

Broker Controlled Escrow Activities: Should You Be Reporting to the Bureau of Real Estate?

Since January 1, 2014, brokers who engage in a threshold level of “controlled” escrow activities in a calendar year pursuant to the exemption from the Escrow Law have been statutorily required to file a report with the Bureau of Real Estate (the “Bureau”) within 60 days following the completion of the calendar year (in non-“leap” years that means by March 1st) Many brokers who should have reported have failed to do so. Brokers who fail to report may be subject to a Bureau audit, potential citations and/or fines (which can be significant), and disciplinary action.

Beginning January 1, 2014, pursuant to Business and Professions (B&P) Code §10141.6, brokers who engage in escrow activities for five or more transactions in a calendar year under the exemption from the Escrow Law contained in Section 17006 of the Financial Code, **or** whose escrow activities [**Note:** it is the activity levels and not the Broker’s income from the activity (ies) which matters] pursuant to that exemption equal or exceed one million dollars (\$1,000,000) in a calendar year, are required to file a report with the Bureau within 60 days following the completion of the calendar year. For calendar year 2013, 206 real estate brokers reported such broker escrow activities totaling \$8.63 billion. For calendar year 2014, 161 real estate brokers reported broker escrow activities totaling \$5.52 billion. For calendar year 2015, 143 brokers reported broker escrow activities totaling \$8.45 billion.

In spite of these reports of very large volumes of escrow activities statewide, the Bureau has reason to believe (based on prior Audits, and complaints received and/or investigated regarding brokers or broker controlled escrows) that hundred of brokers who are required to report escrow activities have failed to do so. The Bureau’s Audit Section will conduct audits of the activities of some of these brokers to determine if these brokers are in compliance with B&P §10141.6 and are properly handling and accounting for the escrow trust funds.

The Escrow Activity Report must be submitted **online to www.bre.ca.gov** by the broker. Designated Officers should submit the Escrow Activity Report for real estate corporations. The Escrow Activity Report link and Instructions on how to submit the report can be found here: (<http://www.dre.ca.gov/Licensees/EscrowActivityReporting.html#instructions>)

Have you met the levels of escrow activity that requires reporting? If you have met these levels, **submit your Escrow Activity Report online as soon as possible** in order to avoid fines and penalties as provided in B&P §10141.6(c and d), B&P §10080.9, and/or possible disciplinary action against your license!

End Note: In order for a broker to conduct “broker controlled escrows” and be exempt from the Escrow Law, the relevant broker must be a party or an agent in connection with the escrow and performing services requiring a real estate license.