

TITLE 10. CALIFORNIA DEPARTMENT OF REAL ESTATE

REGULATIONS RELATED TO SB 887

NOTICE IS HEREBY GIVEN

The Real Estate Commissioner and the Department of Real Estate (collectively, "the DRE") proposes amending Sections 3100 and 3101 of the Regulations of the Real Estate Commissioner, California Code of Regulations, Title 10, Chapter 6 ("the Regulations"), and adding new Section 3100.1, to the Regulations, after considering all comments, objections and recommendations regarding this proposed action. Publication of this notice commences a 45-day public comment period.

PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or that person's duly authorized representative, submits a written request for a public hearing to the DRE, at the contact listed below, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or that person's authorized representative, may submit written comments relevant to this proposed regulatory action to the DRE addressed as follows:

Regular Mail

Department of Real Estate
Attn: Angela Cash, Sacramento Legal Office
651 Bannon Street, Suite 507
Sacramento, CA 95811

Electronic Mail

DRE.RegComments@dre.ca.gov

Comments may be submitted until 5:00 p.m., Tuesday, August 27, 2024.

AUTHORITY AND REFERENCE

Section 10080 of the Business and Professions Code ("the Code") authorize the DRE to adopt regulations that are reasonably necessary for the enforcement of the provisions of the Real Estate Law (Code Sections 10000 et. seq.), and to administer and implement the laws governing the Consumer Recovery Account (CRA) within the Real Estate Fund (Code Sections 10470 et. seq.) The CRA provides limited compensation to consumers defrauded by real estate licensees unable to pay judgments. The proposed amended Sections

3100 and 3101 and new Section 3100.1 to the Regulations implement, interpret and/or make specific Section 10471(b) of the Code as amended by new law known as SB 887 (Committee on Business, Professions and Economic Development, Chapter 510, Section 6, Statutes of 2023) ("SB 887").

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW – SUMMARY OF PROPOSED REGULATION

Current regulations provide a paper submission process for victims of real estate fraud to make claims to the CRA administered by the DRE. In this proposal, the DRE amends Sections 3100 (Definitions) and 3101 (Application for Payment from Recovery Account) and adds new Section 3100.1 (Electronic Submission of Application) to the Regulations to implement SB 887 which allows consumers to electronically submit their CRA application to the DRE. This proposal:

- Amends Section 3100, subdivisions (b) and (c) and Section 3101, subdivisions (a) and (c) to change the name "Bureau" to "DRE," as DRE is no longer a Bureau effective July 1, 2018.
- Adds Section 3100, subdivision (j) to the Regulations which interprets and makes specific the term "electronic filer" to identify the persons allowed to submit the CRA application and supporting documentation to the DRE in electronic form.
- Adds Section 3100, subdivision (k) to the Regulations which interprets and makes specific the terms "electronic signature" and "digital signature" as defined by the California's Uniform Electronic Transactions Act (UETA) (Civil Code sections 1633.1-1633.17).
- Adds Section 3100, subdivision (l) to the Regulations which interprets and makes specific the term "electronic submission."
- Adds Section 3100.1, subdivisions (a) and (b) to the Regulations, which establish detailed requirements for electronic CRA application submissions, including format type, file size limits, and daily cutoff times.
- Adds Section 3101, subdivisions (b)(1), (b)(2) and (b)(3) to the Regulations, which add electronic signature conditions for verifying a CRA application submitted electronically through the DRE's website.
- Amends Section 3101, subdivisions (c), (d) and (e) to renumber subsections and to change the name "Bureau" to "DRE," as DRE is no longer a Bureau effective July 1, 2018.

Anticipated Benefits of the Proposed Regulation

The proposed regulations provide claimants and their attorneys with guidelines and procedures for electronic submission of CRA applications via the DRE's website. Amended Sections 3100 and 3101 in this proposal will benefit the public by enhancing the DRE's service to CRA applicants, improving government efficiency by allowing electronic submissions, and saving time and expense by allowing its effective implementation of SB 887. As to consumers, the proposed regulations allow for the convenient and cost-effective means to electronically file CRA applications from their computer, smart phone or tablet.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The DRE has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to the sections affected by this proposal, the DRE has concluded that these are the only State of California regulations relating to these subjects.

DISCLOSURES REGARDING THE PROPOSED ACTION

The DRE has made the following determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary costs or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: There is a de minimis cost impact. The proposal creates an additional filing option. Litigants coming from the legal system will most likely have assumed the cost of electronic submittals and electronic/digital signatures.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: None.

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The DRE concludes that it is: (1) unlikely that this regulation proposal ("proposal") will eliminate any jobs for real estate licensees or associated professions; (2) unlikely that this proposal will create jobs; (3) unlikely that this proposal will create new businesses of any sort; (4) unlikely that this proposal will eliminate any existing businesses; (5) unlikely that this proposal will result in the expansion of businesses currently doing business in the state; (6) will benefit the health and welfare of California residents by giving them access to the convenience of electronic filing; and (7) is not expected to affect worker safety or the state's environment.

SMALL BUSINESS DETERMINATION

The DRE has initially determined that the proposed regulations may affect small business. However, the regulations' effect are expected to be de minimis.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the DRE must determine that no reasonable alternative considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which this regulatory action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The DRE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

CONTACT PERSON

Inquiries concerning this action may be directed to Angela Cash at (916) 737-4384, or via email at DRE.RegComments@dre.ca.gov. The backup contact person is Stephen Lerner at (916) 737-4293.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The DRE will have the entire rulemaking file available for inspection and

copying throughout the rulemaking process at its headquarters office: 651 Bannon Street, Suite 507, Sacramento, California. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Form 400 under which the package was submitted to the Office of Administrative Law for publication. Copies may be obtained by contacting Angela Cash at the mailing address and email address listed on the first page of this notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the DRE may adopt the proposed regulations substantially as described in this notice. If the DRE makes modifications that are sufficiently related to the originally proposed text, the DRE will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the DRE adopts the regulation as revised. A request for a copy of any modified regulation(s) should be addressed to the contact person designated above. The DRE will accept written comments on the modified regulation for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the notice, the initial statement of reasons, and the text of the regulations in underline and strikeout can be accessed through DRE's website at www.dre.ca.gov.