch. 307, Sec. 99. (SB 821) Effective January 1, 2010.)

10147. (a) On or before January 1, 1993, the Alfred E. Alquist Seismic Safety Commission shall develop, adopt, and publish a Commercial Property Owner's Guide to Earthquake Safety for distribution to licensees for purposes of Section 2079.9 of the Civil Code and, upon request, to any member of the general public.

(b) In developing the guide, the Alfred E. Alquist Seismic Safety Commission shall consult with the Office of Emergency Services, the California Geological Survey in the Department of Conservation, the Department of Real Estate, and other interested agencies and persons.

(c) The commission shall, to the extent possible, rely on currently available data to develop the guide. To the extent necessary, the commission may contract for the development and production of the guide. The commission shall update the contents of the guide whenever it determines that information within the guide is sufficiently inaccurate or incomplete so as to reduce the effectiveness of the guide. The commission shall charge a fee to cover the costs of production, distribution, development, and updating the guide.

(d) The guide shall include, but need not be limited to, all of the following:

(1) Maps and information on geologic and seismic hazard conditions in the state.

(2) Explanations of typical structural and nonstructural earthquake hazards.

(3) Recommendations for mitigating the hazards of an earthquake, including references and explanations of what constitutes "adequate wall anchorage" as defined in Section 8893.1 of the Government Code.

(4) A statement that there are no guarantees of safety or damage prevention that can be made with respect to a major earthquake and that only precautions, such as retrofitting, can be taken to reduce the risk of various types of earthquake damage. For purposes of preparing the statement, the commission shall confer with insurers and design professional associations.

(5) Notice of the obligation to post a sign as required by Section 8875.8 of the Government Code.

(Amended by Stats. 2021, Ch. 431, Sec. 3. (SB 800) Effective January 1, 2022.)

10147.5. (a) Any printed or form agreement that initially establishes, or is intended to establish, or alters the terms of any agreement that previously established a right to compensation to be paid to a real estate licensee for the sale of residential real property containing not more than four residential units, or for the sale of a mobilehome, shall contain the following statement in not less than 10-point boldface type immediately preceding any provision of such agreement relating to compensation of the licensee:

Notice: The amount or rate of real estate commissions is not fixed by law. They are set by each broker individually and may be negotiable between the seller and broker.

(b) Any printed or form agreement that initially establishes or is intended to establish, or alters the terms of any agreement that previously established a right to compensation to be paid to a real estate licensee for the purchase of residential real property containing not more than four residential units, or for the purchase of a mobilehome, shall contain the following statement in not less than 10-point boldface type immediately preceding any provision of such agreement relating to compensation of the licensee:

Notice: The amount or rate of real estate compensation is not fixed by law. They are set by each broker individually and may be negotiable between the seller and broker.

(c) The amount or rate of compensation shall not be printed in any such agreement described in subdivisions (a) and (b).

(d) Nothing in this section shall affect the validity of a transfer of title to real property.

(e) As used in this section, "alters the terms of any agreement which previously established a right to compensation" means an increase in the rate of compensation, or the amount of compensation if initially established as a flat fee, from the agreement which previously established a right to compensation.

(Amended by Stats. 2024, Ch. 516, Sec. 1. (AB 2992) Effective January 1, 2025.)

10147.6. (a) Any licensee who negotiates, attempts to negotiate, arranges, attempts to arrange, or otherwise offers to perform a mortgage loan modification or other form of mortgage loan forbearance for a fee or other form of compensation paid by the borrower, shall provide the following to the borrower, as a separate statement, in not less than 14-point bold type, prior to entering into any fee agreement with the borrower:

It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting www.hud.gov.

(b) If loan modification or other mortgage loan forbearance services are offered or negotiated in one of the languages set forth in Section 1632 of the Civil Code, a translated copy of the statement in subdivision (a) shall be provided to the borrower in that foreign language.

(c) A violation of this section by a natural person who is a licensee is a public offense punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment in the county jail for a term not to exceed one year, or by both that fine and imprisonment, or if by a corporation, the violation is punishable by a fine not exceeding fifty thousand dollars (\$50,000). These penalties are cumulative to any other remedies or penalties provided by law.

(d) This section shall apply only to mortgages and deeds of trust secured by residential real property containing four or fewer dwelling units.

(Added by Stats. 2009, Ch. 630, Sec. 7. (SB 94) Effective October 11, 2009.)

10148. (a) A licensed real estate broker shall retain for three years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by the broker or obtained by the broker in connection with any transactions for which a real estate broker license is required. The retention period shall run from the date of the closing of the transaction or from the date of the listing if the transaction is not consummated. After notice, the books, accounts, and records shall be made available for examination, inspection, and copying by the commissioner or the commissioner's designated representative during regular business hours; and shall, upon the appearance of sufficient cause, be subject to audit without further notice, except that the audit shall not be harassing in nature. This subdivision shall not be construed to require a licensed real estate broker to retain electronic messages of an ephemeral nature, as described in subdivision (d) of Section 1624 of the Civil Code.

(b) The commissioner shall charge a real estate broker for the cost of any audit, if the commissioner has found, in a final desist and refrain order issued under Section 10086 or in a final decision following a disciplinary hearing held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that the broker has violated Section 10145 or a regulation or rule of the commissioner interpreting Section 10145.

(c) If a broker fails to pay for the cost of an audit as described in subdivision (b) within 60 days of mailing a notice of billing, the commissioner may suspend or revoke the broker's license or deny renewal of the broker's license. The suspension or denial shall remain in effect until the cost is paid or until the broker's right to renew a license has expired.

(d) The commissioner may maintain an action for the recovery of the cost of an audit in any court of competent jurisdiction. In determining the cost incurred by the commissioner for an audit, the commissioner may use the estimated average hourly cost for all persons performing audits of real estate brokers.

(e) The department may suspend or revoke the license of any real estate broker, real estate salesperson, or corporation licensed as a real estate broker, if the real estate broker, real estate salesperson, or any director, officer, employee, or agent of the corporation licensed as a real estate broker knowingly destroys, alters, conceals, mutilates, or falsifies any of the books, papers, writings, documents, or tangible objects that are required to be maintained by this section or that have been sought in connection with an investigation, audit, or examination of a real estate licensee by the commissioner.

(Amended by Stats. 2021, Ch. 431, Sec. 4. (SB 800) Effective January 1, 2022.)

10149. (a) The Alfred E. Alquist Seismic Safety Commission shall develop, adopt, and publish a Homeowner's Guide to Earthquake Safety for distribution to licensees for purposes of Section 2079.8 of the Civil Code and, upon request, to any member of the general public.

(b) In revising the guide, the commission shall consult with the Office of Emergency Services, the California Geological Survey of the Department of Conservation, and the Department of Real Estate.

(c) The commission shall, to the extent possible, rely on currently available data to update the guide. To the extent necessary, the commission may contract for the development and production of the guide. The commission shall update the contents of the guide whenever it determines that information within the guide is sufficiently inaccurate or incomplete so as to reduce the effectiveness of the guide. The commission may charge a fee to cover the costs of production, distribution, development, and updating the guide.

(d) The guide shall include, but need not be limited to, all of the following:

(1) Maps and information on geologic and seismic hazard conditions for all areas of the state.

(2) Explanations of the related structural and nonstructural hazards.

(3) Recommendations for mitigating the hazards of an earthquake.

(4) Explanation that the recommendations in the guide do not guarantee the safety of an individual or prevention of damage to a structure in an earthquake.

(Amended by Stats. 2020, Ch. 20, Sec. 1. (AB 100) Effective June 29, 2020.)