

**REPEAL SECTION 2728 TO READ:**

Section 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.~~

~~Note: Authority cited: Sections 10080, 10226, 11001, 11011.8, Business and Professions Code and Section 21082, Public Resources Code.~~

**ADOPT SECTION 2728 TO READ:**

Section 2728. Brokers and Salespersons Performing Licensed Activities Through a Partnership  
While California law does not permit the issuance of real estate broker licenses to partnerships, real estate brokers may, pursuant to section 10137.1 of the Business and Professions Code, form partnerships that can perform acts requiring a real estate broker license provided that every partner through whom the partnership performs such acts is a licensed real estate broker.

Where a real estate broker is a member of such a partnership operating as a real estate brokerage business, a salesperson who is licensed to that broker and properly supervised and working under a broker-salesman agreement, may perform acts for which a real estate license is required for and on behalf of the partnership.

A real estate broker who is a member of such a partnership may conduct business from a branch office of the partnership without applying for or acquiring a branch office license in his or her own name, provided another real estate broker member of the partnership has a current branch office license for and at the location in question.

Note: Authority cited: Sections 10080, 10226, 11001, 11011.8, Business and Professions Code and Section 21082, Public Resources Code. Reference: Sections 10132 and 10137.1, Business and Professions Code.

**AMEND SECTION 2731 TO READ:**

Section 2731. Use of False or Fictitious Name

(a) A licensee 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 licensee is the holder of a license bearing the fictitious name.

(b) The Department shall issue a license required under the Real Estate Law only in the legal name of the licensee or in the fictitious business name of a broker who presents evidence of having complied with the provisions of Sections 17910 and 17917 of the Code.

(c) The commissioner may refuse to issue a license bearing a fictitious name to a broker if the fictitious name:

- (1) Is misleading or would constitute false advertising.
- (2) Implies a partnership or corporation when a partnership or corporation does not exist in fact.
- (3) Includes the name of a real estate salesperson.
- (4) Constitutes a violation of the provisions of Sections 17910, 17910.5, 17913 or 17917 of the Code.
- (5) Is the name formerly used by a licensee whose license has since been revoked.

(d) A license may not be issued or renewed with a fictitious business name containing the term “escrow”, or any name which implies that escrow services are provided, unless the fictitious business name includes the term, “a non-independent broker escrow” following the name. Licensees who have been or are issued a license with a fictitious business name with the term “escrow”, or any term which implies that escrow services are provided, must include the term “a non-independent broker escrow” in any advertising , signs, or electronic promotional material.

Note: Authority cited: Section 10080, Business and Professions Code. Reference: Sections 10159.5 and 10177, Business and Professions Code.

**REPEAL SECTION 2755 TO READ:**

**Section 2755.** Salesperson Working for Partnership.

~~A salesperson who is licensed to a broker who is a member of a partnership acting pursuant to Section 10137.1 of the Code may perform acts for which a real estate license is required for and on behalf of the partnership.~~

Note: Authority cited: Section 10080, Business and Professions Code. Reference: Sections 10132 and 10137.1, Business and Professions Code.

**ADOPT SECTION 2773 TO READ:**

**Section 2773. Disclosure of License Identification Number on Solicitation Materials – First Point of Contact with Consumers.**

(a) A real estate broker or salesperson, when engaging in acts for which a license is required, shall disclose its, his or her real estate license identification number on all solicitation materials intended to be the first point of contact with consumers. If the name of more than one licensee appears in the solicitation, the license identification number of each licensee shall be disclosed.

Solicitation materials intended to be the first point of contact with consumers, and in which a licensee must disclose a license identification number, include the following:

(1) Business cards;

(2) Stationery;

(3) Websites owned, controlled, and/or maintained by the soliciting real estate licensee; and

(4) Promotional and advertising fliers, brochures, email and regular mail, leaflets, and any marketing or promotional materials designed to solicit the creation of a professional relationship between the licensee and a 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.

The type size of the license identification number shall be no smaller than the smallest size type used in the solicitation material.

(b) For the purposes of Business and Professions Code Section 10140.6, solicitation materials do not include the following:

(1) Advertisements in electronic media (including, without limitation, radio, cinema and television ads, and the opening section of streaming video and audio);

(2) Print advertising in any newspaper or periodical; and

(3) “For Sale” signs placed on or around a property intended to alert the public the property is available for lease, purchase or trade.

Note: Authority cited: Section 10080, Business and Professions Code. Reference: Section 10140.6, Business and Professions Code.

## **AMEND SECTION 2848 TO READ:**

### **Section 2848. Advertising Criteria.**

(a) In administering Sections 10232.1 and 10235 of the Code, the commissioner shall take such action as is appropriate to prevent or halt the publication of advertising that is false, misleading or deceptive in itself or through the omission of information necessary to make a representation not misleading in the context in which it is used. To this end, the commissioner may disapprove or require verification of representations in advertising submitted pursuant to Section 10232.1 of the Code, or Section 2847 of these regulations.

In addition to the actual text, consideration shall be given to such factors as format, pictorial display and emphasis in determining whether an advertisement is likely to create a false impression.

By way of illustration and not of limitation, advertising containing any of the following is considered to be false, misleading or deceptive and will not ordinarily be approved for

publication by the commissioner:

(1) The use of "guaranteed," "insured," "bonded," "sure," "safe," "sound" or other words or phrases of similar import to describe or characterize the security of lenders' or purchasers' funds, or the return to lenders or purchasers from the use of their funds, without an accompanying statement of fact supporting the use of the words or phrases implying high security. A representation to the effect that no losses or minimal losses have been sustained by lenders or purchasers doing business with the licensee shall include the period of time to which the representation applies.

(2) The use of terms in the comparative or superlative degree to describe any aspect of the business of the licensee, or any terms applicable to loans negotiated by the licensee, without such additional information as necessary to make the representation unambiguous in the context in which it is used.

(3) A statement that the licensee represents any lender enumerated in Section 10133.1(a) of the Code unless the licensee has a contractual arrangement to act as agent or representative for such lender.

(4) An implication contrary to the fact that the licensee will act in the capacity of a lender rather than as an agent or that a borrower will be able to obtain a loan without deductions from the principal amount for the payment of commissions, costs and expenses customarily attendant upon mortgage loan broker transactions.

(5) A representation of a specific installment in repayment of a loan without an equally prominent disclosure of the following information about the loan:

(A) Principal amount

(B) Simple annual interest rate

(C) Annual percentage rate

(D) Number, amount and period of payments scheduled to the date of maturity

(E) Balance due at maturity (balloon payment) if not fully amortized.

(6) A representation of a specific installment payment, interest rate, annual percentage rate or other provision concerning a loan unless it is clearly indicated whether the advertised terms are available for first loans, junior loans or for both first and junior loans.

(7) A representation or implication that loans are available on terms more favorable to the borrower than terms then generally available in the community through mortgage loan brokers or other sources for loan funds unless the advertised terms are in fact then available to a borrower without the application of undisclosed, special conditions or restrictions to qualify the borrower or the security for the loan.

(8) A representation or implication that loans are available on terms more favorable to the borrower than terms then generally available in the community through mortgage loan brokers or other sources for loan funds unless the broker has previously presented evidence satisfactory to the commissioner that the advertising is not illusory or deceptive in light of all relevant factors of the broker's business practices including the amount of loan funds prospectively available to meet borrower demands in response to the advertising.

(9) A representation that loans are available at or to a maximum percentage of market value unless there is a disclosure as to how market value will be determined for purposes of a loan transaction.

(10) A representation or implication that the credit rating or other personal financial data of the prospective borrower will not be a factor in determining eligibility for a loan unless the broker in fact neither conducts nor causes to be conducted any investigation or inquiry into any aspect of any prospective borrower's credit rating or into his personal financial circumstances for the purpose of determining his qualifications for a loan.

(11) A representation or implication that a loan can or will be approved by telephone.

(12) A representation implying that the Department or any other governmental agency has endorsed or approved any aspect of the licensee's business activities. A statement that the offering referred to in the advertisement is being made under authority of a permit issued by the Department or by the Department of Corporations without more, will not be considered to be a representation implying endorsement or approval by a governmental entity.

(13) A representation or implication contrary to fact as to the number and location of offices maintained by the licensee for the conduct of his/her mortgage loan brokerage business.

(14) Use of "investment plan," "growth plan," or similar term to describe a program of a licensee carrying on activities described in Section 10131.1.

(15) The use of "savings," "savings plan" or terms of similar import indicating that the licensee is engaged in business activities requiring a particular license, permit or authority unless the licensee then has such a license, permit or authority.

(16) A representation of a simple annual interest rate without an equally prominent disclosure of the annual percentage rate.

(17) A representation of an installment in repayment of an adjustable rate, interest only or payment-option loan without an equally prominent disclosure of the following information about the loan:

(A) Principal amount

(B) Term of loan

- (C) Initial interest rate
- (D) Number of months the initial interest rate will be in effect
- (E) Fully-indexed interest rate
- (F) Maximum interest rate
- (G) If different, an explanation of the difference between the payment rate, initial interest rate and fully-indexed rate.
- (H) Annual percentage rate
- (I) How often the interest rate and payments can change
- (J) Maximum periodic change in the interest rate and payments (periodic caps)
- (K) Number of months and percentage of original loan amount after which minimum payments will not be accepted and the loan re-amortizes
- (L) The monthly payment based on the maximum interest rate, and the loan balance after all negative amortization is included, assuming minimum payments are made
- (M) If the loan contains a prepayment penalty, a statement to that effect
- (N) If the loan contains a balloon payment, a statement to that effect
- (18) A statement that the licensee can arrange "low doc/no doc", "no income/no asset", "stated income", "stated asset", "no ratio" or similar loan products without a statement that these products may have a higher interest rate, more points or more fees than other products requiring documentation.
- (19) The failure to include a statement, in an advertisement for investments in trust deeds secured by one or more interests in real property, that "investments in trust deeds secured by one or more interests in real property are subject to risk of loss". Any advertisement, for investments in trust deeds secured by one or more interests in real property shall be retained for a period of three years from the date of its last publication or use. After notice, advertisements for investments in trust deeds secured by one or more interests in real property shall be made available for examination, inspection, and copying by the commissioner or his or her designated representative during regular business hours.

Note: Authority cited: Sections 10080 and 10232.1, Business and Professions Code. Reference: Sections 10232.1 and 10235, Business and Professions Code.

**ADOPT SECTION 2903 TO READ:**

**Section 2903. Disclosure By Person or Entity Acting in a Transaction as Both Agent in a Sale, Lease, or Exchange and as an Arranger of Financing.**

When a corporate real estate broker, individual real estate broker, or real estate salesperson in the employ of a real estate broker (hereinafter each of the foregoing licensees will be referred to as “Real Estate Licensee”) who is acting as an agent in connection with a sale, lease or exchange of real property undertakes to arrange financing with respect to the transaction, or where a Real Estate Licensee who is arranging financing in connection with a sale, lease or exchange of real property undertakes to act as a real estate agent with respect to the transaction, the Real Estate Licensee shall, within twenty-four (24) hours of the undertaking (through which the Real Estate Licensee will have dual roles as a real estate agent and an arranger of financing), make a written disclosure of those roles to all parties to the sale, lease, or exchange, and any related loan or financing transaction. Where the Real Estate Licensee is a real estate salesperson in the employ of a real estate broker, the written disclosure must be made by the real estate broker who employs the salesperson. The written disclosure made by the Real Estate Licensee shall include an acknowledgment of receipt, which acknowledgment must be signed by all parties to the transaction.

Note: Authority cited: Section 10080, Business and Professions Code. Reference: Section 10177.6, Business and Professions Code.

**AMEND SECTION 2930 TO READ:**

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17. Trust Fund Violation Course Requirement.

Restricted License:

Respondent shall, prior to and as a condition of the issuance of the restricted license, submit proof satisfactory to the Commissioner of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in subdivision (a) of Section 10170.5 of the Business and Professions Code during the period extending from within 120 days prior to the effective date until the effective date of the Decision in this matter. ~~Proof of satisfaction of this requirement includes evidence that respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.~~

Suspended License:

All licenses and licensing rights of Respondent \_\_\_\_\_ are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that respondent has

successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

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Note: Authority cited: Section 10080, Business and Professions Code. Reference: Sections 10148 and 10153.4, Business and Professions Code; and Section 11425.50, Government Code.

### **ADOPT SECTION 2971 TO READ:**

Section 2971. Form of Advance Fee Agreements (Loan Modification Services).

(a) The Commissioner shall publish and make available to interested persons as official forms of the Department of Real Estate Form RE 880 (New 7/09) and Form RE 880A (New 7/09), which are incorporated by reference, as approved formats for advance fee materials referred to in Section 10085 of the Business and Professions Code (the Code).

(b) The publication of Form RE 880 (New 7/09) and Form RE 880A (New 7/09) pursuant to subdivision (a) hereof is for the purpose of aiding real estate brokers in complying with Sections 10085 and 10146 of the Code when contracting for advance fees as defined in Section 10026 of the Code for loan modification services. A real estate broker shall submit Form RE 880 (New 7/09) and Form RE 880A (New 7/09) to the Commissioner for review pursuant to Section 10085 of the Code.

(c) Form RE 880 (New 7/09) and Form RE 880A (New 7/09) shall not constitute the only forms that will satisfy the requirements of Section 10085 of the Code. If a real estate broker wishes to use forms other than those referred to in subdivision (a), he/she shall submit the forms as required by Section 10085 of the Code.

Note: Authority Cited: Section 10080, Business and Professions Code. Reference: Sections, 10026, 10027, 10085, 10085.5, 10131.2 and 10146, Business and Professions Code.

### **REPEAL SECTION 3005 TO READ:**

#### **§ 3005. Definitions.**

~~As used in this article, the following definitions will apply:~~

~~(a) "Clock hours" means 50 minutes actually spent in any combination of presenting course content, seminar, conference discussions, or workshop activity.~~

~~(b) "Approval" or "approved" with reference to an offering means a determination by the Department that the appropriate hours of continuing education credit will be given to licensees who have successfully completed the course within the time period specified by statute.~~

(c) "~~Final examination~~" means the test by which the sponsor, after completion of a continuing education offering, ~~determines whether a participant has successfully completed the offering according to standards previously approved by the Department.~~

(d) "~~Material change~~" as used in Section 3007.2 means a significant deviation, in one or more aspects, from the offering as approved by the Department including a change in curriculum, course length, method of presentation, workbooks, texts, or syllabi, but not including changes designed exclusively to reflect recent changes in statutes, regulations or decisional law.

(e) "~~Completed~~" as used in Sections 3006, 3006.1, and 3013 in reference to a continuing education offering, means the date of successful completion of a final examination.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

### **AMEND SECTION 3006 TO READ:**

#### **Section 3006. Criteria for Approval of Offerings.**

In acting on an application for approval of a continuing education offering, the ~~commissioner~~ Commissioner shall apply, but shall not be limited to the application of, the following criteria in determining that the appropriate hours of continuing education credit will be given to licensees who have successfully completed the course within the time period specified by statute:

(a) The offering shall have at least one successive clock hour of instruction which is based on a 50-minute hour.

(b) For other than a correspondence course offering, participants shall be physically present for at least 90% of the offering time exclusive of the time allocated to the administering of a final examination.

(c) For other than a correspondence course offering, a sponsor shall provide ~~written materials, including a course outline, to each student. The written course outline shall consist of not less than three pages for each clock hour of instruction~~ each participant at least a written course outline that is a narrative outline consisting of not less than three (3) pages per credit-hour. Each page shall contain an average of 325 words.

(d) A continuing education offering shall have an appropriate form of final examination, ~~such as, but not limited to, multiple choice, essay or oral examinations~~ as set forth in Section 3007.3.

(e) Instructors, conference leaders, lecturers, and others who present a continuing education ~~requirement~~ offering shall meet at least one of the following qualifications:

(1) A bachelor's degree in a related field to that in which the person is to teach, from a school listed as an institution of higher learning by the U.S. Department of Education, or from a comparable school of a foreign country.

- (2) A valid teaching credential or certificate issued by the Board of Governors of the California Community Colleges or by a comparable California teacher-credentialing agency authorizing the holder to teach in the field of knowledge covered in the offering.
- (3) Three years full-time experience in the applicable field.
- (4) Any combination of at least three years of full-time experience and college level education in the applicable field.
- (5) The ~~commissioner~~ Commissioner may approve instructors who in his or her judgment meet the criteria for approval or who otherwise evidence their teaching qualifications by education or experience or a combination of the two.
- (f) An instructor shall not be qualified if the instructor:
- (1) Does not satisfy the criteria in subdivision (e);
  - (2) Has engaged in any violation of Article 25 (commencing with Section 3005) of these regulations or has engaged in conduct which would have warranted the denial of an application for approval or withdrawal of approval of a continuing education offering;
  - (3) As a real estate licensee has had that license suspended, revoked or restricted as a result of disciplinary action; or
  - (4) Acted or conducted himself or herself in a manner which would have warranted the denial of his or her application for a real estate license.
- (g) A correspondence course shall consist of adequate study materials, consisting of a minimum of 3,750 words per credit hour of content excluding the table of contents, indexes and bibliographies, to assure that the course cannot be completed in less time than the number of hours for which it is approved.
- (h) Every sponsor shall maintain on file with the ~~commissioner~~ Commissioner a current address.
- (i) ~~Beginning on January 1, 2004, the~~ The sponsor shall notify each ~~student~~ participant that an evaluation form is available on the Department's Internet website for on-line evaluation of courses and instructors.
- (j) The sponsor shall comply with the provisions of the Americans with Disabilities Act in the offering of approved courses.
- (k) A sponsor that is a corporation shall maintain good legal standing with the State of California Office of the Secretary of State during any term of course approval.
- (l) Prior to the start of the course, the sponsor shall provide participants with the following disclaimer statement: "This course is approved for continuing education credit by the California Department of Real Estate. However, this approval does not constitute an endorsement of the views or opinions which are expressed by the course sponsor, instructors, authors or lecturers.
- (m) All offerings shall require completion within one year from the date of registration.

(n) Every participant that successfully completes the course shall be provided with a course completion certificate within 15 days from date of completion.

(o) A correspondence course offered via the Internet in one or more aspects of the course offering must have a method of control in place to protect the integrity of the exam, insure by affidavit that the participant enrolled is the person completing the course and insure the course cannot be completed in less time than the approved credit hours by controlling the student's navigation through the course content.

(p) Incremental assessments shall be required that are designed to properly measure a participant's mastery of the course content after each logical unit of instruction or chapter within a correspondence course i.e. case studies, quizzes or other form of exercises. Remediation to the participant shall be provided after each assessment has been completed.

(q) A sponsor or course instructor is prohibited from marketing, selling or displaying any product or service during a continuing education offering including breaks between instructional periods.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

#### **AMEND SECTION 3007 TO READ:**

##### **Section 3007. Application for Offering Approval.**

An application for approval of a continuing education offering shall be made on a form prescribed by the Department not less than 90 days before the proposed commencement date of the offering. The completed application shall be accompanied by the fee and include at least the following supporting documents when applicable:

~~(a) The name, address and telephone number of the applicant.~~

~~(b) Summary of the offering including:~~

~~(1) Title.~~

~~(2) Textbook(s) and student materials prescribed.~~

~~(3) Outline or syllabus.~~

~~(4) A statement whether the offering is intended to comply with Business and Professions Code section 10170.5(a)(1), (2), (3), (4), (5) or (6).~~

~~(5) Disclosure of the method of offering presentation.~~

(a) Upon initial application and as changes occur, a Sponsor is required to submit the following:

(1) If sponsoring entity is a corporation, the following is to be included:

(A) From a Domestic Corporation - a current Certificate of Status (Domestic Corporation) executed by the California Secretary of State not earlier than 30 days prior to submittal and the filed Articles of Incorporation.

(B) From a Foreign Corporation - a current Certificate of Qualification or a Certificate of Good Standing (Foreign Corporation) executed by the California Secretary of State not earlier than 30 days prior to submittal.

(2) If the Sponsor is operating under a DBA - a Fictitious Business Name Statement that has been filed with the county recorder in the county where Sponsor maintains their principal place of business or in Sacramento County if Sponsor does not maintain a place of business in California.

(b) A copyright authorization from the copyright holder specifying the material that may be used and to who the authorization has been granted if copyrighted material will be used in a manner that would be in violation of the copyright laws.

(c) A Consent to Service of Process if applicant is a non-resident of California.

(d) A C.E. Instructor Certification must be submitted for each live course offering.

(e) All instruction materials, student materials, textbooks, CDs, DVDs, audio/video cassettes, case studies, sample forms, incremental assessments, etc to be used as part of the offering.

(1) If CDs are utilized during the course of instruction the following shall be submitted with a copy of each CD:

(A) A Table of Contents for each CD.

(B) If the CD contains a textbook, copies of the text cover, publication page and table of contents.

(2) If DVDs or audio/visual cassettes are utilized during the course of instruction a course outline as defined in Section 3006(c) that has been keyed to the elapsed time for each topic and subtopic.

(f) A General Information Page that will be provided to the participant prior to registration for the course that sets forth all requirements and policies that affect their enrollment and completion of the course. i.e. fees, cancellation, refund; attendance and dismissal; final exam criteria, etc..

(g) A Course Outline as defined in Section 3006(c) with each topic and sub-topic annotated with its allocated time in minutes.

(h) Detailed statement(s) addressing and/or copies of the following if applicable for a correspondence course offering:

- (1) Method of control to protect the integrity of an exam administered via the Internet.
  - (2) When the course is delivered via the Internet, procedures controlling the student's navigation through the course content to insure the completion time is appropriate for the number of clock hours for which the course is approved.
  - (3) A copy of the incremental assessments to be utilized and a statement detailing the method of providing remediation to the participant.
  - (4) A copy of the affidavit to be executed by the participant.
  - (5) Final Exam Instructions provided to the participant and the proctor.
  - (6) A Certification to be executed by the proctor in accordance with Section 3007.3(h).
- (i) The Final Exam or bank of questions with answer key that has been keyed to the course material. If re-examinations are allowed for participants that fail the initial examination two final examinations must be submitted or the item bank must contain a sufficient number of questions to compile two separate examinations.
  - (j) A Sample Course Completion Certificate containing at least:
    - (1) The name and license number of participant;
    - (2) A statement regarding meeting attendance and/or examination criteria;
    - (3) The name of the offering as approved by the Department;
    - (4) The number of credit hours;
    - (5) The date of registration if a correspondence course;
    - (6) The date of successful completion;
    - (7) The category of the offering;
    - (8) The eight-digit DRE approval number;
    - (9) The name, address and telephone number of the sponsor; and
    - (10) The printed name, signature and telephone number of the individual verifying the participant's completion of the course.
  - (k) If a course is a live educational seminar, conference or symposium that will not be offered more than annually in two (2) locations covering subject material dealing with new or changing trends, concepts or innovations in areas relevant to the real estate industry, a cover letter shall be submitted identifying the course as a one-time offering and the first date it is to be offered.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

**AMEND SECTION 3007.05 TO READ:**

**Section 3007.05. Forms of Identification Accepted.**

A participant shall present one of the following forms of identification immediately before admittance to a live presentation of an offering or, immediately before the administration of the final examination for a correspondence offering.

- (a) A current California drivers license.
- (b) A current identification card described in Section 13000 of the California Vehicle Code.
- (c) Any identification of the participant issued by a governmental agency or a recognized real estate related trade organization within the immediately preceding five years which bears a photograph, signature and identification number of the participant.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Section 10170.4, Business and Professions Code.

**AMEND SECTION 3007.2 TO READ:**

**Section 3007.2. Material Change in Course Offering.**

(a) Any proposed ~~material~~ change to an approved course offering that is a significant deviation, in one or more aspects, from the offering as approved by the Department including a change in curriculum, course length, method of presentation, workbooks, texts, or syllabi, but not including changes designed exclusively to reflect recent changes in statutes, regulations or decisional law to an approved course offering shall be deemed to be material and shall be submitted by the sponsor to the Department for consideration and approval prior to use.

(b) A material change ~~as defined in Section 3005(d)~~ shall require a new application and fee.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

**AMEND SECTION 3007.3 TO READ:**

**Section 3007.3. Final Examination Rules.**

~~(a)~~ A final examination is required for all continuing education courses. Sponsors shall establish and participants shall observe the following final examination rules for approved offerings that are to be observed by all offering participants:

~~(1)(a)~~ The final examination shall provide the means by which a sponsor determines whether a participant has successfully completed the offering. The final examination shall provide for the testing, examination or evaluation of participants. The sponsor shall take steps to protect the

integrity of the examination by controlling access to the exam by the participant and to prevent cheating in an examination.

~~(2)~~(b) The examination shall not be taken by participants until completion of the instructional portion of the offering to which the examination applies.

~~(3)~~(c) Participants taking a correspondence offering or package of offerings shall be limited to completion of final examinations ~~for the offering~~ for a maximum of fifteen (15) credit hours during any one 24 hour period. A participant shall not to be granted access to additional segments of the final examination for offerings or a package of offerings that exceed fifteen (15) credit hours until the appropriate 24-hour period has lapsed.

(d) The minimum number of questions required on a final examination consisting only of multiple choice, true/false and/or fill-in the blank questions shall be:

- (1) 1 credit hour – 5 questions
- (2) 2 credit hours – 10 questions
- (3) 3 credit hours – 15 questions
- (4) 4 credit hours – 20 questions
- (5) 5-7 credit hours – 25 questions
- (6) 8-10 credit hours – 30 questions
- (7) 11-13 credit hours – 35 questions
- (8) 14-15 credit hours – 45 questions
- (9) 16-18 credit hours – 50 questions
- (10) 19-21 credit hours – 60 questions
- (11) 22-24 credit hours – 70 questions
- (12) 26-28 credit hours – 80 questions
- (13) 29-31 credit hours – 90 questions
- (14) 32-34 credit hours – 100 questions
- (15) 35 credit hours and over – 3 questions per hour

(e) A final examination consisting only of multiple choice, true/false and/or fill-in the blank questions shall be limited to a maximum of 10% true/false questions.

(f) Time calculations for a final examination consisting of multiple choice, true/false and/or fill-in the blank questions will be allowed a maximum amount of one (1) minute per each such question.

(g) Final examinations may be administered as open or closed book but must be consistent for all participants. If open book examinations are administered, the participant may only refer to the instructional material approved for the course.

(h) Final examinations for a correspondence course may be administered by a proctor designated by the Sponsor who is not related by blood, marriage, domestic partnership, or any other relationship, i.e. future employing broker, to the participant taking the examination which might reasonably influence them from properly administering the exam. The proctor must certify in writing that they have complied with all examination rules during the administration of the examination.

(i) Final examinations for a correspondence course may be administered via the Internet provided the integrity of the final examination is protected by restricting access to one-time,

cannot be printable or downloadable, and must time-out after the maximum amount of time authorized for completion has lapsed.

(j) Participants taking a correspondence course must have access to the course materials for the approved number of hours prior to completion of the final examination.

(1) For a correspondence course that uses static print or static print delivered in electronic media, such as CD, DVD, audio/video cassette or internet download when not administered via the Internet, a maximum of eight (8) hours reading time per day shall be utilized in calculating the number of days that must lapse from the time the participant has had access to the course material until the examination can be accessed.

(2) For a correspondence course administered via the Internet, a participant must spend the requisite number of hours navigating through the content and completing the incremental assessments prior to being granted access to the final examination.

(k) An offering may include a provision for one retaking of the final examination by a participant who failed the original examination provided the questions in the re-examination are different questions than those asked in the original final examination.

(l) Questions used in a final examination shall not duplicate any more than 10% of questions used in any other quiz or examination utilized during the presentation of the course.

(m) Participants shall not take possession of the final examination outside of the controlled environment under which the examination is administered.

~~(b)~~(n) A violation of a final examination rule by the sponsor or the sponsor's representative administering the examination shall constitute grounds for denial or withdrawal of approval of the offering.

~~(e)~~(o) To pass the examination, a participant must achieve a percentage score of 70 percent or more.

~~(d)~~(p) Time involved in the final examination process may be included in establishing "clock-hours" for the offering.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Section 10170.4, Business and Professions Code.

#### **AMEND SECTION 3007.6 TO READ:**

##### **Section 3007.6. Advertising and Promotional Material.**

(a) All advertising and promotional material for a continuing education offering shall:

(1) Not include false or misleading statements or representations.

(2) Classify the offering in accordance with Section 10170.5(a) of the Code.

(3) Contain only the four-digit identification number assigned by the Department immediately following the words "DRE Sponsor No." The full eight (8) digit course approval number shall not be included in any advertisement.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

**AMEND SECTION 3008 TO READ:**

**Section 3008. Offerings Not to Be Approved.**

The ~~commissioner~~ Commissioner shall not approve a proposed continuing education offering that includes any of the following subject matter or conditions:

- (a) Offerings which do not address the subject matter areas set forth in ~~Business and Professions Code section 10170.5~~ Section 10170.5(a) of the Code.
- (b) Sales promotion
- (c) That portion of any offering devoted to the consuming of meals or to transporting participants to and from sites to be viewed or inspected as part of the offering.
- (d) Any offering for which approval has been denied or withdrawn pursuant to Section 3010.
- (e) Any offering substantially similar to and offered by the sponsor of an offering for which approval has been denied or withdrawn pursuant to Section 3010.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

**AMEND SECTION 3010 TO READ:**

**Section 3010. Denial or Withdrawal of Approval.**

(a) If the ~~commissioner~~ Commissioner determines that a previously-approved continuing education offering no longer meets the prescribed statutory and regulatory standards for approval, or if the ~~commissioner~~ Commissioner determines that an instructor or lecturer for the course is no longer qualified, or that the course sponsor has engaged in activity violating the provisions of Article 25 (commencing with Section 3005) of these regulations or has engaged in conduct which would have warranted the denial of an application for approval or withdrawal of approval of a continuing education offering, or the course differs materially from that which was previously approved, the ~~commissioner~~ Commissioner shall give written notice of withdrawal of approval setting forth the reasons for the determination. If the ~~commissioner~~ Commissioner determines, following an application for course approval, that the course will not meet the prescribed statutory and regulatory standards for approval or if the ~~commissioner~~ Commissioner determines that the instructor for the course is unqualified, the ~~commissioner~~ Commissioner shall give written notice of denial of approval setting forth the reasons for the determination. Withdrawal or denial of approval will be effective 30 days after the notice of withdrawal or denial is received by the sponsor unless the sponsor earlier files a written request for hearing on the withdrawal or denial action. If the request for hearing is received by the ~~commissioner~~ Commissioner before 30 days after the date of receipt of notice of withdrawal by the sponsor, the withdrawal or denial of approval shall not be effective unless and until ordered by the ~~commissioner~~ Commissioner pursuant to findings and conclusions reached after hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the

Government Code. The hearing shall be commenced within 30 days after receipt of the request for hearing unless continued to a later date by order of the ~~commissioner~~ Commissioner or by agreement of the parties. In a hearing on an order of withdrawal issued by the ~~commissioner~~ Commissioner, the burden of proving that the course does not meet the prescribed statutory and regulatory standards for approval shall be on the ~~commissioner~~ Commissioner. In a hearing on an order of denial issued by the ~~commissioner~~ Commissioner, the burden of proving that the course meets the prescribed statutory and regulatory standards for approval shall be on the applicant.

(b) Petition for Reinstatement.

(1) The sponsor of an offering for which approval has been withdrawn pursuant to subdivision (a) may, after a period of not less than one year has elapsed from the effective date of the withdrawal of approval, petition the ~~commissioner~~ Commissioner in writing for reinstatement of approval of the offering. The petitioner shall be given the opportunity to present in writing argument and other evidence, statements or matters in support of the petition. The ~~commissioner~~ Commissioner shall decide the petition and the decision shall include the reasons therefor.

(2) Upon a showing of good cause, the ~~commissioner~~ Commissioner may allow the filing of a petition for reinstatement prior to the expiration of one year from the effective date of the withdrawal of approval.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Section 10170.4, Business and Professions Code.

**AMEND SECTION 3011.1 TO READ:**

**Section 3011.1. Petitions for Equivalency for Course Instruction.**

(a) For instruction of real estate related courses not approved for continuing education, the petitioner shall submit a statement under penalty of perjury which includes at least the following information:

- (1) The petitioner's qualifications to teach the course.
- (2) The title of the course.
- (3) The date(s) and location the instruction took place.
- (4) Clock hours of instruction.
- (5) Titles and description of instructional materials used including the author(s), date of publication, and an outline or syllabus of the course a copy of the Table of Contents, if applicable.
- (6) An outline or syllabus for the course.
- ~~(6)~~(7) Any other information useful in determining that the course will contribute to current knowledge as set forth in Business and Professions Code Section 10170.4.
- ~~(7)~~(8) A statement by the course sponsor or school that the petitioner taught the course.

(b) A sponsor of an approved continuing education course may issue a completion certificate to the instructor. Instructors of an approved continuing education courses for may receive a certificate of completion for the number of hours actually spent in instruction at one presentation of the course during its approval period.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

**AMEND SECTION 3011.2 TO READ:**

**Section 3011.2. Petitions for Equivalency for Authorship of Articles or Books.**

(a) The applicant shall submit a petition under penalty of perjury including at least the following information:

- (1) The date of publication of the article or book.
- (2) An explanation of how the material published meets the criteria of Section 3011.
- (3) The number of hours the petitioner devoted to authorship of the article or book.
- (4) The period during which the article or book was written.

~~(a)(b) The applicant shall submit~~ **Submit** a copy of the published article or book.

~~(b) Submit a statement signed under penalty of perjury which includes at least:~~

~~(1) The date of publication of the article or book.~~

~~(2) An explanation of how the material published meets the criteria of Section 3011.~~

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

**AMEND SECTION 3011.4 TO READ:**

**Section 3011.4. Petitions for Equivalency for Attendance at Unapproved Programs.**

Amend to include omitted requirements necessary to make a determination as to the appropriateness of activity for CE credit.

(a) The Commissioner, when acting upon a petition for continuing education credit for completing a course that is not approved, shall apply the criteria set forth in Sections 3006 and 3007.3.

(b) The applicant shall submit a petition under penalty of perjury including at least the following information:

- (1) The name, address, and telephone number of the course sponsor or school.
- (2) The title of the course.
- (3) The title, publisher, and date of publication of any text or course material used.

- (4) The number of clock hours attended.
- (5) Any outline or syllabus.
- (6) A ~~final grade report for the final examination(s)~~ and a list of reading assignments with page references.
- (7) A final grade report for the final examination.
- (8) A completion certificate.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.

**AMEND SECTION 3012.2 TO READ:**

**Section 3012.2. Record Keeping.**

The sponsor shall maintain a record of attendance or registration and final examination grade of each participant, for a period of five years, sufficient to allow for the preparation of a duplicate certificate upon request by a participant.

Note: Authority cited: Sections 10080 and 10170.4, Business and Professions Code. Reference: Sections 10170.4 and 10170.5, Business and Professions Code.