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AB-1807 Real estate licensees. (2015-2016)

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Assembly Bill No. 1807

CHAPTER 558

An act to amend Section 10083.2 of the Business and Professions Code, relating to real estate licensees, and making an appropriation therefor.

[Approved by Governor September 24, 2016. Filed with Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1807, Bonta. Real estate licensees.

The Real Estate Law provides for the licensure and regulation of real estate brokers and real estate salespersons by the Bureau of Real Estate, headed by the Real Estate Commissioner. Fees charged and collected under the Real Estate Law, except as otherwise provided, are deposited into the Real Estate Fund and continuously appropriated for use by the commissioner, as specified. Existing law requires the commissioner to provide on the Internet specific information regarding the status of every license issued by the department.

This bill would authorize the commissioner, upon petition by a licensee accompanied by a specified fee, to remove from the posting of discipline an item that has been posted on the bureau's Internet Web site for at least 10 years and for which the licensee provides evidence of rehabilitation indicating that the notice is no longer required to prevent a credible risk to members of the public utilizing licensed activity of the licensee. The bill would require the commissioner, in evaluating a petition, to take into consideration other violations that present a credible risk to the members of the public since the posting of discipline requested for removal, as specified. Because the fees collected pursuant to these provisions would be deposited in the Real Estate Fund, which is continuously appropriated, the bill would make an appropriation. The bill would also authorize the bureau to develop, through regulations, the amount of the fee and the minimum information to be included in a licensee's petition, including, but not limited to, a written justification and evidence of rehabilitation. The bill would require the petition process to commence January 1, 2018. The bill would require the bureau to maintain a list of all licensees whose disciplinary records are altered as a result of the petition process and to update the list and make it available to other licensing bodies, as specified.

This bill would incorporate additional changes in Section 10083.2 of the Business and Professions Code proposed by AB 2330, that would become operative only if AB 2330 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

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

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

SECTION 1. The Legislature finds and declares the following:

(a) It is appropriate for the Bureau of Real Estate to continue to report on its license verification Internet Web page when discipline has been imposed upon a licensee.

(b) It is appropriate for the Bureau of Real Estate to consider and grant on a case-by-case basis a licensee's petition to discontinue the reporting of past disciplinary actions when the petitioning licensee has demonstrated to the satisfaction of the Real Estate Commissioner that the continued reporting is no longer required in order to avoid or reduce such a risk to the public.

(c) The Bureau of Real Estate may require a petitioner to pay in advance of consideration a fee to defray costs associated with consideration of the petition.

(d) Nothing in this act shall be construed to authorize or require the destruction of public records maintained pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), or to refuse a request for production of such a record.

(e) The Legislature intends by this act to establish a process by which a licensee may petition the Bureau of Real Estate to remove a notice of past discipline from the license verification Internet Web page of the bureau.

SEC. 2. Section 10083.2 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

SEC. 2.5. Section 10083.2 of the Business and Professions Code is amended to read:

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

(2) The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the department and accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with

Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) relative to persons or businesses subject to licensure or regulation by the department.

(3) The information shall not include personal information, including home telephone number, date of birth, or social security number. The commissioner shall disclose a licensee's address of record. However, the commissioner shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude the commissioner from also requiring a licensee who has provided a post office box number or other alternative mailing address as his or her address of record to provide a physical business address or residence address only for the department's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

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

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

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

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

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

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

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

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

SEC. 3. Section 2.5 of this bill incorporates changes to Section 10083.2 of the Business and Professions Code proposed by both this bill and Assembly Bill 2330. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) this bill amends Section 10083.2 of the Business and Professions Code and Assembly Bill 2330 amends, repeals, and adds the section but Section 10083.2 of the Business and Professions Code, as added by Assembly Bill 2330 does not become operative until January 1, 2018, and (3) this bill is enacted after Assembly Bill 2330, in which case Section 10083.2 of the Business and Professions Code, as amended by Section 2 of this bill, shall remain operative only until January 1, 2018, at which time Section 2.5 of this bill shall become operative.