DILIGENCE IN THE AGE OF SELLER IMPERSONATION FRAUD | TRUST FUND AUDITS | HOW TO APPLY FOR A DBA LICENSE

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FROM THE DESK OF THE Commissioner

Dear Colleagues, Partners, and Real Estate Professionals,

On July 1, 2026, Governor Newsom and Secretary Chopra launched the Business and Consumer Services Agency, which oversees more than four million licensed professionals across eight state departments and dozens of boards and bureaus – this includes the Department of Real Estate (DRE)

The Business and Consumer Services Agency is dedicated to ensuring effective business regulation and strong consumer protection, reinforcing California’s long-standing leadership in these areas.

With this significant step, the Department of Real Estate’s mission—to safeguard and promote the public interests in real estate matters—is further strengthened. The Agency’s focused oversight and proactive approach to consumer protection enhance our ability to address emerging risks and evolving needs.

As we continue to work in partnership with the departments that comprise the Business and Consumer Services Agency, it is clear that we share common values and a mutual commitment to ensuring consumers experience fairness, transparency, and accountability when engaging with licensees. Likewise, DRE is dedicated to cultivating a landscape that promotes fair competition, pathways to opportunity, and effective regulatory compliance.

Looking ahead, I am excited about the possibilities that will emerge from this occasion and about continuing the forward momentum this Agency creation generates in advancing consumer protection.

Chika Sunquist

DRE COMMISSIONER

When the Seller Isn't the Seller

DUE DILIGENCE IN THE AGE OF SELLER IMPERSONATION FRAUD

Not long ago, many real estate transactions began with an in-person meeting. Sellers often signed documents in a brokerage office, and brokers had multiple opportunities to verify identity face-to-face throughout the transaction.

Today, an entire transaction may be conducted behind a computer and phone. Initial contact may occur through email or text message. Documents may be signed electronically. Buyers, sellers, brokers, escrow holders, and lenders may never meet face-to-face.

These advancements have made real estate transactions more efficient and accessible. However, they have also created new opportunities for bad actors who are looking to exploit the process.

One scheme DRE is seeing is seller impersonation fraud. This is where an individual falsely claims to own real property and attempts to hire a real estate licensee to market and sell property the individual does not actually own.

The Licensee's Role

While technology has changed the mechanics of a real estate transaction, it has not changed the licensee's due diligence to exercise sound judgment.

California real estate licensees' roles go beyond that of a facilitator of paperwork or electronic signatures. Real estate licensees are expected to apply their experience, knowledge, and a duty of care throughout the transaction. They owe a fiduciary duty to their client to place their client's interests ahead of their personal interests. Affiliated licensees also owe a fiduciary duty to their affiliated broker as that broker's agent performing real estate activities.

And while no licensee can guarantee that fraud will never occur, consumers can reasonably expect that a licensed real estate professional will take appropriate steps to determine that the person requesting a listing is, in fact, authorized to sell the property.

Why It Matters

When a fraudulent listing reaches the marketplace, the consequences can affect many people.

The true property owner may receive unsolicited inquiries about the sale of their property. Prospective buyers may spend time and money pursuing a transaction that cannot be completed. Escrow holders, title companies, lenders, inspectors, and other professionals may devote significant resources before the fraud is discovered.

The listing broker may also experience financial loss, reputational harm, and questions regarding whether reasonable care was exercised before the property was marketed. Taking additional time at the beginning to verify that the seller is the person authorized to sell the property may prevent far greater losses later.

When Should a Licensee Slow Down?

Most remote transactions are entirely legitimate. However, certain circumstances, particularly when several exist together, may warrant additional inquiry before accepting a listing or marketing the property.

Examples of possible red flags include:

- An unsolicited inquiry from an individual unknown to the licensee.
- A seller who insists on communicating only by email or text message.
- A reluctance or refusal to participate in a live video conference or other reasonable identity verification.

- A vacant property, inherited property, or investment property where the owner is rarely present.
- An unusually aggressive timeline for listing or closing.
- A listing price significantly below market value without a reasonable explanation.
- Instructions to wire proceeds to an unfamiliar or foreign financial institution.
- Information provided by the seller is inconsistent with publicly available ownership records.

None of these circumstances, by themselves, establishes fraud. Many legitimate transactions share one or more of these characteristics. The key is recognizing red flags that may suggest that additional verification is needed.

What Might Reasonable Diligence Look Like?

There is no single procedure that fits every transaction. Depending on the circumstances, a prudent licensee might consider:

- Meeting with the seller in person when practical, or by live video conference when an in-person meeting is not feasible.
- Requesting and reviewing government-issued identification.
- Comparing the seller's identification with the name in which title is held.

- Confirming ownership through public records or a preliminary title report.
- Asking questions about the property that a legitimate owner would ordinarily know, particularly when the property is vacant or recently acquired.
- Independently verifying contact information rather than relying solely on information provided by the individual requesting the listing.
- Consulting with the escrow holder or title company when additional identity verification appears appropriate.
- Carefully documenting the steps taken to verify the seller's identity and authority to convey the property.

These examples are intended to provide the types of questions and verification that may be appropriate under certain circumstances. They are not intended to establish mandatory procedures or replace due diligence.

Due Diligence Is Your Greatest Tool

If something about a transaction causes you to pause, perhaps raise an eyebrow; it may be worth considering whether additional verification is appropriate before moving forward. A brief delay to confirm a seller's identity may protect the property owner, prospective buyers, other transaction participants, and your own clients.

In many cases, taking a few extra steps at the beginning of a transaction may prevent significant harm later.

Looking Ahead

Fraud schemes will continue to evolve as technology evolves. Real estate professionals will need to do more to protect their clients against fraud in the future.

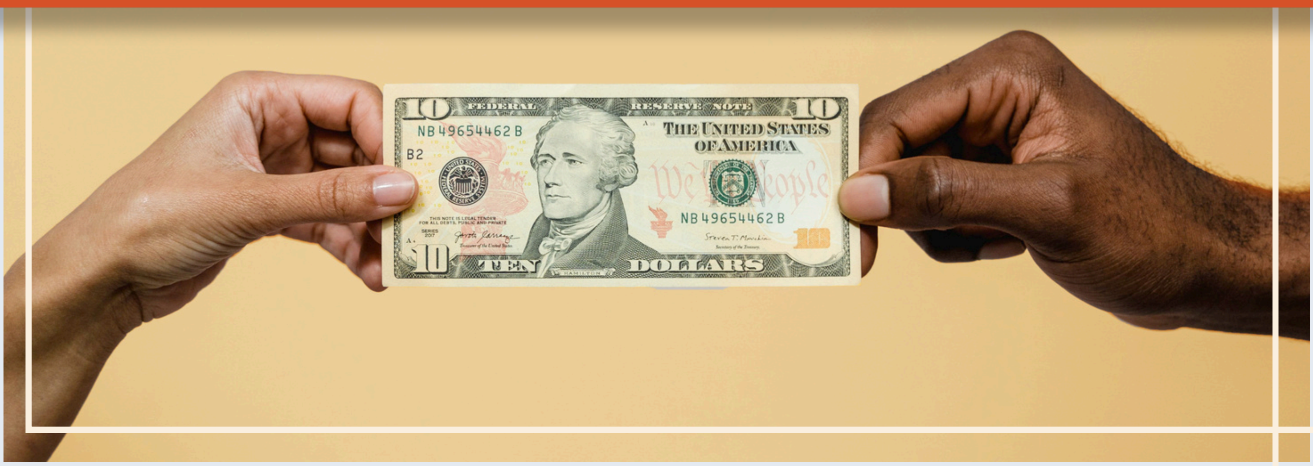
The use of electronic signatures, remote communications, and online banking has changed how transactions are completed, but it has not diminished the importance of due diligence. In many respects, these skills have become even more valuable.

By remaining informed, recognizing when circumstances call for additional inquiry, and exercising reasonable diligence, California real estate licensees help protect consumers, preserve confidence in the real estate marketplace, and uphold the professionalism of the industry.

The tools used to conduct real estate transactions may continue to change. The responsibility to exercise sound judgment does not.

Do You Handle Trust Funds?

ENSURE YOU'RE AUDIT READY



The Department of Real Estate's (DRE) Audits Division seeks to protect consumers through the process of conducting compliance audits of real estate business activities involving real estate brokers and corporations.

In general, there are two main types of audits that the DRE schedules.

Investigative Audits, which are often consumer complaint-driven or follow **Broker Office Surveys**, and Proactive Routine Audits whereby a licensee is selected from the DRE's licensing database for examination. Regardless of the type of audit, any activity that requires a real estate license may be subject to an audit. Common activities audited include property management, mortgage loan activities, and broker escrow activities.

The primary focus of the Audits Division is to ensure trust funds are handled properly and in accordance with the Real Estate Law, Subdivided Lands Law, and related provisions from the Commissioner's Regulations. Whether you are called to be scheduled for an investigative or proactive routine audit, the preparation you should take in advance to ensure you are ready for the audit will be the same.

An important first step is understanding the requirements that apply to the bank account or accounts used to handle trust funds. Trust funds include money or items of value received on behalf of others while conducting licensed real estate activity, creating a fiduciary responsibility. The funds held in trust belong to the client or other beneficiary. Examples include rents and security deposits received on leased property, or loan payments made on a mortgage.

Banking Requirements

1. **Business & Professions ("B&P") §10145 and Commissioner's Regulation 2832**

   Any account used for trust funds must be properly designated as a trust account in the broker's name, corporation's name, or licensed fictitious business name. Properly designated accounts help ensure accurate handling and protection of those funds including appropriate **FDIC pass-through coverage**.

2. **B&P §10145, Regulation 2834: Trust Account Withdrawals**

   Withdrawals from any account used for the handling of trust funds must be restricted to specific individuals which include a licensed real estate salesperson licensed to the broker or corporation; a Broker-Associate operating pursuant to a written agreement with the broker or corporation; and unlicensed individuals who are employees of the broker or corporation provided they are covered by a fidelity bond or insurance. Additional requirements surrounding the fidelity bond or insurance have been a topic of prior bulletin articles, most recently in **Summer 2025**.

Equally important is familiarity with your recordkeeping system. Whether you are using physical records or accounting software, or you hire a bookkeeper to manage that system, the broker or designated officer is ultimately responsible for maintaining complete, compliant records. Attempts to understand how your recordkeeping system meets regulatory requirements should not begin on the day a DRE auditor calls. The Real Estate Law and Commissioner's Regulations are very specific to the type of records and documents that a broker must maintain, and DRE has published numerous bulletin articles and resources to assist with this responsibility. Having robust knowledge of these requirements and, if using accounting software, how your software may meet them, will put you strides ahead and will assist in making an audit go smoothly.

Required Trust Fund Records

Each trust account must have the following three records:

1. **B&P §10145, Regulation 2831: Record of Trust funds Received and Paid Out**

   Often referred to as a "Control Record," this record is used to document every transaction that occurs regardless of who the beneficiary of funds may be. The Control Record must include, in chronological sequence and columnar form, dates and amounts of receipts, from whom the trust funds were received, deposit dates, check/reference numbers for disbursements, and a daily running balance.

2 B&P §10145, Regulation 2831.1: Separate Record for Each Beneficiary or Transaction

Often referred to in a shortened term as a "Separate Record," these records are a continuous record of all transactions occurring per beneficiary or transaction with the purpose of identifying the balance of trust funds that is being held for a specific beneficiary. They are also integral in ensuring proper FDIC coverage of bank accounts where the funds are held. The number of records required depends on how many beneficiaries are tied to the account. Separate Records must also be chronological, include deposit and disbursement details, and maintain a running balance.

3 B&P §10145, Regulation 2831.2: Trust Account Reconciliation

A trust account reconciliation is vital for ensuring that the Control Record and Separate Records are maintained without error or discrepancy. This reconciliation compares the total of all Separate Records to the Control Record balance on the same date. Any discrepancy indicates a potential error in one or more records and must be corrected. A record of each reconciliation must be maintained and identify the account name and number, date of reconciliation, identifying information for the principals, beneficiaries, or transactions, and applicable balances.

To ensure that your trust account is in balance, you should then compare the reconciled balances of the Control Record and Separate Records to the adjusted bank balance of the account. To arrive at an adjusted bank balance, you will need to perform a bank account reconciliation which is an indispensable tool to ensuring proper trust fund handling and that a sufficient trust fund balance is retained in any bank account used for handling trust funds.

In recent audits, auditors have seen instances where brokers are utilizing "Suspense" or "Clearing" account ledgers to manage unknown discrepancies between the Control Record, Separate Records, and adjusted bank balance. Such ledgers should be avoided as long-term fixes to balancing the trust account, and use of them will likely result in trust fund discrepancy violationsand/or trust fund recordkeeping violations.

For additional guidance, refer to the **Trust Account Reconciliation** presentation available on the DRE website.

DRE offers additional resources, including **Trust Funds Booklet (RE13)** and **Broker Self-Evaluation (RE540)**. For additional resources, refer to the Real Estate Business Resources page under the Licensee section of DRE's website.

How to Apply for a DBA License

A STEP-BY-STEP GUIDE TO REGISTERING AND ADDING A FICTITIOUS BUSINESS NAME TO YOUR REAL ESTATE LICENSE

A lot of work, effort, and time go into choosing, filing, and applying for a fictitious business name (FBN) before it can be approved and added as a DBA to a real estate broker's or corporation's license.

To avoid unintended application processing delays, or even the denial of a DBA, make sure you know and properly follow all the steps necessary before filing your FBN with the county recorder's office and mailing your completed application to the Department of Real Estate (DRE).

STEP 1

TEAM NAME OR FICTITIOUS BUSINESS NAME

The first step in the process is whether you want to conduct business using (a) a "Team Name" (which DOES NOT require an application with the DRE) or want to use (b) a FBN which DOES require an application and approval by the DRE.

For helpful information about the differences between Team Names and FBNs, as well as the advertising requirements for each, refer to DRE's **Real Estate Advertising Guidelines**. Licensees are also encouraged to review the *"Fictitious Business Name Information"* form **RE 282**. Both publications are available on **DRE's website**.

STEP 2

CHOOSING A FICTITIOUS BUSINESS NAME

When proceeding with an FBN, the first step is choosing a name.

A. Criteria for Choosing a Fictitious Business Name

When making this determination, you are going to want to avoid a name that:

- Is misleading or would constitute false advertising.
- Implies a partnership or corporation when one does not exist.
- Includes the name of a real estate salesperson (or a broker associate – a broker working in the capacity of a salesperson for another broker or corporation).
- Was formerly used by a licensee whose license has since been revoked. See Commissioner's Regulation 2731.
- Does not comply with the legal requirements for an FBN. See (B&P) Code Sections **17910**, **17910.5**, **17913**, and **17917**.

B. Confirm Availability

To confirm whether another person or entity has received an FBN you intend to use, check the online FBN records of the County Clerk's office for the county you will be filing for an FBN.

To confirm whether an FBN was previously used by a current, expired or revoked license, search on **DRE's Public License Information** web page by entering the proposed FBN in the field titled "Licensee/Company Name."

If DRE determines that the FBN you are proposing violates one or more of the provisions set forth above, your FBN likely will be denied.

STEP 3

TWO TYPES OF FICTITIOUS BUSINESS NAMES

DRE recognizes two types of FBNs that may be approved for use as DBA names: broker-owned DBAs and salesperson-owned DBAs. In either case, the FBN must be filed in the county where the broker or corporation has their main place of business as registered with the DRE and must include information that business is being conducted at the broker's or corporation's main office location as it appears on DRE records. (This, of course, does not preclude a broker or corporation from subsequently filing the FBN in other counties).

A. Broker-Owned Ficticious Business Name

- In a broker-owned FBN, it is the broker who files an application for and receives the FBN from the county clerk.
- After obtaining a file-stamped FBN from the county clerk, the broker then must submit it to DRE along with either the "Broker Change Application" form **RE 204** or the "Corporation Change Application" form **RE 204A**, requesting approval to use the FBN as a DBA under the broker's or corporation's license.

B. Salesperson-Owned Ficticious Business Name

- A licensed broker may permit a salesperson, or a broker associate (a broker working in a salesperson capacity under the broker's license), to file an application for an FBN in the salesperson's name with a county clerk.
- The FBN must be filed in the county where the salesperson's responsible broker or corporation has their main place of business as registered with the DRE.
- The registrant's name included on the FBN application must be the name of the individual salesperson and cannot be that salesperson's unlicensed corporation, LLC, trust, or other entity. However, this does not preclude the salesperson from adding their responsible broker as an additional registered owner as well.

Cont'd. on page 15

Cont'd. from page 14

B. Salesperson-Owned Ficticious Business Name (con.)

- The responsible broker then submits the FBN file-stamped application to DRE along with an application, which must be signed by both the salesperson and responsible broker or broker officer (if a licensed corporation), requesting DRE's approval to add the FBN as a DBA under the responsible broker or corporation's license. DRE has a form titled, "Add/Cancel Salesperson Owned Fictitious Business Name" Form (**RE 247**), which responsible brokers must use to add and/or cancel Salesperson-owned FBNs. This form is available on the **DRE's website**.
- Any issues or disputes between a salesperson and their responsible broker regarding the ownership and/or use of a salesperson-owned FBN is a civil matter and would not fall under the purview of DRE.

STEP 4

BEFORE SUBMITTING AN APPLICATION TO DRE TO ADD A FICTITIOUS BUSINESS NAME AS A DBA UNDER A BROKER OR CORPORATION LICENSE

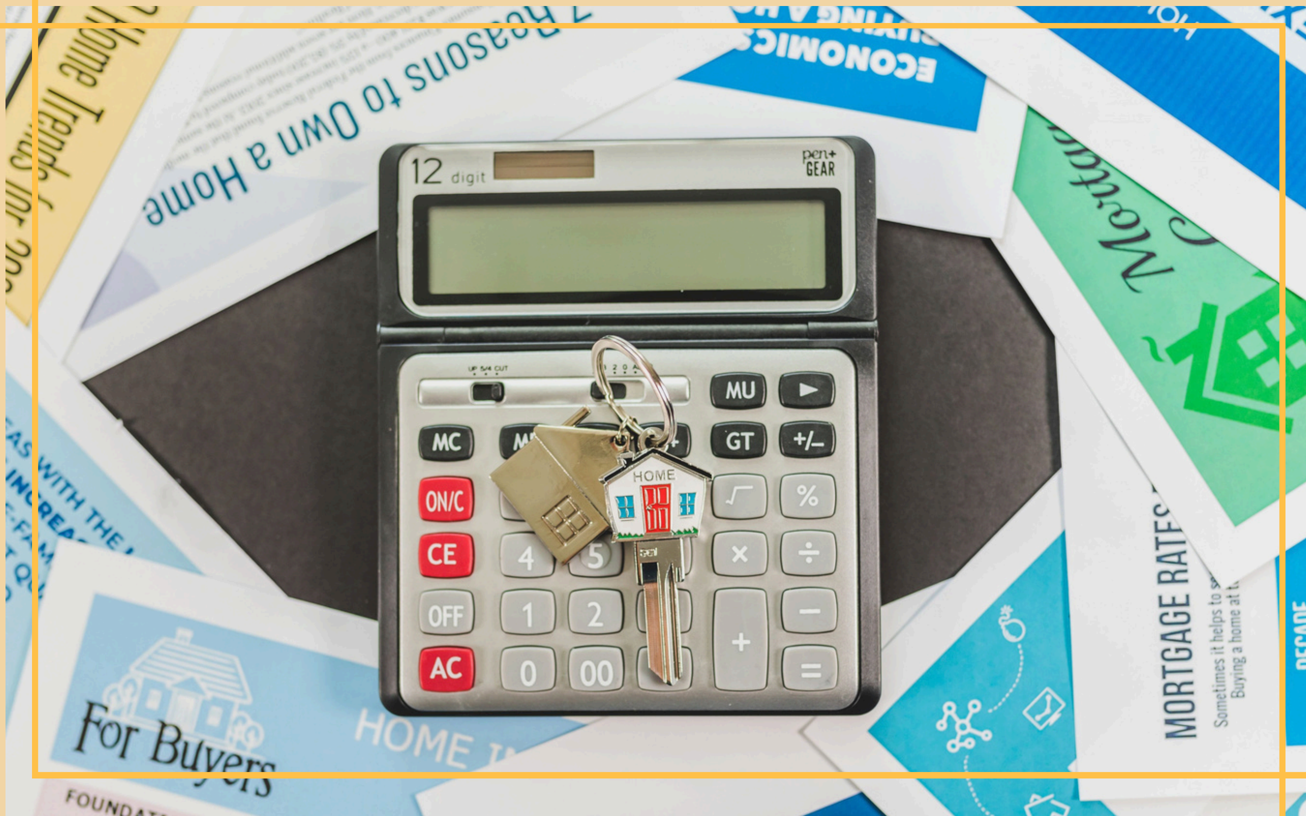
DBAs may only be added to DRE broker or corporation licenses. They cannot be added to salesperson licenses. Here are a few tips to ensure the application is complete:

- Make sure the DRE application is on the proper form and includes original or electronic signatures.
- The first and any subsequent pages of the FBN include a "FILED" stamp from the appropriate county recorder's office.
- The FBN, as filed with the county, is not more than five years old.

STEP 5

DRE APPROVAL

Once the FBN has been filed with the county and approved by DRE, it will be added to the broker's or corporation's license as an approved DBA name.
If you have additional questions about adding an FBN as a DBA under a real estate broker or corporation license, please contact us at (877) 373-4542 or visit DRE's website at **https://dre.ca.gov/AskDRELicensing** and submit your inquiry.



Do Private Money Brokers Need the MLO License Endorsement

WHAT YOU NEED TO KNOW

The mortgage loan originator (MLO) license endorsement is required when originating one- to four-unit residential mortgage loans where the loan is primarily for personal, family, or household use (Business and Professions Code section 10166.01 et seq.). The loan may be secured by a senior lien or junior lien and may be a purchase loan, refinance, home equity line of credit, or reverse mortgage. In addition, a loan on or for a second home, vacation home, or land purchased for the construction of a residential dwelling may require an approved MLO license endorsement. Furthermore, the source of funds is irrelevant when determining when an MLO license endorsement is required; i.e., an MLO license endorsement could be required for a residential loan if the lender is a private person.

However, if a loan is primarily for commercial purposes or is secured by a five-plus unit residential property or commercial property, then the MLO license endorsement is not required.

Oftentimes, private money brokers—also known as hard money brokers—defend that if the loan is secured by a rental property or is non-owner -occupied, it automatically becomes a commercial loan and the MLO license endorsement is not needed to originate the transaction; however, that is not necessarily true. It is important to review the definition of a residential mortgage loan for purposes of MLO licensure. Let's review the following scenario with regard to a private money transaction:

A borrower wishes to refinance their residential, one-unit rental property and draw out cash. Those funds will be used to pay property taxes on his primary residence. The lender is a private person. Does the private money broker arranging the transaction need the MLO license endorsement?

YES.

The MLO license endorsement is needed because the funds from the loan are for personal, family, or household purposes—specifically, the property tax bill on the borrower's primary residence—and the loan is secured by a residential, one- to four-unit property. The owner occupancy and source of funds have no bearing on whether or not the MLO is needed.

More recently, some private money brokers who do not have the MLO license endorsement and claim that they only do commercial loans have attempted to originate loans that have been "restructured." These private money brokers had originated loans that clearly required an approved MLO license endorsement, but the brokers, knowing they did not possess the appropriate licensure, had convinced borrowers to restructure the loan so that the borrowers' fictitious business entities or LLCs appeared to be the borrowers. A private money broker who is attempting to circumvent the SAFE Act and MLO licensing laws through misrepresentation, fraud, or dishonest dealing is subject to license discipline.

It is up to the real estate licensee to vet a borrower to determine the purpose of the loan so the licensee is compliant with the MLO licensing requirements and, as a fiduciary, ensure that the loan transaction meets the interests of the borrower.

For further reference, see Article 2.1 of the California Business and Professions Code, beginning with section 10166.01; visit the Department's website at **www.dre.ca.gov**; or call the Mortgage Loan Activities unit at (877) 373-4542.

TEST YOUR CALIFORNIA REAL ESTATE KNOWLEDGE

1

What year were the first salesperson and broker licenses issued in California?

A) 1980 B) 1919 C) 1911 D) 1932

2

What was the first year brokers were required to submit evidence of completion of Real Estate education courses?

A) 1963 B) 1950 C) 1919 D) 1981

3

What was the first year salespersons were required to submit evidence of completion of Real Estate education courses?

A) 1919 B) 1963 C) 1974 D) 1986

4

Commissioner Sunquist began her career at DRE in:

A) 2013 B) 2001 C) 2006 D) 2023

5

The name of DRE's new parent agency is:

A) Business Services and Housing Agency
B) Business and Consumer Agency
C) Consumer Services and Housing Agency
D) Business and Consumer Services Agency?

6

DRE's mission is "To safeguard and promote the public interest in real estate matters through licensure, regulation, __________ and enforcement." The missing responsibility is:

A) supervision B) enjoyment C) cooperation D) education

ANSWER KEY Q1: B; Q2: A; Q3: D; Q4: C; Q5: D; Q6: D

DRE MISSION

To safeguard and promote the public interests in real estate matters through licensure, regulation, education and enforcement.