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AB-1650 Real estate licensees: advertisements. (2015-2016)

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Assembly Bill No. 1650

CHAPTER 142

An act to amend, repeal, and add Section 10140.6 of the Business and Professions Code, relating to real estate.

[Approved by Governor August 19, 2016. Filed with Secretary of State August 19, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1650, Frazier. Real estate licensees: advertisements.

Existing law, the Real Estate Law, governs the licensing and regulation of real estate licensees, as defined, as administered by the Real Estate Commissioner. Under those provisions, a real estate licensee is prohibited from publishing, circulating, distributing, or causing 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. Existing law further requires a real estate licensee to include his or her license identification number and, if that licensee is a mortgage loan originator, the unique identifier assigned to that licensee, on the above-described circulations, distributions, publications, or mailings, on all solicitation materials, as described, and on all real property agreements when acting as an agent in those transactions. Existing law authorizes the Real Estate Commissioner to adopt regulations in that regard.

This bill, beginning January 1, 2018, would revise the disclosure requirements with regard to solicitation materials to require the inclusion of the name of the licensee and the responsible broker's identity, and would revise the description of solicitation materials. The bill would exclude specified signs from these provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10140.6 of the Business and Professions Code is amended to read:

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 he or she is performing acts for which a real estate license is required.

(b) (1) A real estate licensee shall disclose his or her license identification number and, if that licensee is a mortgage loan originator, the unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry, on all solicitation materials intended to be the first point of contact with consumers and on real property purchase agreements when acting as an agent in those transactions. The commissioner may adopt regulations identifying the materials in which a licensee must disclose a license identification number and, if that licensee is a mortgage loan originator, the unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry.

(2) For purposes of this section, "solicitation materials intended to be the first point of contact with consumers" includes business cards, stationery, advertising flyers, and other materials designed to solicit the creation of a professional relationship between the licensee and a consumer, and excludes an advertisement in print or electronic media and "for sale" signs.

(3) Nothing in this section shall be construed to limit or change the requirement described in Section 10236.4 as applicable to real estate brokers.

(c) The provisions of this section shall not apply to classified rental advertisements reciting the telephone number at the premises of the property offered for rent or the address of the property offered for rent.

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

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

SEC. 2. Section 10140.6 is added to the Business and Professions Code, to read:

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 he or she is performing acts for which a real estate license is required.

(b) (1) A real estate licensee shall disclose his or her name, license identification number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry, if that licensee is a mortgage loan originator, and responsible broker's identity, as defined in Section 10159.7, on all solicitation materials intended to be the first point of contact with consumers and on real property purchase agreements when acting as an agent 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 Mortgage Licensing System and Registry, and responsible broker's identity.

(2) 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.

(3) Nothing in this section shall be construed to 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 10159.7, without reference to an associate broker or licensee.

(2) Display no licensee identification information.

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

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