

ARTICLE 4. Brokers

REGULATIONS OF THE REAL ESTATE COMMISSIONER

The form and extent of such policies, rules, procedures and systems shall take into consideration the number of salespersons employed and the number and location of branch offices.

A broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. A broker may use the services of brokers and salespersons to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker.

2726. Broker-Salesman Relationship Agreements.

Every real estate broker shall have a written agreement with each of his salesmen, whether licensed as a salesman or as a broker under a broker-salesman arrangement. The agreement shall be dated and signed by the parties and shall cover material aspects of the relationship between the parties, including supervision of licensed activities, duties and compensation.

2728. Partners Operating from Branch Offices.

A real estate broker who is a member of a partnership operating as a real estate brokerage business under written agreement may conduct business from a branch office of the partnership without acquiring a branch office license in his own name if another broker member of the partnership has a current branch office license at the location in question.

2728.5. Broker/Salesman Operating from Branch Office.

A real estate broker acting in the capacity of a salesman to another broker under written agreement may perform acts for which a license is required on behalf of the employing broker at any place of business at which the employing broker is currently licensed to perform acts for which a real estate license is required.



2729. Record Retention – Optical Image Storage.

(a) A real estate broker may use electronic image storage media to retain and store copies of all listings, deposit receipts, canceled checks, trust records and other documents executed by him or her or obtained by him or her in connection with any transaction for which a real estate broker license is required, provided the following requirements are satisfied:

- (1) The electronic image storage shall be nonerasable "write once, read many" ("WORM") that does not allow changes to the stored document or record.
- (2) The stored document or record is made or preserved as part of and in the regular course of business.
- (3) The original record from which the stored document or record was copied was made or prepared by the broker or the broker's employees at or near the time of the act, condition or event reflected in the record.

REGULATIONS OF THE REAL ESTATE COMMISSIONER

(4) The custodian of the record is able to identify the stored document or record, the mode of its preparation, and the mode of storing it on the electronic image storage.

(5) The electronic image storage media contains a reliable indexing system that provides ready access to a desired document or record, appropriate quality control of the storage process to ensure the quality of imaged documents or records, and date ordered arrangement of stored documents or records to assure a consistent and logical flow of paperwork to preclude unnecessary search time.

(6) Records copied and stored under this section shall be retained for three years pursuant to Section 10148 of the Code.

(b) A broker will maintain at the broker's office a means of viewing copies of documents or records stored pursuant to this section. A broker shall provide, at the broker's expense, a paper copy of any document or record requested by the Department.

⊛

2729.5. Record Retention – Uniform Electronic Transactions Act.

(a) A real estate broker who obtains documents in connection with any transaction for which a real estate broker license is required when such documents contain an electronic signature pursuant to the Uniform Electronic Transactions Act (Section 1633.1 et seq. of the Civil Code) or the Electronic Signatures in Global and National Commerce Act shall retain a copy of such documents, including the electronic signatures. The broker shall retain a copy of such documents by: 1) Causing a paper copy of the document to be made or 2) By using electronic image storage media pursuant to Section 2729. The broker may retain copies of such documents at a location other than the broker's place of business.

(b) A broker shall maintain at the broker's office a means of viewing copies of documents or records stored pursuant to this section. After notice, such documents or records shall be made available for examination, inspection, and copying by the Commissioner or his or her designated representative during regular business hours. The broker shall provide, at the broker's expense, a paper copy of any document or record requested by the Department.

(c) Nothing in this section shall be construed to permit a broker to avoid compliance with Section 10148 of the Code.

Article 5. Licenses Under Fictitious Names

2731. Use of False or Fictitious Name.

(a) A broker shall not use a fictitious name in the conduct of any activity for which a license is required under the Real Estate Law unless the broker is the holder of a license bearing the fictitious name.