

**INITIAL STATEMENT OF REASONS
PROPOSED AMENDMENT TO TITLE 10, CHAPTER 6
SECTION 2773, "DISCLOSURE OF LICENSE IDENTIFICATION NUMBER ON
SOLICITATION MATERIALS – FIRST POINT OF CONTACT WITH CONSUMERS"**

This regulations proposal amends Section 2773 of the Regulations of the Real Estate Commissioner (California Code of Regulations, Title 10, Chapter 6) ("the Regulations") to implement and clarify the requirements of Section 10140.6 of the Business and Professions Code ("the Code").

**PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR
CIRCUMSTANCE THAT THIS AMENDMENT IS INTENDED TO ADDRESS**

Section 10140.6 of the Code includes a requirement for license ID numbers to appear on certain advertisements that are viewed as the "first point of contact" between real estate licensees and consumers. Inclusion of this ID number in advertisements serves more than one public protection function. First, the consistent use of license ID numbers dissuades unlicensed persons from engaging in activities that require a license, as consumers come to expect to see a license ID number and will inquire about its absence, or about a number that does not comport with the license information available on CalBRE's website. Second, the consumer readily can access the licensee's history (including their disciplinary history) via CalBRE's website. Finally, a consumer can readily identify a specific licensee to CalBRE investigators should a complaint arise early in a given transaction, even where the licensee is using a nickname rather than the legal name on the license or where a "team name" is being used.

The license ID requirement in statute, effective on July 1, 2009, specifically excluded certain types of advertising from being considered, "first point of contact." A significant consideration in the initial legislative exclusions was the possible cost of adding the license ID to those materials. The Bureau of Real Estate (CalBRE) adopted Section 2773 of the Regulations to implement and provide clarifying language for the statute, including the exclusions specified by the statute. Section 2773 took effect in November, 2009.

In the years since the 2009 implementation, industry participants realized that the inconsistency created by the initial exclusions was confusing, the potential costs were not significant, and that the enforcement of the provision by CalBRE was not onerous. With the sponsorship of the California Association of Realtors, AB 1650 (Frazier) was signed into law in 2016, with a delayed effective date of January 1, 2018. This bill eliminates a number of the original law's exclusions. However, the exclusions

expressed in the present Section 2773 of the Regulations are no longer consistent with AB 1650's amendment of Section 10140.6 of the Code. CalBRE seeks to eliminate the inconsistency between Section 10140.6 of the Code (as effective on January 1, 2018) and Section 2773 of the Regulations.

PURPOSE, BENEFITS, AND GOALS OF THIS AMENDMENT

As with the initial adoption of this regulation, the regulation serves to implement the underlying statute using language that is clearer than the statute itself. Given the change to the standard within the statute, the regulation must also be changed to comport with its statutory basis.

NECESSITY OF THIS AMENDMENT

Given the amendment to the underlying statute, the present language of the regulation is no longer consistent with statutory requirements and must be amended or eliminated. Elimination of the regulation, however, would negate its value in clarifying the statute.

ALTERNATIVES CONSIDERED

- ***Repeal the regulation and let the statute stand alone.*** As expressed to the Bureau's staff by licensees, the wording of the statute is confusing to some readers. The regulation has proven to be a clearer alternative. Rather than abandon this alternative expression of the law, the Commissioner seeks to update the regulation to be consistent with the revised statute.
- ***Leave the regulation as currently stated.*** Given the update to the statute, it is not acceptable to retain regulatory rules that no longer reflect the statute's requirements.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT (Pursuant to Government Code Section 11346.3(b))

The Bureau has conducted an Economic Impact Assessment, and that assessment is relied upon in reaching the following results. *CalBRE notes that the proposed amendment merely brings the regulation into harmony with the statute's new requirements, rather than itself imposing additional burdens on the licensee community.* The proponents of the statutory change only described modest goals while supporting

AB 1650: greater consistency in the license ID requirement for licensees, and additional “transparency for consumers in the market place.”¹

- The proposal does not affect the creation or elimination of jobs available within the State of California. The underlying statute requires inclusion of the license ID number on a broader variety of advertising, but there is no reason to anticipate that such a change will either create or eliminate real estate jobs, or have any other substantial economic impact.
- The proposal does not affect the creation of new business or the elimination of existing businesses within the State of California. As above, there is no reason to anticipate that the statute’s expansion of the types of advertising impacted will affect business opportunities, either positively or negatively.
- The proposal does not affect the expansion of businesses currently doing business within the State of California. This determination is based upon the same rationale as the determinations above.
- The proposal will benefit the health and welfare of California residents by implementing the underlying statute using language that is clearer than the statute itself, ensuring accurate consumer identification of a licensee soliciting real estate work.
- The proposal does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. As stated above, the underlying statute requires inclusion of the license ID number on a broader variety of advertising, and does so on a delayed implementation basis. Such advertising is perishable, and the materials newly included in the requirement by the amended statute will likely be replaced with new and compliant materials over time, without a need for significant special ordering of new materials. This regulation seeks only to bring the existing regulation into harmony with the revised statute, imposing no costs beyond the statutory mandate.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the amendment of these regulation sections.

¹ AB 1650 was sponsored by the California Association of Realtors. This quote appears in the Assembly Floor Analysis, published July 29, 2016. All of the legislative analysis documents relating to AB 1650 are presently published online at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160AB1650

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The alternatives to this proposal are described above, along with the reasons why the selected option is preferred. The Commissioner finds that the alternatives considered would not be more effective in carrying out the purpose of the proposed regulation in implementing and clarifying the underlying statutory requirement and would be as effective and less burdensome to affected private persons than the proposed regulation amendment.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

The alternatives to this regulation proposal are described above, along with the reasons why the selected option is preferred and the alternatives are not desirable. Because this amendment merely harmonizes the regulation with the underlying requirements of the statute being implemented, the regulation itself does not create an adverse economic impact on the small businesses within CalBRE's licensee community.

DETERMINATION REGARDING USE OF SPECIFIC TECHNOLOGY OR EQUIPMENT

The proposed regulation does not include any requirement that a specific technology or equipment be used by any affected party.