



## Broker Supervision Requirements under California Real Estate Law

### What is broker supervision?

Broker supervision is the phrase most often used when describing the broker's responsibilities for supervising the activities of the broker's affiliated salespersons and broker-associates and monitoring their real estate-related activities.

In California, salespersons must affiliate with a broker when engaging in "licensed" real estate activities, and brokers who have affiliated salespersons and/or broker-associates must supervise them.

These requirements maximize protections for real estate consumers against fraud, misrepresentation, and negligence. Broker supervision is defined in the Real Estate Law at Business & Professions (B&P) Code sections [10159.2](#) and [10177\(h\)](#) and in the [California Code of Regulations at Title 10, Chapter 6, section 2725](#).

The following presents some sections of the B&P and Regulations that relate to the supervision requirement.

### Broker's Obligation to Supervise

A licensed real estate broker must supervise the real estate licensees who are affiliated with the broker. This is true for both corporate brokers and for "sole proprietor" brokers, and there are no exceptions to this law. Moreover, it is never acceptable for an unlicensed individual to supervise a licensed real estate salesperson or broker-associate, or to conduct licensed acts.

Enacted in 1955, B&P [§10177\(h\)](#) authorizes DRE to take disciplinary action against:

1. Any broker who fails to exercise "reasonable supervision" over the affiliated licensees practicing under their license; and
2. Any designated broker-officer of a corporation who fails to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required

A broker's failure to provide adequate supervision can lead to disastrous consequences not only for the affected consumers, but also for the broker's future as a real estate licensee.

In exercising reasonable supervision over the activities of their affiliated licensees, [Regulation 2725](#) requires that brokers establish policies, rules, procedures and systems to review, oversee, inspect and manage:

1. Transactions requiring a real estate license;
2. Documents that may have a material effect upon the rights or obligations of a party to the transaction;
3. Filing, storage, and maintenance of such documents;
4. Handling of trust funds;
5. Advertising of any service for which a license is required;
6. Familiarizing affiliated licensees with the requirements of federal and state laws relating to the prohibitions against discrimination;
7. Regular and consistent reports of licensed activities of affiliated licensees;

The form and extent of such policies, rules, procedures, and systems must take into consideration the number of affiliated licensees and the number and location of branch offices. In other words, a responsible broker should keep track of who is working for the company, what the license status is of affiliated licensees, and out of which office they are working.

A broker also must have systems in place to monitor its overall policies, rules, procedures, and systems. Brokers may use the services of other brokers and salespersons to assist in administering these supervisory policies and procedures, so long as the broker does not relinquish overall responsibility for supervision of the acts of persons licensed to the broker.

### Assignment of Supervisory Authority

For real estate corporations, B&P [§10159.2](#) sets forth the primary broker supervision requirement in which the designated licensed broker is responsible for exercising sufficient supervision and control over their affiliated licensees and employees necessary to achieve full

(CONTINUED ON NEXT PAGE)

**BROKER SUPERVISION REQUIREMENTS (CONTINUED FROM PAGE 7)**

compliance with the Real Estate Law.

Where there are other corporate officers who hold broker licenses and wish to act in a supervisory capacity, they may do so providing that the corporation enacts a corresponding corporate resolution, and the resolution is promptly filed with DRE.

Per B&P §10164, designated broker-officers of a corporation and “sole proprietor” brokers may appoint another person who is a licensed real estate broker or salesperson as a branch office or division manager who will

1. Take and have responsibility for the oversight and supervision of day-to-day operations of licensed activities in the branch or division real estate office, and;
2. Be subject to potential sanctions and discipline from DRE for failure to properly supervise the licensed activities of licensees and the clerical staff employed in the branch office or division.

If such an appointment is made, the broker must notify DRE in writing at the time of the appointment. The broker also must notify DRE in writing when an appointment is terminated.

Ultimately, however, it remains the corporation’s designated broker-officer or responsible broker’s responsibility to ensure that only qualified personnel are allowed to supervise the sales force and to ensure that the brokerage operates in compliance with the Real Estate law.

What happens, for example, if a real estate salesperson, who is being supervised by an officer or branch or division manager other than the designated officer, does something wrong which is within the scope of their affiliation? Depending on the facts and circumstances and the nature of the violation, the designated broker-officer may still be responsible along, with the officer or licensee to whom supervision was delegated.

**Broker Supervision in Advertising**

Commissioner’s Regulation 2725(e) specifies that broker supervision includes the establishment of policies, rules, procedures, and systems to review, oversee, inspect, and manage advertising of any service for which a license is required.

Answering the following questions can help brokers to determine if there is reasonable supervision over the advertising of affiliate licensees:

- Does the broker have brokerage or brand advertising standards and requirements?
- Are affiliate licensees provided information or resources that can help them prepare advertising?
- Who reviews and approves the advertising of affiliate licensees before it is published, printed, or distributed?
- If an unlicensed employee prepares the advertising, is it done under the direction of a licensee and subject to broker supervision?
- Does the broker have systems in place to ensure sufficient advertising review and approval?
- How often does the broker, or designated manager, spot check their affiliate licensees’ advertising materials?
- Are all affiliate licensees properly licensed under the broker?
- Are all fictitious business names listed on the broker’s public license information on DRE’s website?
- If compliance issues are found, what action does the broker take to correct the advertising?
- What happens if an affiliate licensee violates the broker’s policy, rules, or procedures?
- Do the broker’s policies, rules, and procedures include the preceding bullet points?

While the list above is not comprehensive, considering answers to these questions can help ensure that brokers appropriately supervise affiliate licensees who advertise their services.

For additional information, see DRE’s [Real Estate Advertising Guidelines](#).

**Ensuring License Requirements are Met**

Any person, individual or corporation, who engages in the business of, or advertises as, a real estate broker or a real

(CONTINUED ON NEXT PAGE)

**BROKER SUPERVISION REQUIREMENTS (CONTINUED FROM PAGE 8)**

estate salesperson must first get a real estate license from DRE. It is therefore incumbent upon brokers to hire licensed persons, and ensure that only affiliates who are licensed perform activities requiring a real estate license.

It is the responsible brokers and/or the designated broker-officers of corporations who are responsible for ensuring that affiliates are properly licensed and that unlicensed employees do not perform activities requiring a real estate license. In this way, responsible brokers ensure that the sales force is licensed and has the basic requisite knowledge, skills, experience, and character to represent members of the public in real estate transactions.

Because corporations are “persons” under the California Real Estate Law, corporations may get real estate broker licenses. However, a licensed corporate broker may act only through a designated corporate officer who is a licensed broker.

B&P §10211 requires that the corporation designate a supervising broker in its application for a real estate license. If there is no licensed officer designated as the supervising broker for the corporation, the corporation cannot perform licensed activities.

A designated broker-officer of a corporation is, while so affiliated, licensed only to act for and on behalf of the corporation as an officer. However, a designated broker-officer also may hold a separate license through which they may act as an individual broker.

A corporate licensee engaging in the real estate business when there is no designated broker-officer is acting in an unlicensed capacity. This may subject the corporation to DRE discipline, as well as to criminal penalties.

In addition, in order to be licensed by DRE and to do business as a corporate real estate broker, the corporation must be in good standing with other agencies in the State of California, such as the Secretary of State’s Office. If a corporation, for example, has its corporate status suspended or revoked, it is no longer a corporation in good standing. The designated broker-officer of a corporation is responsible for ensuring compliance with this provision of the state’s Real Estate Law.

Among the express administrative duties of supervision is the requirement that the salesperson license, or broker

license if acting as a broker-associate, must reflect the current responsible broker. In addition, brokers must notify DRE when hiring or terminating an affiliated licensee.

Brokers must maintain written agreements between the broker and each affiliated licensee. The agreements must address the broker’s supervision of licensed activities. Brokers must have and maintain a definite place of business in California where licenses are displayed and where consultations with clients take place.

To be lawful, fictitious business names and the location of branch offices also must be on record with DRE. In addition, alternative business names (doing business with a fictitious business name, or “dba”) and the location of branch offices must be on record with DRE.

In the case of a corporate broker, it is the duty of the designated broker to ensure compliance with these rules. These latter examples of administrative duties are part of the more general duties of supervision of an individual broker’s affiliates and employees or the responsible broker’s duty to supervise the acts of a licensed corporation and its employees and agents.

**Final Thoughts**

Ensuring that all affiliated licensees act with the utmost honesty and integrity and adhere to their duties as fiduciaries is an inherent part of the responsible broker’s responsibility. The decision to serve as a responsible broker, either of a sole proprietorship or of a corporate brokerage, should not be taken lightly. If any violations occur in the name of the corporation, the designated broker may suffer the consequences.

Future editions of the Real Estate Bulletin will include an expanded look at these supervision requirements. ■

