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AB-1289 Real property disclosure requirements. (2017-2018)

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Date Published: 10/01/2018 09:00 PM

Assembly Bill No. 1289

CHAPTER 907

An act to amend Sections 1086, 1087, 1088, 1102, 1102.1, 1102.2, 1102.3, 1102.4, 1102.5, 1102.6a, 1102.6b, 1102.6c, 1102.9, 1102.155, 1103, 1103.1, 1103.2, 1103.3, 1103.4, 1103.5, 1103.8, 1103.9, 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, 2079.21, and 2079.22 of, to add Sections 1102.18, 1103.15, and 2079.25 to, to repeal Sections 1090, 1102.14, 1103.14, and 2079.18 of, and to repeal and add Section 1089 of, the Civil Code, relating to real estate.

[Approved by Governor September 29, 2018. Filed with Secretary of State September 29, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1289, Arambula. Real property disclosure requirements.

The Real Estate Law provides for the licensure and regulation of real estate brokers and salespersons by the Real Estate Commissioner, the chief officer of the Bureau of Real Estate.

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 definitions in the Real Estate Law applicable to these provisions.

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 applicable to these provisions. The bill would provide that the period of time the prospective buyer has in which to terminate his or her offer commences when the 3 sections of the disclosure form are completed and delivered to the buyer or buyer's agent. The bill would also authorize a real estate agent to complete his or her

portion of the disclosure by providing all of the information on the agent's inspection disclosure, as specified. The bill would increase the length of time that the transferee has to terminate his or her offer if the delivery of a record was made electronically, as specified.

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 applicable to these provisions.

Existing law generally requires the disclosure of natural and environmental hazards, right-to-farm, and other disclosures upon the transfer of residential property. 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 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.

This bill would make the definitions in the Real Estate Law applicable to these provisions. The bill would update the content of the Natural Hazard Disclosure Statement based on those newly defined terms. The bill would increase the length of time that the transferee has to terminate his or her offer if the delivery of a record was made electronically, as specified.

Under existing law, real estate brokers and salespersons owe certain duties to prospective purchasers of real property.

This bill would modify, add to, and delete, some of the definitions 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 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 revise the content of the disclosure form to include certain information, including seller and buyer responsibilities. The bill would also revise the content of the form required to confirm real estate agent relationships.

Existing law requires the selling agent to provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase and authorizes a selling agent that does not deal face to face with the seller to furnish the disclosure form by certified mail or by the listing agent. Existing law prohibits a selling agent in a real property transaction from acting as an agent for the buyer only when the selling agent is also acting as the listing agent.

This bill would eliminate those provisions.

Existing law prohibits a dual agent from disclosing to the buyer that the seller is willing to sell the property at a price less than the listing price or that the buyer is willing to pay a price greater than the offering price without the express written consent of the seller or buyer, respectively.

This bill would eliminate that prohibition and instead prohibit a dual agent from disclosing to the buyer or seller any confidential information without express permission.

The bill would make the operation of its provisions contingent on the enactment of Assembly Bill 2884. The bill would also specify that neither its provisions nor those of Assembly Bill 2884 are to be construed to affect certain existing duties of real estate brokers, salespersons, and related persons.

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

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

SECTION 1. Section 1086 of the Civil Code is amended to read:

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

(b) An "agent" is one authorized by law to act in that capacity for that type of property and is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, or is a licensee, as defined in Section 18006 of the Health and Safety Code.

SEC. 2. Section 1087 of the Civil Code is amended to read:

1087. A multiple listing service (MLS) is a facility of cooperation of agents and appraisers, operating through an intermediary that does not itself act as an agent or appraiser, through which agents establish express or implied contracts for compensation between agents that are MLS participants in accordance with its MLS rules with respect to listed properties in a listing agreement, or that may be used by agents and appraisers, pursuant to the rules of the service, to prepare market evaluations and appraisals of real property.

SEC. 3. Section 1088 of the Civil Code is amended to read:

1088. A listing may not be placed in a multiple listing service unless authorized or directed by the seller in the listing.

If an agent or appraiser places a listing or other information in the multiple listing service, that agent or appraiser shall be responsible for the truth of all representations and statements made by the agent or appraiser of which that agent or appraiser had knowledge or reasonably should have had knowledge to anyone injured by their falseness or inaccuracy.

SEC. 4. Section 1089 of the Civil Code is repealed.

SEC. 5. Section 1089 is added to the Civil Code, to read:

1089. The provisions of subdivision (d) of Section 1102.1 shall apply to this article.

SEC. 6. Section 1090 of the Civil Code is repealed.

SEC. 7. Section 1102 of the Civil Code is amended to read:

1102. (a) Except as provided in Section 1102.2, this article applies to any transfer by sale, exchange, real property sales contract as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements of single-family residential property.

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

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

SEC. 8. Section 1102.1 of the Civil Code is amended to read:

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

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

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

It is also the intent of the Legislature that the delivery of a mobilehome transfer disclosure statement may not be waived in an "as is" sale.

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

(d) Nothing in Assembly Bill 1289 of the 2017–18 Regular Session or Assembly Bill 2884 of the 2017–18 Regular Session shall be construed to affect any of the following:

(1) A real estate broker's duties under existing statutory or common law as an agent of a person who retains that broker to perform acts for which a license is required under this division.

(2) Any fiduciary duties owed by a real estate broker to a person who retains that broker to perform acts for which a license is required under this division.

(3) Any duty of disclosure or any other duties or obligations of a real estate broker, which arise under this division or other existing, applicable California law, including common law.

(4) Any duties or obligations of a salesperson or a broker associate, which arise under this division or existing, applicable California law, including common law, and duties and obligations to the salesperson's or broker associate's responsible broker.

(5) A responsible broker's duty of supervision and oversight for the acts of retained salespersons or broker associates, which arise under this division or other existing, applicable California law, including common law.

For purposes of this subdivision, references to "existing statutory law" and "existing, applicable California law" refer to the law as it read immediately prior to enactment of Assembly Bill 1289 of the 2017–18 Regular Session and Assembly Bill 2884 of the 2017–18 Regular Session.

SEC. 9. Section 1102.2 of the Civil Code is amended to read:

1102.2. This article does not apply to the following:

(a) Sales or transfers that are required to be preceded by the furnishing to a prospective buyer of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code and transfers that can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code.

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

(c) Sales or transfers to a mortgagee by a mortgagor or successor in interest who is in default, sales to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, any foreclosure sale after default, any foreclosure sale after default in an obligation secured by a mortgage, a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, sales by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure, sales to the legal owner or lienholder of a manufactured home or mobilehome by a registered owner or successor in interest who is in default, or sales by reason of any foreclosure of a security interest in a manufactured home or mobilehome.

(d) Sales or transfers by a fiduciary in the course of the administration of a trust, guardianship, conservatorship, or decedent's estate. This exemption shall not apply to a sale if the trustee is a natural person who is a trustee of a revocable trust and he or she is a former owner of the property or was an occupant in possession of the property within the preceding year.

(e) Sales or transfers from one coowner to one or more other coowners.

(f) Sales or transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Sales or transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to that judgment.

(h) Sales or transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) Sales or transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(j) Sales or transfers or exchanges to or from any governmental entity.

(k) Sales or transfers of any portion of a property not constituting single-family residential property.

(l) Notwithstanding the definition of sale in Section 10018.5 of the Business and Professions Code and Section 2079.13, the terms "sale" and "transfer," as they are used in this section, shall have their commonly understood meanings. The changes made to this section by Assembly Bill 1289 of the 2017–18 Legislative Session shall not be interpreted to change the application of the law as it read prior to January 1, 2019.

SEC. 10. Section 1102.3 of the Civil Code is amended to read:

1102.3. The seller of any single-family real property subject to this article shall deliver to the prospective buyer the completed written statement required by this article, as follows:

(a) In the case of a sale, as soon as practicable before transfer of title.

(b) In the case of sale by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer.

(c) With respect to any sale subject to subdivision (a) or (b), the seller shall indicate compliance with this article on the real property sales contract, the lease, or any addendum attached thereto or on a separate document.

If any disclosure, or any material amendment of any disclosure, required to be made by this article, is delivered after the execution of an offer to purchase, the prospective buyer shall have three days after delivery in person, five days after delivery by deposit in the mail, or five days after delivery of an electronic record in transactions where the parties have agreed to conduct the transaction by electronic means, pursuant to provisions of the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3), to terminate his or her offer by delivery of a written notice of termination to the seller or the seller's agent. The period of time the prospective buyer has in which to terminate his or her offer commences when Sections I, II, and III in the form described in Section 1102.6 are completed and delivered to the buyer or buyer's agent. A real estate agent may complete his or her portion of the required disclosure by providing all of the information on the agent's inspection disclosure set forth in Section 1102.6.

SEC. 11. Section 1102.4 of the Civil Code is amended to read:

1102.4. (a) Neither the seller nor any seller's agent or buyer's agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the seller or that listing or buyer's agent, was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting it.

(b) The delivery of any information required to be disclosed by this article to a prospective buyer by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the seller or any listing or buyer's agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, a C-39 roofing contractor conducting a roof inspection pursuant to subdivision (d) of Section 7197 of the Business and Professions Code, or other expert, dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective buyer pursuant to a request therefor, whether written or oral. In responding to such a request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1102.6 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where such a statement is furnished, the expert shall not be responsible for any items of information or parts thereof, other than those expressly set forth in the statement.

SEC. 12. Section 1102.5 of the Civil Code is amended to read:

1102.5. If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, any inaccuracy resulting therefrom does not constitute a violation of this article. If at the time the disclosures are required to be made, an item of information required to be disclosed is unknown or not available to the seller, and the seller or his or her agent has made a reasonable effort to ascertain it, the seller may use an approximation of the information, provided the approximation is clearly identified as such, is reasonable, is based on the best information reasonably available to the seller or his or her agent, and is not used for the purpose of circumventing or evading this article.

SEC. 13. Section 1102.6a of the Civil Code is amended to read:

1102.6a. (a) On and after July 1, 1990, any city or county may elect to require disclosures on the form set forth in subdivision (b) in addition to those disclosures required by Section 1102.6. However, this section does not affect or limit the authority of a city or county to require disclosures on a different disclosure form in connection with transactions subject to this article pursuant to an ordinance adopted prior to July 1, 1990. An ordinance like this adopted prior to July 1, 1990, may be amended thereafter to revise the disclosure requirements of the ordinance, in the discretion of the city council or county board of supervisors.

(b) Disclosures required pursuant to this section pertaining to the property proposed to be sold, shall be set forth in, and shall be made on a copy of, the following disclosure form:

PRINTER PLEASE NOTE: TIP-IN MATERIAL TO BE INSERTED

(c) This section does not preclude the use of addenda to the form specified in subdivision (b) to facilitate the required disclosures. This section does not preclude a city or county from using the disclosure form specified in subdivision (b) for a purpose other than that specified in this section.

(d) (1) On and after January 1, 2005, if a city or county adopts a different or additional disclosure form pursuant to this section regarding the proximity or effects of an airport, the statement in that form shall contain, at a minimum, the information in the statement "Notice of Airport in Vicinity" found in Section 11010 of the Business and Professions Code, or Section 1103.4 or 4255.

(2) On and after January 1, 2006, if a city or county does not adopt a different or additional disclosure form pursuant to this section, then the provision of an "airport influence area" disclosure pursuant to Section 11010 of the Business and Professions Code, or Section 1103.4 or 4255, or if there is not a current airport influence map, a written disclosure of an airport within two statute miles, shall be deemed to satisfy any city or county requirements for the disclosure of airports in connection with sales of real property.

SEC. 14. Section 1102.6b of the Civil Code is amended to read:

1102.6b. (a) This section applies to all sales of real property for which all of the following apply:

(1) The sale is subject to this article.

(2) The property being sold is subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code), to a fixed lien assessment collected in installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), or to a contractual assessment program authorized pursuant to Chapter 29 (commencing with Section 5898.10) of Part 3 of Division 7 of the Streets and Highway Code.

(3) A notice is not required pursuant to Section 53341.5 of the Government Code.

(b) In addition to any other disclosure required pursuant to this article, the seller of any real property subject to this section shall make a good faith effort to obtain a disclosure notice concerning the special tax as provided for in Section 53340.2 of the Government Code, or a disclosure notice concerning an assessment installment as provided in Section 53754 of the Government Code, from each local agency that levies a special tax pursuant to the Mello-Roos Community Facilities Act, or that collects assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), or a disclosure notice concerning the contractual assessment as provided in Section 5898.24 of the Streets and Highways Code, on the property being sold, and shall deliver that notice or those notices to the prospective buyer, as long as the notices are made available by the local agency.

(c) (1) The seller of real property subject to this section may satisfy the disclosure notice requirements in regard to the bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) by delivering a disclosure notice that is substantially equivalent and obtained from another source until December 31, 2004.

(2) The seller of real property subject to this section may satisfy the disclosure notice requirements in regard to the assessments collected under the contractual assessment program authorized pursuant to Chapter 29 (commencing with Section 5898.10) of Part 3 of Division 7 of the Streets and Highway Code by delivering a disclosure notice that is substantially equivalent and obtained from another source.

(3) For the purposes of this section, a substantially equivalent disclosure notice includes, but is not limited to, a copy of the most recent year's property tax bill or an itemization of current assessment amounts applicable to the property.

(d) (1) Notwithstanding subdivision (c), the seller of real property subject to this section may satisfy the disclosure notice requirements of this section by delivering a disclosure notice obtained from a nongovernmental source that satisfies the requirements of paragraph (2).

(2) A notice provided by a private entity other than a designated office, department, or bureau of the levying entity may be modified as needed to clearly and accurately describe a special tax pursuant to the Mello-Roos Community Facilities Act levied against the property or to clearly and accurately consolidate information about two or more districts that levy or are authorized to levy a special tax pursuant to the Mello-Roos Community Facilities Act against the property, and shall include the name of the Mello-Roos entity levying taxes against the property, the annual tax due for the Mello-Roos entity for the current tax year, the maximum tax that may be levied against the property in any year, the percentage by which the maximum tax for the Mello-Roos entity may increase per year, and the date until the tax may be levied against the property for the Mello-Roos entity and a contact telephone number, if available, for further information about the Mello-Roos entity. A notice provided by a private entity other than a designated office, department, or bureau of the levying entity may be modified as needed to clearly and accurately describe special assessments and bonds pursuant to the Improvement Bond Act of 1915 levied against the property, or to clearly and accurately consolidate information about two or more districts that levy or are authorized to levy special assessments and bonds pursuant to the Improvement Bond Act of 1915 against the property, and shall include the name of the special assessments and bonds issued pursuant to the Improvement Bond Act of 1915, the current annual tax on the property for the special assessments and bonds issued pursuant to the Improvement Bond Act of 1915 and a contact telephone number, if available, for further information about the special assessments and bonds issued pursuant to the Improvement Bond Act of 1915.

(3) This section does not change the ability to make disclosures pursuant to Section 1102.4 of the Civil Code.

(e) If a disclosure received pursuant to subdivision (b), (c), or (d) has been delivered to the buyer, a seller or his or her agent is not required to provide additional information concerning, and information in the disclosure shall be deemed to satisfy the responsibility of the seller or his or her agent to inform the buyer regarding the special tax or assessment installments and the district. Notwithstanding subdivision (b), (c), or (d), nothing in this section imposes a duty to discover a special tax or assessment installments or the existence of any levying district not actually known to the agents.

SEC. 15. Section 1102.6c of the Civil Code is amended to read:

1102.6c. (a) In addition to any other disclosure required pursuant to this article, it shall be the sole responsibility of the seller of any real property subject to this article, or his or her agent, to deliver to the prospective buyer a disclosure notice that includes both of the following:

(1) A notice, in at least 12-point type or a contrasting color, as follows:

"California property tax law requires the Assessor to revalue real property at the time the ownership of the property changes. Because of this law, you may receive one or two supplemental tax bills, depending on when your loan closes.

The supplemental tax bills are not mailed to your lender. If you have arranged for your property tax payments to be paid through an impound account, the supplemental tax bills will not be paid by your lender. It is your responsibility to pay these supplemental bills directly to the tax collector. If you have any question concerning this matter, please call your local tax collector's office."

(2) A title, in at least 14-point type or a contrasting color, that reads as follows: "Notice of Your 'Supplemental' Property Tax Bill."

(b) The disclosure notice requirements of this section may be satisfied by delivering a disclosure notice pursuant to Section 1102.6b that satisfies the requirements of subdivision (a).

SEC. 16. Section 1102.9 of the Civil Code is amended to read:

1102.9. Any disclosure made pursuant to this article may be amended in writing by the seller or his or her agent, but the amendment shall be subject to Section 1102.3 or 1102.3a.

SEC. 17. Section 1102.14 of the Civil Code is repealed.

SEC. 18. Section 1102.155 of the Civil Code is amended to read:

1102.155. (a) (1) The seller of single-family residential real property subject to this article shall disclose, in writing, that Section 1101.4 requires that California single-family residences be equipped with water-conserving plumbing fixtures on or after January 1, 2017, and shall disclose whether the property includes any noncompliant plumbing fixtures as defined in subdivision (c) of Section 1101.3.

(2) The seller shall affirm that this representation is that of the seller and not a representation of any agent, and that this disclosure is not intended to be part of any contract between the buyer and the seller. The seller shall further affirm that this disclosure is not a warranty of any kind by the seller or any agent representing any principal in the transaction and is not a substitute for any inspections or warranties that any principal may wish to obtain.

(b) This section shall become operative on January 1, 2017.

SEC. 19. Section 1102.18 is added to the Civil Code, to read:

1102.18. The provisions of subdivision (d) of Section 1102.1 shall apply to this article.

SEC. 20. Section 1103 of the Civil Code is amended to read:

1103. (a) For purpose of this article, the definitions in Chapter 1 (commencing with Section 10000) of Part 1 of Division 4 of the Business and Professions Code shall apply.

(b) Except as provided in Section 1103.1, this article applies to a sale, exchange, real property sales contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any single-family residential real property.

(c) This article shall apply to the transactions described in subdivision (b) only if the seller or his or her agent is required by one or more of the following to disclose the property's location within a hazard zone:

(1) A seller's agent for a seller of real property that is located within a special flood hazard area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency, or the seller if the seller is acting without a seller's agent, shall disclose to any prospective buyer the fact that the property is located within a special flood hazard area if either:

(A) The seller, or the seller's agent, has actual knowledge that the property is within a special flood hazard area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood hazard area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(2) A seller's agent for a seller of real property that is located within an area of potential flooding designated pursuant to Section 6161 of the Water Code, or the seller if the seller is acting without a seller's agent, shall disclose to any prospective buyer the fact that the property is located within an area of potential flooding if either:

(A) The seller, or the seller's agent, has actual knowledge that the property is within an inundation area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(3) A seller of real property that is located within a very high fire hazard severity zone, designated pursuant to Section 51178 of the Government Code, or the seller's agent, shall disclose to any prospective buyer the fact that the property is located within a very high fire hazard severity zone and is subject to the requirements of Section 51182 of the Government Code if either:

(A) The seller or the seller's agent, has actual knowledge that the property is within a very high fire hazard severity zone.

(B) A map that includes the property has been provided to the local agency pursuant to Section 51178 of the Government Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the local agency.

(4) A seller's agent for a seller of real property that is located within an earthquake fault zone, designated pursuant to Section 2622 of the Public Resources Code, or the seller, if the seller is acting without an agent, shall disclose to any prospective buyer the fact that the property is located within a delineated earthquake fault zone if either:

(A) The seller, or the seller's agent, has actual knowledge that the property is within a delineated earthquake fault zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2622 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(5) A seller's agent for a seller of real property that is located within a seismic hazard zone, designated pursuant to Section 2696 of the Public Resources Code, or the seller if the seller is acting without an agent, shall disclose to any prospective buyer the fact that the property is located within a seismic hazard zone if either:

(A) The seller, or the seller's agent, has actual knowledge that the property is within a seismic hazard zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2696 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(6) A seller of real property that is located within a state responsibility area determined by the board, pursuant to Section 4125 of the Public Resources Code, or the seller's agent, shall disclose to any prospective buyer the fact that the property is located within a wildland area that may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291 of the Public Resources Code if either:

(A) The seller, or the seller's agent, has actual knowledge that the property is within a wildland fire zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 4125 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) Any waiver of the requirements of this article is void as against public policy.

SEC. 21. Section 1103.1 of the Civil Code is amended to read:

1103.1. (a) This article does not apply to the following sales:

(1) Sales or transfers pursuant to court order, including, but not limited to, sales ordered by a probate court in administration of an estate, sales pursuant to a writ of execution, sales by any foreclosure sale, sales by a trustee in bankruptcy, sales by eminent domain, and sales resulting from a decree for specific performance.

(2) Sales or transfers to a mortgagee by a mortgagor or successor in interest who is in default, sales to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, any foreclosure sale after default in an obligation secured by a mortgage, sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, or sales by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure.

(3) Sales or transfers by a fiduciary in the course of the administration of a trust, guardianship, conservatorship, or decedent's estate. This exemption shall not apply to a sale if the trustee is a natural person who is a trustee of a revocable trust and the seller is a former owner of the property or an occupant in possession of the property within the preceding year.

(4) Sales or transfers from one coowner to one or more other coowners.

(5) Sales or transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the sellers.

(6) Sales or transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation of the parties or from a property settlement agreement incidental to that judgment.

(7) Sales or transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(8) Sales or transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(9) Sales, transfers, or exchanges to or from any governmental entity.

(b) Sales and transfers not subject to this article may be subject to other disclosure requirements, including those under Sections 8589.3, 8589.4, and 51183.5 of the Government Code and Sections 2621.9, 2694, and 4136 of the Public Resources Code. In sales not subject to this article, agents may make required disclosures in a separate writing.

(c) Notwithstanding the definition of sale in Section 10018.5 of the Business and Professions Code and Section 2079.13, the terms "sale" and "transfer," as they are used in this section, shall have their commonly understood meanings. The changes made to this section by Assembly Bill 1289 of the 2017–18 Legislative Session shall not be interpreted to change the application of the law as it read prior to January 1, 2019.

SEC. 22. Section 1103.2 of the Civil Code is amended 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 the seller's agent(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 agent(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 the seller's agent(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
HAZARDOUS AREA(S):

A SPECIAL FLOOD HAZARD AREA (Any type Zone "A" or "V") designated by the Federal Emergency Management Agency.

Yes ____ No ____ Do not know and
____ information not
____ available from local
____ jurisdiction ____

AN AREA OF POTENTIAL FLOODING shown on a dam failure inundation map pursuant to Section 8589.5 of the Government Code.

Yes ____ No ____ Do not know and
____ information not
____ available from local
____ jurisdiction ____

A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to Section 51178 or 51179 of the Government Code. The owner of this property is subject to the maintenance requirements of Section 51182 of the Government Code.

Yes ____ No ____

A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of the Public Resources Code. The owner of this property is subject to the maintenance requirements of Section 4291 of the Public Resources Code. Additionally, it is not the state's responsibility to provide fire protection services to any building or structure located within the wildlands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142 of the Public Resources Code.

Yes ____ No ____

AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the Public Resources Code.

Yes ____ No ____

A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public Resources Code.

Yes (Landslide Zone) _____ Yes (Liquefaction Zone) _____

No ____ Map not yet released by
state ____

THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER.

THE MAPS ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. SELLER(S) AND BUYER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

Signature of Seller(s) _____ Date _____

Signature of Seller(s) _____ Date _____

Seller's Agent(s) _____ Date _____

Seller's Agent(s) _____ Date _____

Check only one of the following: ____

☐ Seller(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).

☐ Seller(s) and their agent(s) acknowledge that they have exercised good faith in the selection of a third-party report provider as required in Section 1103.7 of the Civil Code, 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 Section 1103.4 of the Civil Code. Neither seller(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:

Third-Party
Disclosure Provider(s) _____ Date _____

Buyer represents that he or she has read and understands this document. Pursuant to Civil Code Section 1103.8, the representations made in this Natural Hazard Disclosure Statement do not constitute all of the seller's or agent's disclosure obligations in this transaction.

Signature of Buyer(s) _____ Date _____

Signature of Buyer(s) _____ Date _____

(b) If an earthquake fault zone, seismic hazard zone, very high fire hazard severity zone, or wildland fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural hazard area, the seller or seller's agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The seller's agent may mark "No" on the Natural Hazard Disclosure Statement if the seller attaches a report prepared pursuant to subdivision (c) of Section 1103.4 that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the seller or the seller's agent to exercise reasonable care in making a determination under this subdivision.

(c) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is no longer within a special flood hazard area, then the seller or seller's agent may mark "No" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The seller or seller's agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(d) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is within a special flood hazard area and the location of the letter has been posted pursuant to subdivision (g) of Section 8589.3 of the Government Code, then the seller or seller's agent shall mark "Yes" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The seller or seller's agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(e) The disclosure required pursuant to this article may be provided by the seller and the seller's agent in the Local Option Real Estate Disclosure Statement described in Section 1102.6a, provided that the Local Option Real Estate Disclosure Statement includes substantially the same information and substantially the same warnings that are required by this section.

(f) (1) The legal effect of a consultant's report delivered to satisfy the exemption provided by Section 1103.4 is not changed when it is accompanied by a Natural Hazard Disclosure Statement.

(2) A consultant's report shall always be accompanied by a 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 seller, the seller's agent, and the prospective buyer, 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 seller has accepted, prior to June 1, 1998, an offer to purchase, the seller, or his or her agent shall be deemed to have complied with the requirement of subdivision (a) if the seller or agent delivers to the prospective buyer a statement that includes substantially the same information and warning as the Natural Hazard Disclosure Statement.

SEC. 23. Section 1103.3 of the Civil Code is amended to read:

1103.3. (a) The seller of any real property subject to this article shall deliver to the prospective buyer the written statement required by this article, as follows:

(1) In the case of a sale, as soon as practicable before transfer of title.

(2) In the case of a sale by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before the prospective buyer's execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer.

(b) The seller shall indicate compliance with this article either on the real property sales contract, the lease, any addendum attached thereto, or on a separate document.

(c) If any disclosure, or any material amendment of any disclosure, required to be made pursuant to this article is delivered after the execution of an offer to purchase, the prospective buyer shall have three days after delivery in person, five days after delivery by deposit in the mail, or five days after delivery of an electronic record in transactions where the parties have agreed to conduct the transaction by electronic means, pursuant to provisions of the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3), to terminate his or her offer by delivery of a written notice of termination to the seller or the seller's agent.

SEC. 24. Section 1103.4 of the Civil Code is amended to read:

1103.4. (a) Neither the seller nor any seller's agent or buyer's agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the seller or the seller's agent or buyer's agent and was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting the information.

(b) The delivery of any information required to be disclosed by this article to a prospective buyer by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the seller, seller's agent, and buyer's agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, or expert in natural hazard discovery dealing with matters within the scope of the professional's license or expertise shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective buyer pursuant to a request therefor, whether written or oral. In responding to that request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1103.2 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where such a statement is furnished, the expert shall not be responsible for any items of information or parts thereof, other than those expressly set forth in the statement.

(1) In responding to the request, the expert shall determine whether the property is within an airport influence area as defined in subdivision (b) of Section 11010 of the Business and Professions Code. If the property is within an airport influence area, the report shall contain the following statement:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(2) In responding to the request, the expert shall determine whether the property is within the jurisdiction of the San Francisco Bay Conservation and Development Commission, as defined in Section 66620 of the Government Code. If the property is within the commission's jurisdiction, the report shall contain the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(3) In responding to the request, the expert shall determine whether the property is presently located within one mile of a parcel of real property designated as "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," or "Grazing Land" on the most current "Important Farmland Map" issued by the California Department of Conservation, Division of Land Resource Protection, utilizing solely the county-level GIS map data, if any, available on the Farmland Mapping and Monitoring Program Web site. If the residential property is within one mile of a designated farmland area, the report shall contain the following notice:

NOTICE OF RIGHT TO FARM

This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

(4) In responding to the request, the expert shall determine, utilizing map coordinate data made available by the Office of Mine Reclamation, whether the property is presently located within one mile of a mine operation for which map coordinate data has been reported to the director pursuant to Section 2207 of the Public Resources Code. If the expert determines, from the available map coordinate data, that the residential property is located within one mile of a mine operation, the report shall contain the following notice:

NOTICE OF MINING OPERATIONS:

This property is located within one mile of a mine operation for which the mine owner or operator has reported mine location data to the Department of Conservation pursuant to Section 2207 of the Public Resources Code. Accordingly, the property may be subject to inconveniences resulting from mining operations. You may wish to consider the impacts of these practices before you complete your transaction.

SEC. 25. Section 1103.5 of the Civil Code is amended to read:

1103.5. (a) After a seller and his or her agent comply with Section 1103.2, they shall be relieved of further duty under this article with respect to those items of information. The seller and the seller's agent shall not be required to provide notice to the prospective buyer if the information provided subsequently becomes inaccurate as a result of any governmental action, map revision, changed information, or other act or occurrence, unless the seller or agent has actual knowledge that the information has become inaccurate.

(b) If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any governmental action, map revision, changed information, or other act or occurrence subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this article.

SEC. 26. Section 1103.8 of the Civil Code is amended to read:

1103.8. (a) The specification of items for disclosure in this article does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the sale transaction. The Legislature does not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical condition of the property and previously received reports of physical inspection noted on the disclosure form provided pursuant to Section 1102.6 or 1102.6a.

(b) Nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079.

SEC. 27. Section 1103.9 of the Civil Code is amended to read:

1103.9. Any disclosure made pursuant to this article may be amended in writing by the seller or the seller's agent, but the amendment shall be subject to Section 1103.3.

SEC. 28. Section 1103.14 of the Civil Code is repealed.

SEC. 29. Section 1103.15 is added to the Civil Code, to read:

1103.15. The provisions of subdivision (d) of Section 1102.1 shall apply to this article.

SEC. 30. Section 2079 of the Civil Code is amended to read:

2079. (a) It is the duty of a real estate broker or salesperson, licensed under Division 4 (commencing with Section 10000) of the Business and Professions Code, to a prospective buyer of single-family residential real property or a manufactured home as defined in Section 18007 of the Health and Safety Code, to conduct a reasonably competent and diligent visual inspection of the property offered for sale and to disclose to that prospective buyer all facts materially affecting the value or desirability of the property that an investigation would reveal, if that broker has a written contract with the seller to find or obtain a buyer or is a broker who acts in cooperation with that broker to find and obtain a buyer.

(b) It is the duty of a real estate broker or salesperson, licensed under Division 4 (commencing with Section 10000) of the Business and Professions Code, to comply with this section and any regulations imposing standards of professional conduct adopted pursuant to Section 10080 of the Business and Professions Code with reference to Sections 10176 and 10177 of the Business and Professions Code.

SEC. 31. Section 2079.6 of the Civil Code is amended to read:

2079.6. This article does not apply to sales which are required to be preceded by the furnishing, to a prospective buyer, of a copy of a public report pursuant to Section 11018.1 or Section 11234 of the Business and Professions Code and sales that can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code, unless the property has been previously occupied.

SEC. 32. Section 2079.7 of the Civil Code is amended to read:

2079.7. (a) If a consumer information booklet described in Section 10084.1 of the Business and Professions Code is delivered to a buyer in connection with the sale of real property, including property specified in Section 1102 of the Civil Code, or manufactured housing, as defined in Section 18007 of the Health and Safety Code, a seller or broker is not required to provide additional information concerning, and the information shall be deemed to be adequate to inform the buyer regarding, common environmental hazards, as described in the booklet, that can affect real property.

(b) Notwithstanding subdivision (a), nothing in this section either increases or decreases the duties, if any, of sellers or brokers, including, but not limited to, the duties of a seller or broker under this article, Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2, or Section 25359.7 of the Health and Safety Code, or alters the duty of a seller or broker to disclose the existence of known environmental hazards on or affecting the real property.

SEC. 33. Section 2079.8 of the Civil Code is amended to read:

2079.8. (a) If a Homeowner's Guide to Earthquake Safety described in Section 10149 of the Business and Professions Code is delivered to a buyer in connection with the sale of real property, including property specified in Section 1102 or under Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code, a seller or broker is not required to provide additional information concerning, and the information shall be deemed to be adequate to inform the buyer regarding, geologic and seismic hazards, in general, as described in the guide, that may affect real property and mitigating measures that the buyer or seller might consider.

(b) Notwithstanding subdivision (a), nothing in this section increases or decreases the duties, if any, of sellers or brokers, including, but not limited to, the duties of a seller or broker under this article, Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2, or under Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code, or alters the duty of a seller or broker to disclose the existence of known hazards on or affecting the real property.

SEC. 34. Section 2079.9 of the Civil Code is amended to read:

2079.9. (a) If a Commercial Property Owner's Guide to Earthquake Safety described in Section 10147 of the Business and Professions Code is delivered to a buyer in connection with the sale of real property, including property specified in Section 1102 or under Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code, a seller or broker is not required to provide additional information concerning, and the information shall be deemed to be adequate to inform the buyer regarding, geologic and seismic hazards, in general, as described in the guide, that may affect real property and mitigating measures that the buyer or seller might consider.

(b) Notwithstanding subdivision (a), nothing in this section increases or decreases the duties, if any, of sellers, their real estate brokers or agents under this article or under Chapter 7.5 (commencing with Section 2621) or Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, or alters the duty of a seller, agent, or broker to disclose the existence of known hazards on or affecting the real property.

SEC. 35. Section 2079.10 of the Civil Code is amended to read:

2079.10. (a) If the informational booklet published pursuant to Section 25402.9 of the Public Resources Code, concerning the statewide home energy rating program adopted pursuant to Section 25942 of the Public Resources Code, is delivered to a buyer in connection with the sale of real property, including, but not limited to, property specified in Section 1102, manufactured homes as defined in Section 18007 of the Health and Safety Code, and property subject to Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code, the seller or broker is not required to provide information additional to that contained in the booklet concerning home energy ratings, and the information in the booklet shall be deemed to be adequate to inform the buyer about the existence of a statewide home energy rating program.

(b) Notwithstanding subdivision (a), nothing in this section alters any existing duty of the seller or broker under any other law including, but not limited to, the duties of a seller or broker under this article, Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code, or Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code, to disclose information concerning the existence of a home energy rating program affecting the real property.

(c) If the informational booklet or materials described in Section 375.5 of the Water Code concerning water conservation and water conservation programs are delivered to a buyer in connection with the sale of real property, including property described in subdivision (a), the seller or broker is not required to provide information concerning water conservation and water conservation programs that is additional to that contained in the booklet or materials, and the information in the booklet or materials shall be deemed to be adequate to inform the buyer about water conservation and water conservation programs.

SEC. 36. Section 2079.10.5 of the Civil Code is amended to read:

2079.10.5. (a) Every contract for the sale of single-family residential real property entered into on or after July 1, 2013, shall contain, in not less than 8-point type, a notice as specified below:

NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES

This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at <http://www.npms.phmsa.dot.gov/>. To seek further information about possible transmission pipelines near the property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.

(b) Upon delivery of the notice to the buyer of the real property, the seller or broker is not required to provide information in addition to that contained in the notice regarding gas and hazardous liquid transmission pipelines in subdivision (a). The information in the notice shall be deemed to be adequate to inform the buyer about the existence of a statewide database of the locations of gas and hazardous liquid transmission pipelines and information from the database regarding those locations.

(c) Nothing in this section shall alter any existing duty under any other statute or decisional law imposed upon the seller or broker, including, but not limited to, the duties of a seller or broker under this article, or the duties of a seller or broker under Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2.

SEC. 37. Section 2079.10a of the Civil Code is amended to read:

2079.10a. (a) Every lease or rental agreement for single-family residential real property entered into on or after July 1, 1999, any leasehold interest in real property consisting of multiunit residential property with more than four dwelling units entered into after that date, and every contract for the sale of residential real property comprised of one to four dwelling units entered into on or after that date, shall contain, in not less than 8-point type, a notice as specified in paragraph (1), (2), or (3).

(1) A contract entered into by the parties on or after July 1, 1999, and before September 1, 2005, shall contain the following notice:

Notice: The California Department of Justice, sheriff's departments, police departments serving jurisdictions of 200,000 or more, and many other local law enforcement authorities maintain for public access a database of the locations of persons required to register pursuant to subdivision (a) of Section 290.4 of the Penal Code. The database is updated on a quarterly basis and is a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender Identification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers shall have specific information about individuals they are checking. Information regarding neighborhoods is not available through the "900" telephone service.

(2) A contract entered into by the parties on or after September 1, 2005, and before April 1, 2006, shall contain either the notice specified in paragraph (1) or the notice specified in paragraph (3).

(3) A contract entered into by the parties on or after April 1, 2006, shall contain the following notice:

Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which the offender resides.

(b) Subject to subdivision (c), upon delivery of the notice to the lessee or buyer of the real property, the lessor, seller, or broker is not required to provide information in addition to that contained in the notice regarding the proximity of registered sex offenders. The information in the notice shall be deemed to be adequate to inform the lessee or buyer about the existence of a statewide database of the locations of registered sex offenders and information from the database regarding those locations. The information in the notice shall not give rise to any cause of action against the disclosing party by a registered sex offender.

(c) Notwithstanding subdivisions (a) and (b), nothing in this section shall alter any existing duty of the lessor, seller, or broker under any other statute or decisional law including, but not limited to, the duties of a lessor, seller, or broker under this article, or the duties of a seller or broker under Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2.

SEC. 38. Section 2079.13 of the Civil Code is amended to read:

2079.13. As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.

The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions.

(b) "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property.

(c) "Commercial real property" means all real property in the state, except (1) single-family residential real property, (2) dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, (3) a mobilehome, as defined in Section 798.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29.

(d) "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction.

(e) "Listing agreement" means a written contract between a seller of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer, including rendering other services for which a real estate license is required to the seller pursuant to the terms of the agreement.

(f) "Seller's agent" means a person who has obtained a listing of real property to act as an agent for compensation.

(g) "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the seller's agent.

(h) "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property.

(i) "Offer to purchase" means a written contract executed by a buyer acting through a buyer's agent that becomes the contract for the sale of the real property upon acceptance by the seller.

(j) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property, and includes (1) single-family residential property, (2) multiunit residential property with more than four dwelling units, (3) commercial real property, (4) vacant land, (5) a ground lease coupled with improvements, or (6) a manufactured home as defined in Section 18007 of the Health and Safety Code, or a mobilehome as defined in Section 18008 of the Health and Safety Code, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code.

(k) "Real property transaction" means a transaction for the sale of real property in which an agent is retained by a buyer, seller, or both a buyer and seller to act in that transaction, and includes a listing or an offer to purchase.

(l) "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration.

(m) "Seller" means the transferor in a real property transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor of real property.

(n) "Buyer's agent" means an agent who represents a buyer in a real property transaction.

SEC. 39. Section 2079.14 of the Civil Code is amended to read:

2079.14. A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows:

(a) The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement.

(b) The buyer's agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer.

SEC. 40. Section 2079.15 of the Civil Code is amended to read:

2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal.

SEC. 41. Section 2079.16 of the Civil Code is amended to read:

2079.16. The disclosure form required by Section 2079.14 shall have Sections 2079.13 to 2079.24, inclusive, excluding this section, printed on the back, and on the front of the disclosure form the following shall appear:

DISCLOSURE REGARDING
REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller:

A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A Buyer's agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer:

A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more salespersons and broker associates, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty, and loyalty in the dealings with either the Seller or the Buyer.

(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

SELLER AND BUYER RESPONSIBILITIES

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as a dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation.

Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

Agent(date)	Buyer/Seller(date)
	(Signature)

Salesperson or Broker Associate, if any(date)	Buyer/Seller(date)
(Signature)	(Signature)

SEC. 42. Section 2079.17 of the Civil Code is amended to read:

2079.17. (a) As soon as practicable, the buyer's agent shall disclose to the buyer and seller whether the agent is acting in the real property transaction as the buyer's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the buyer's agent prior to or coincident with execution of that contract by the buyer and the seller, respectively.

(b) As soon as practicable, the seller's agent shall disclose to the seller whether the seller's agent is acting in the real property transaction as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the seller's agent prior to or coincident with the execution of that contract by the seller.

(c) The confirmation required by subdivisions (a) and (b) shall be in the following form:

(Name of Seller's Agent, Brokerage firm and license number) _____
is the broker of (check one):

☐ the seller; or

☐ both the buyer and seller. (dual agent)

(Name of Seller's Agent and license number) _____
is (check one):

☐ is the Seller's Agent. (salesperson or broker associate)

☐ is both the Buyer's and Seller's Agent. (dual agent)

_____(Name of Buyer's Agent, Brokerage firm and license number) _____
is the broker of (check one):

☐ the buyer; or

☐ both the buyer and seller. (dual agent)

(Name of Buyer's Agent and license number) _____
is (check one):

☐ the Buyer's Agent. (salesperson or broker associate)

☐ both the Buyer's and Seller's Agent. (dual agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14. An agent's duty to provide disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker.

SEC. 43. Section 2079.18 of the Civil Code is repealed.

SEC. 44. Section 2079.21 of the Civil Code is amended to read:

2079.21. (a) A dual agent may not, without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller.

(b) A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer.

(c) "Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered.

(d) This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

SEC. 45. Section 2079.22 of the Civil Code is amended to read:

2079.22. Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented by an agent, that does not, of itself, make that agent a dual agent.

SEC. 46. Section 2079.25 is added to the Civil Code, to read:

2079.25. The provisions of subdivision (d) of Section 1102.1 shall apply to this article.

SEC. 47. This act shall not become operative unless Assembly Bill 2884 of the 2017–18 Regular Session, relating to real estate, is enacted and becomes effective on January 1, 2019.