



Advertising Your Services: Required Name and License Information

Revised June 21, 2017

Key Questions

- **Must a real estate broker or real estate office's name be included in all advertising of real estate services?** See Question 3
- **Is there a regulation regarding the font size of the CalBRE license number in advertising?** See Question 8
- **May a real estate licensee use a nickname in advertising?** See Question 10
- **May a real estate salesperson advertise themselves as an "independent" real estate professional?** See Question 11
- **Can you summarize the changes in advertising rules effective 2018?** See Question 15

Introduction

The content of a licensee's advertising as well as the manner in which a licensee advertises their services are governed by both California law and the REALTOR® Code of Ethics. REALTORS® need to be aware of both the legal and ethical obligations they must follow when advertising.

This article will review the various regulations, laws and sections of the Code of Ethics that REALTORS® need to follow with respect to how they advertise their name and license information.

Beginning 2018 the uniform advertising standards law will come into effect. The purpose of this law is to create uniform advertising standards across a variety of media and types.

Presently, advertising rules vary greatly depending on the type and medium of advertisement. "For sale" signs, print and electronic media, business cards, classified rental advertisement, etc..., rely on different rules with a variety of exceptions. This law attempts to create a unified standard with very limited exceptions.

Some of the questions below are divided into two answers. One for current requirements and one for the requirements beginning 2018. Unless otherwise stated, the given rule or law is in effect now and will remain in effect beyond January 1, 2018.

Q1. Is a real estate licensee required to disclose his or her licensed status in all advertising?

A1. Through December 31, 2017

Legal and Ethics Requirement:

Yes. Any time a licensee advertises services for which a real estate license is required, the licensee must indicate, by use of terms such as broker, agent, real estate licensee or abbreviations such as bro. or agt., that the advertising is being done by a real estate licensee. The use of the word REALTOR® satisfies this requirement as well, but can only be utilized by those who are actually REALTORS®. This requirement applies to both real estate



brokers and salespersons. (Cal. Bus. & Prof. Code § 10140.6(a), 10 Cal. Code Regs. § 2770.1, NAR Code of Ethics Article 12.)

The law provides a limited exception for classified rental advertisements. If the advertisement includes the telephone number at the premises of the property offered for rent or the address of the property offered for rent, then the licensed status of the real estate licensee is not required. (Cal. Bus. & Prof. Code § 10140.6(c).) However, the NAR Code of Ethics does not provide any such exception and therefore a REALTOR® must, still identify their licensed status in such advertisements.

Bottom Line: Yes for REALTORS®.

A1. Beginning January 1, 2018

New Legal Requirement: Effective January 1, 2018, the law no longer provides an exception for classified rental advertisements. In fact there is no longer any legal exception for a sales agent or broker-associate whenever the advertisement includes a reference to those persons.

Bottom Line: Yes for REALTORS®.

Q2. Does a real estate brokerage name or office name have to disclose its licensed status in all advertising?

A2. Through December 31, 2017

Legal and Ethical Requirement:

A real estate brokerage also must disclose its licensed status. However, if the office's name makes it clear that it is a real estate company then that is sufficient. For example, if the name of the office is "The John Smith Real Estate Brokerage Company," the name alone would be sufficient to identify the company as a licensee. On the other hand, if the name of the office is "The John Smith Company," the name alone would not clearly identify the advertiser's designation as a real estate firm, and a term such as agent, broker, REALTOR®, etc. would also have to be used in the ad. (Cal. Bus. & Prof. Code § 10140.6, NAR Code of Ethics Article 12.)

Bottom Line: Yes for REALTORS®.

A2. Beginning January 1, 2018

New Legal Requirement: Effective January 1, 2018, under very limited circumstances, the legal requirement for a broker to disclose its licensed status in advertising does not apply for "for sale," rent, lease, "open house" and directional signs. These signs need not include a licensed status disclosure as long as either: 1) The responsible broker's identity appears (which includes the broker's name, but the broker's license number is optional). Under this exception there can be no reference on the sign to an associate broker or licensee. Or 2) There is no licensee identification information at all. Nonetheless, if the broker does not fall into this exception, if the office's name makes it clear that is a real estate company, then that is still sufficient.

Bottom Line: Yes for REALTORS®.

Q3. Must a real estate broker or real estate office's name be included in all advertising of real estate services?

A3. Through December 31, 2017.



Legal Requirement:

No. The law does not require that the actual name of the real estate office or broker be used. (Cal. Bus. & Prof. Code § 10140.6.)

Ethics Requirement:

Yes, for real estate services and for listed property. In other words, if the advertising of services for which a real estate license is required is done by a REALTOR®, as opposed to a non-REALTOR® licensee, or if the property being advertised is listed with the REALTOR® office, the actual office name must be specified. Thus, in these circumstances, the Real Estate Law simply requires identification as a licensee, but the NAR Code of Ethics also requires disclosure of the name of the office. (NAR Code of Ethics Standard of Practice 12-5.)

Bottom Line: Yes for REALTORS®.

A3. Beginning January 1, 2018

New Legal Requirement: Effective January 1, 2018, a licensee must disclose on all solicitation materials intended to be the first point of contact with consumers both their name and license number, and additionally, the solicitation must contain the responsible broker's "identity," meaning the name under which the broker is currently licensed by CalBRE and conducts business in general or is a substantial division of the real estate firm. (The broker's license number is optional). This same rule applies to "for sale," rent, lease, "open house" and directional signs which include any reference on the sign to an associate broker or license.

New Legal Requirement: Effective January 1, 2018, in very limited circumstances the legal requirement for a broker to disclose its name in advertising does not apply for "for sale," rent, lease, "open house" and directional signs. These signs need not include the broker's name as long as there is no reference on the sign to an associate broker or licensee, and there is no licensee identification information at all.

Bottom Line: Yes for REALTORS®.

Q4. Must real estate licensees disclose their own name in advertising real estate services?

A4. Through December 31, 2017

No. There is currently no legal requirement that real estate licensees disclose their name in a first point of contact solicitation material or any other type of advertisement.

A4. Beginning January 1, 2018

Effective January 1, 2018, real estate licensees must disclose their name (and the responsible broker identity in addition to their license number), on first point of contact solicitation materials.

Q5. Does a real estate licensee have to include his or her California Bureau of Real Estate (CalBRE) license number on all advertisements?

A5. Through December 31, 2017.

Every licensed real estate broker and salesperson must display his or her or 8-digit CalBRE license number on all solicitation materials intended to be the first point of contact with a



consumer and on all real property purchase agreements if acting as the agent in the transaction (Cal. Bus. & Prof. Code § 10140.6(b)). This requirement applies to all forms of real estate activity including industrial or commercial real estate brokerage or the sale of business opportunities. However, there are a number of exceptions as described in question 6 below.

If the licensee is also a mortgage loan originator, the licensee must also include the unique identifier assigned to the licensee by the Nationwide Mortgage Licensing System and Registry, the NMLS number, on all solicitation materials intended to be the first point of contact with consumers. (Cal. Bus. & Prof. Code § 10140.6(b)). There are also additional requirements for mortgage originators/brokers when soliciting for borrowers, see question 11 below.

A5. Beginning January 1, 2018.

New Legal Requirement: Effective January 1, 2018, eliminates most exceptions including an exception for classified rental advertisements and "for sale," "open house" and directional signs in general. However, the new law retains an exception for "for sale," rent, lease, "open house" and directional signs under limited circumstances. These signs need not include the license number as long as either: 1) Only the responsible broker's identity appears (which includes the broker's name, but the broker's license number is optional). Under this exception there can be no reference on the sign to an associate broker or licensee. Or 2) There is no licensee identification information at all.

Q6. What are examples of "solicitation materials intended to be the first point of contact with a consumer" as discussed in Question 5?

A6. Through December 31, 2017.

The following are examples of advertising materials which are considered as first point of contact materials and must contain the CalBRE license number (and unique NMLS identifier, as applicable, for mortgage loan originators):

- Business cards;
- Stationery;
- Web sites owned, controlled, and/or maintained by the licensee;
- Promotional and advertising fliers;
- Promotional and advertising brochures;
- Promotional and advertising e-mail and regular mail;
- Promotional and advertising leaflets;
- Any other materials "designed to solicit the creation of a professional relationship between the licensee and consumer, or which is intended to incentivize, induce or entice a consumer to contact the licensee about any service for which a license is required."

Under the current law, there are a number of exemptions from this list. If exempted, the advertising material need not contain the CalBRE license number (or the unique identifier for a mortgage loan originator). See the following question.

(10 Cal. Code Regs. § 2773(a).)

A6. Beginning January 1, 2018.

New Legal Requirement: Effective January 1, 2018, "solicitation materials" has been broadened to include:



- Business cards
- Stationery
- Advertising flyers
- Advertisements on television, in print, or electronic media
- For sale, rent, lease, "open house," and directional signs
- Any other material designed to solicit the creation of a professional relationship between the licensee and a consumer.

Under the new law, there are a number of exemptions from this list. If exempted, the advertising material need not contain the CalBRE license number (or the unique identifier for a mortgage loan originator). See the following question.

Q7. What are examples of advertising materials that are not considered "solicitation materials intended to be the first point of contact with a consumer?"

A7. Through December 31, 2017.

The following advertising materials need not contain the CalBRE license number or the unique identifier for a mortgage loan originator

- Advertisements in electronic media (including, without limitation, radio, cinema and television ads, and the opening section of streaming video and audio). (See question 7 for an exception for certain mortgage brokerage activity);
- Print advertising in any newspaper or periodical,
- "For Sale" signs placed on or around a property intended to alert the public that the property is available for lease, purchase or trade, unless the sign contains a team name in which case additional rules including the inclusion of the license number on for sale signs apply (see Q&A on **Team Names**).
- Some promotional materials, such as giant pencils and refrigerator magnets.
(10 Cal. Code Regs. § 2773(a), DRE Winter 2009 Real Estate Bulletin.)

A7. Beginning January 1, 2018. New Legal Requirement: Effective January 1, 2018, the law eliminated most exceptions. The only remaining exceptions are for "for sale," rent, lease, "open house" and directional signs but only under limited circumstances. These signs need not include a licensed status disclosure as long as either: 1) The responsible broker's identity appears (which includes the broker's name, but the broker's license number is optional). Under this exception there can be no reference on the sign to an associate broker or licensee. Or 2) There is no licensee identification information at all.

Q8. Is there a regulation regarding the font size of the CalBRE license number in advertising?

A8. Yes, the font size of the license identification number can be no smaller than the smallest size of any other type used in the solicitation material (10 Cal. Code Regs. § 2773(a)(4)).

Q9. What if more than one licensee's name appears on the solicitation materials, does each number have to appear?

A9. If the name of more than one licensee appears in the solicitation material, then the license identification number of each licensee must be included (10 Cal. Code Regs. § 2773(a)).



However, if in addition to the name of the licensee, the name, logo or trademark of the employing broker appears in the solicitation materials, the number of that employing is not required except for certain mortgage brokerage advertising (see questions 11 and 12). (10 Cal. Code Regs. § 2773(a)).

Q10. May a real estate licensee use a nickname in advertising?

A10. The CalBRE permits a licensee to make limited use of a nickname. A licensee can use a nickname in place of his or her legal first name as long as the licensee uses his or her legal last name as it appears on his or her license and uses his or her CalBRE license number in the advertising. So for example, if a licensee's legal name is Giancarlo Montez, but he usually goes by Johnny Montez, he could use Johnny Montez in advertising since he is using his legal surname as long as he also includes his license number. (10 Cal. Code Regs. § 2731).

Q11. May a real estate salesperson advertise themselves as an "independent" real estate professional?

A11. No. According to CalBRE, "If a salesperson wants to act and advertise as an independent or freelance real estate licensee in California, he or she must become a real estate broker. There are no exceptions." (Per CalBRE's "**Licensee Alert Disciplinary Warning**" to Real Estate Salespersons Who Act, Conduct Themselves, and/or Advertise as "Independent" Real Estate Professionals -- and a Simultaneous Caution to Brokers Who Allow or Support Such Practices" from September of 2015).

Q12. May a real estate salesperson advertise themselves as for example, "Doe Real Estate" (assuming that their actual name is John Doe)?

A12. No. According the CalBRE, if a salesperson named "John Doe" advertises using that business name, and the advertisements are accompanied by a webpage and other materials that extol the virtues of "Doe Real Estate," the public would mistakenly conclude that "Doe Real Estate" is a real estate broker, and thus such a practice would be unlawful. (Per CalBRE's "**Licensee Alert Supplemental Disciplinary Advisory**" to Real Estate Salespersons Who Mislead Consumers into Falsely Believing that They are Brokers -- and a Concurrent Caution to the "[Ir]responsible" Brokers who Permit or Support Such Practices" from March 2017).

Q13. Must a salesperson or broker associate include the name of the real estate broker under whom he or she works included in all advertising of real estate services?

A13. Through December 31, 2017. California law generally does not require licensees to use the name of the broker or brokerage firm to be used when advertising real estate services. A salesperson or broker associate advertising real estate services can just use their own name in advertising without the name of the brokerage. Mortgage brokers have a different set of rules discussed in questions.

However, the Code of Ethics (with limited exceptions) requires a licensee to utilize the name of the brokerage in advertising. So as a practical matter, in most circumstances a REALTOR'S advertisement will include the name of the brokerage even though California law itself does not require it.



While California law does not require the name of the brokerage in most situation there are the following exceptions

- Team Names. When a team name is utilized the brokerage name must also be utilized (see Q&A on **Team Names**)
- Any advertisement or other statement which is published by a real estate broker or salesman offering to assist persons to file applications for the purchase or lease of, or to locate or enter upon, lands owned by the State or Federal Government must indicate the name of the broker for whom it is published and state that he is licensed as a real estate broker by the State of California." Cal. Bus. & Prof Code § 10140.5
- Mortgage Brokerage Activity. See questions 11 and 12 below

Under the REALTOR® Code of Ethics, REALTORS® and any person employed or affiliated with REALTOR® must use the name of the REALTORS® firm for real estate services and for listed property. (NAR Code of Ethics Standard of Practice 12-5.)

The Code of Ethics requires that the firm name be specified in a "reasonable and readily apparent manner." The Code recognizes that it may be difficult to always give the firm name in certain electronic contexts (such as in tweets) where there are character or space limitations. In such instances the firm name need not be given, but only if there is a link to a display that includes all the required name disclosures. (NAR Code of Ethics Standard of Practice 12-5).

A13. Beginning January 1, 2018. New Legal Requirement: Effective January 1, 2018 a licensee must disclose on all solicitation materials intended to be the first point of contact with consumers both their name and license number, and additionally, the solicitation must contain the responsible broker's "identity," meaning the name under which the broker is currently licensed by CalBRE and conducts business in general or is a substantial division of the real estate firm. (The broker's license number is optional). This same rule applies to "for sale," rent, lease, "open house" and directional signs which include any reference on the sign to an associate broker or license.

Q14. Must a licensee identify him or herself as a broker, agent, etc. when advertising his or her own property for sale if it is not listed with the firm?

Q14. California law does not require a licensee to disclose his or her status as a licensee even when selling his or her own property. Since selling one's own property does not require a license and therefore, a licensee if not utilizing their license in the sale of their property need not use their license number, nor identify himself or herself as a licensee (Cal. Bus. & Prof. Code § 10131.)

However, under the Code of Ethics REALTORS® must identify themselves as a REALTOR® or a real estate licensee when advertising property that is unlisted for sale or lease in which they have an interest. (NAR Code of Ethics Standard of Practice 12-6.)

(There is an additional disclosure requirement pertaining to sale or purchase of property by REALTORS®. This is not required in advertisements but only as a disclosure prior to sale or purchase. In selling property they own, or in which they have any interest, REALTORS® shall reveal their ownership or interest in writing to the buyer or agent prior to signing any contract for purchase. Additionally, REALTORS® shall not buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making



their true position know to the owner of the agent prior to signing any contract for purchase . (NAR Code of Ethics Standard of Practice 4-1).)

Q15. Can you summarize the changes in advertising rules effective 2018?

A15. Yes. Beginning January 1, 2018, all first point of contact solicitation materials must include:

- The name and number of the licensee. This is for both agents and broker-associates.
- The responsible broker's "identity." This means the name under which the broker is currently licensed by the BRE and conducts business in general or is a substantial division of the real estate firm. The broker's license number is optional.
- The status of the agent such as "REALTOR" or "agent" (unless the name of the company makes clear that the advertisement is by a licensee).

The new law also eliminates most of the exceptions and broadens the types of advertising it applies to including:

- Business cards
- Stationery
- Advertising flyers
- Advertisements on television, in print, or electronic media
- "For sale," "open house," lease, rent or directional signs when any licensee identification information is included
- Any other material designed to solicit the creation of a professional relationship between the licensee and a consumer

Are there any exceptions? There is a limited exception.

When no sales-agent or broker associate is referenced, the new law permits an exception for "for sale," rent, lease, "open house" and directional signs. These signs need not include the agents' or associate brokers' names or license numbers as long as either:

A. The responsible broker's identity appears (which includes the broker's name, but the broker's license number is optional). Under this exception there can be no reference on the sign to an associate-broker or sales-agent.

OR

B. There is no licensee identification information at all.

These exceptions also apply to the general rule of disclosing a licensee's status, such as broker, agent or REALTOR, in all advertising. But keep in mind that under the N.A.R. Code of Ethics Standard of Practice 12-5, any advertisement of real estate services or listed property in any medium must disclose the name of the firm in a reasonable and readily apparent way. So even though a licensee who is not a REALTOR may post under the new law a completely generic "for sale" sign, REALTORS should, at the very least, include the name of the firm on a "for sale" sign.

Q16. What are the additional advertising requirements for licensees who are mortgage originators or mortgage brokers when soliciting for borrowers?

A16. When soliciting borrowers CalBRE licensed mortgage brokers must include all of the following in their advertising.



1. State their licensed status by use of the term broker, agent or abbreviations such as bro, agt., as appropriate to the license they hold.
2. State the state regulatory entity under which that loan transaction will be made or arranged. The following are the only ways for licensees to state that the loan is being made or arranged under a CalBRE license.
 - (1) Real estate broker, California Bureau of Real Estate or
 - (2) California Bureau of Real Estate, real estate broker.

The words in the two above ways of indicating the licensed status may be abbreviated only as follows:

- California can be abbreviated as "CA" or "CAL" or "Calif"
 - Bureaus may be abbreviated as "Bur".
 - A dash (-) may be used in lieu of the comma that appears in number one and two above.
3. State the CalBRE license number of each person in the advertisement and the CalBRE license number of the broker.
 4. If the mortgage broker is a mortgage originator, ie. one who originates residential mortgage loans, the NMLS unique identifier of the licensee and of the broker must be included.

The above information must be disclosed in the printed text of the advertisement and must also be included in the spoken text of any radio or television advertisement. Also, the type of size of the information cannot be less than the smallest type used in the advertisement copy.

(Cal. Bus. and Prof. Code § § 10140.6, 10235.5, 17539.4, Cal. Code Regs section 2847.3)

Q17. What are the advertising requirements if a mortgage broker is soliciting for investors/lenders and or purchaser of notes secured by real property?

A17. The mortgage broker's advertising must have some indication that the licensee is licensed such as broker, agent or appropriate abbreviation. The license number of all licensees on the advertisement and the license number of the broker must be included. The NMLS unique identifier is not required. (Cal. Bus. and Prof. Code sections 10140.6, 10236.4).

(A reminder that a broker soliciting for investors/lenders may, depending on the transaction, require licensing under the Federal Securities Act or under the Corporate Securities Law as a broker-dealer or must fall within, and the transaction file must detail, an exemption from such laws. (Cal. Bus. and Prof. Code section 10236.7))

Q18. Where can I get additional legal information?

A18. This legal article is just one of the many legal publications and services offered by C.A.R. to its members. For a complete listing of C.A.R.'s legal products and services, please visit **C.A.R. Member Legal Services**.

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