

Date of Hearing: June 27, 2011

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Mike Eng, Chair

SB 510 (Correa) – As Amended: May 4, 2011

SENATE VOTE: 39-0

SUBJECT: Real estate brokers: corporate officers: designating branch managers.

SUMMARY: Establishes requirements for an individual to become a real estate branch manager and authorizes the Commissioner of the Department of Real Estate (DRE) to discipline a branch manager for failure to supervise branch operations. Specifically, this bill:

- 1) Authorizes an employing real estate broker or corporate designated broker officer to appoint a real estate broker licensee or real estate sales licensee as a manager of a branch office or division of the employing broker's or employing corporate designated broker officer's real estate business and delegate to the appointed manager the responsibility to oversee day-to-day operations, supervise the licensed activities of licensees, and supervise clerical staff employed in the branch office or division.
- 2) Provides that nothing in this bill shall be construed to limit the responsibilities of an employing broker or a corporate designated broker officer who fails to exercise reasonable supervision and control over the activities of the corporation.
- 3) Subjects a licensee accepting appointment as a manager to disciplinary action, including suspension or revocation of the appointee's license, for failure to properly supervise licensed activity over which the appointee is given authority.
- 4) Requires any appointment made pursuant to this bill to be made by means of a written contract in which the appointed manager accepts the delegated responsibility. The broker or corporate designated broker officer must retain a copy of the contract and send a notice to DRE, in a form approved by the Commissioner, identifying the appointee and the branch office the manager is appointed to supervise.
- 5) Provides that a licensee shall not be appointed as a manager if any of the following apply:
 - a) The licensee holds a restricted license;
 - b) The licensee is or has been subject to an order of debarment; or,
 - c) The licensee is a salesperson with less than two years of full-time real estate experience within five years preceding the appointment.
- 6) Requires the employing broker or corporate designated broker officer to immediately notify the Commissioner in writing whenever an appointment of a branch manager is terminated or changed.
- 7) Becomes operative on July 1, 2012.

EXISTING LAW

- 1) Defines a real estate salesperson as a natural person who, for compensation or in expectation of compensation, is employed by a licensed real estate broker to engage in one or more of the activities for which a real estate license is required. (Business and Professions Code, Section 10131)
- 2) Provides that the Commissioner may suspend or revoke the license of a real estate broker licensee who fails to exercise reasonable supervision over the activities of his or her salespersons or who, as the officer designated by a corporate broker licensee, fails to exercise reasonable supervision and control over the activities of the corporation. (Business and Professions Code, Section 10160, 10161.8, 10162, 10163)
- 3) Requires a corporation that is issued a license to also procure additional licenses for each branch office. (Business and Profession Code, Section 10158, 10211)
- 4) Allows corporate broker licensee to assign to a branch manager supervisory responsibility over salespersons in branch offices. (Business and Profession Code, Section 10159.2)
- 5) Requires real estate brokers to exercise reasonable supervision over the activities of their salespersons, as specified, and provides that a broker may use the services of brokers and salespersons to assist in this task, as long as the broker does not relinquish overall responsibility for supervising the acts of salespersons licensed to the broker (DRE Regulation 2725).

FISCAL EFFECT: Unknown.

COMMENTS:

According to the author, SB 510 will add accountability to the managers of real estate branch offices by ensuring that managers' licenses can be sanctioned for failure to supervise. The bill sets minimum standards for licensees that may be appointed as a branch office manager, and empowers DRE to require registration of appointed managers in a form approved by the DRE.

This legislative proposal is one of the recommendations of the DRE Broker Supervision Task Force. The Task Force was an internal group with industry participation, set up by the DRE Commissioner in 2009-2010 that looked at ways to improve the supervision of sales licensees.

In its September 2010 report, the task force explained, "Currently, there are no license disciplinary consequences to any subordinate licensee when supervisory authority is delegated under the provisions of Regulation 2725 for failure to properly supervise. It was decided that legislation should be considered to provide a multi-tiered operational structure that would hold a subordinate supervisor delegate liable for proper supervision potentially along with the designated officer or broker. Real estate licensee(s) accepting delegated supervisory authority shall be subject to disciplinary action, potentially along with the responsible broker or designated officer, for failing to properly supervise the licensed activities performed within his/her delegated areas of responsibility. Regardless of any such agreements, the principal real estate

broker or designated officer of a corporation shall exercise reasonable supervision and control over all activities that require a real estate license.”

The task force concluded that requirements for appointment as an office manager should include those provided for in this bill (a minimum of two years for any real estate salesperson appointed to a branch manager position, inability of anyone with a restricted license or subject to a bar order to act as a branch manager, and a requirement that a written contract be in place between the employing broker and the branch manager).

As noted above, the task force envisions that real estate brokers who head up large real estate offices will be able to delegate branch manager responsibilities to real estate salespersons and real estate brokers in their employ. This is nothing new. Employing brokers already delegate branch manager and office manager responsibility to others. What is new in this bill is the concept that the licensees to whom this responsibility is delegated will be subject to disciplinary action for failure to properly supervise.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Realtors

Opposition

None on file.

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