



Courtside *Newsletter*

Additional New Laws Affecting REALTORS® in 2016



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Our January *Courtside Newsletter* covered many of the new laws that would affect real estate practitioners in the coming year. However, there were a few more that we felt deserved coverage, as outlined below.

Team Names – Senate Bill 146

With “Team Names” becoming a more complicated feature in the past few years, the California Legislature agreed revisions to the way fictitious business names (FBNs) were being used in real estate were not only appropriate but also an urgent necessity. Senate Bill 146 was backed by both CalBRE and the California Association of REALTORS® (C.A.R) and became effective immediately upon being signed into law on July 16, 2015.

Per SB 146, the California State Legislature clarified that true Team Names are not FBNs for purposes of submitting a certified copy of the fictitious business name statement along with an application to the California Bureau of Real Estate (CalBRE). Codified in Business & Professions Code § 10159.7, “Team name” means: “a professional identity or brand name used by a salesperson, and one or more other real estate licensees, for the provision of real estate licensed services... A team name does not constitute a fictitious business name...if all of the following apply:

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

- b) The name includes the surname of at least one of the licensee members of the team, group, or association in conjunction with the term ‘associates,’ ‘group,’ or ‘team.’
- c) The name does not include any term or terms, such as ‘real estate broker,’ ‘real estate brokerage,’ ‘broker,’ or ‘brokerage’ or any other term that would lead a member of the public to believe that the team is offering real estate brokerage services, [or] that imply or suggest the existence of a real estate entity independent of a responsible broker.”

It is important to remember that Senate Bill 146 also addresses the advertising and solicitation materials used by the salesperson in marketing with a FBN or a Team Name. When using a FBN, all marketing materials “including business cards, print or electronic media and ‘for sale’ signage, shall include the responsible broker’s identity in a manner equally as prominent as the fictitious business name,” as well as the name and license number of the salesperson who is using the fictitious business name. Furthermore, advertising and solicitation materials cannot contain terms that imply the existence of an entity that is independent of the responsible broker. When using a Team Name, all marketing materials “including business cards, print or electronic media and ‘for sale’ signage, shall include the Team Name, the name and license number of at least one of the licensed members of the team, as well as the responsible broker’s identity.

Continued ...

Trust Fund Withdrawals – Assembly Bill 607

Existing law requires real estate brokers to deposit funds accepted in connection with a transaction to place those funds into a neutral escrow depository, the hands of the broker’s principal, or a trust fund account maintained by the broker. An unlicensed employee of the broker can make a withdrawal from the trust fund, if authorized in writing. More specifically, this unlicensed person must have fidelity bond coverage equal to the maximum amount of the trust funds to which the unlicensed employee has access. Codified in Business & Professions Code § 10145, this bond may have a deductible of up to 5% of the coverage amount, if the employing broker has evidence of financial responsibility. Evidence of financial responsibility includes:

- a) Separate fidelity bond coverage adequate to cover the amount of the deductible;
- b) A case deposit held in a separate bank account adequate to cover the amount of the deductible and held solely for that purpose; and,
- c) “And other evidence of financial responsibility approved by the commissioner.”

This legislation was backed by C.A.R. when REALTORS® reported that bond companies will not sell bond coverage exceeding \$100,000 unless the bond contains a deductible, usually of 1-5%. The new law is effective as of January 1, 2016.

Discrimination – Senate Bill 600

Under the Unruh Civil Rights Act, all persons are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishments, including both private and public entities, regardless of their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. Senate Bill 600, codified in Civil Code § 51, extends these protections to persons regardless of citizenship, primary language and immigration status. However, these protections do not require the provision of services or documents in a language other than English, beyond that which is required by law. This is important for real estate licensees to note, as they are considered “business establishments” under the Unruh Civil Rights Act. Per C.A.R., “the Unruh Act will generally apply to an owner of property offering commercial or residential units for rent, and to the sale of real property where the owner is in the business of selling properties.” This law became effective January 1, 2016.

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As always, we encourage you to seek qualified legal counsel should you have any questions or concerns regarding these new laws.

Calendar

Brown Bag

Date: March 16, 2016
 Time: 11:30 a.m. – 1:00 p.m.
 Location: Southwest Riverside County Association of REALTORS® - Hemet
 Contact SRCAR for more info!
www.srcar.org

Broker Supervision

Date: March 17, 2016
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Pacific West Association of REALTORS® - Anaheim
 Contact PWR for more info!
www.pwr.net

Broker Supervision

Date: March 23, 2016
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Southwest Riverside County Association of REALTORS® - Murrieta
 Contact SRCAR for more info!
www.srcar.org

Disclosures Demystified

Date: March 24, 2016
 Time: 9:00 a.m. – 12:00 p.m.
 Location: Tri-Counties Association of REALTORS®
 Contact Tri-Counties for more info!
www.tricorealtors.com

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