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LAW ALERT – REAL ESTATE NEW LAW REQUIRES REAL ESTATE LICENSE NUMBERS ON BUSINESS CARDS, FLIERS, OTHER MATERIAL

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California real estate brokers and salespersons must include their Department of Real Estate ("DRE") license numbers on promotional materials as a result of a new state law which became effective earlier this month. The law, SB 1461, was sponsored by DRE and put forth as a consumer protection measure to ensure the public has an opportunity to investigate the license status of licensees before beginning a contractual relationship with them.

Pursuant to the statute, DRE licensees must disclose their real estate license identification number on all "solicitation materials" which are designed to be the first "point of contact" between the licensee and the customer. The statute defines such materials as, among other things, business cards, stationery and advertising fliers. It specifically excludes "for sale" signs, and advertisements in newspapers, magazines and electronic media. It also does not apply to classified advertisements for rental properties which list the telephone number of the property offered for rent or the address of that property.

Despite the list of materials which are excluded, the reach of the law is quite broad. It applies to any real estate broker or salesperson when they engage in activities for which a real estate license is required. In other words, property managers and those mortgage brokers and lenders with licenses issued by DRE would be subject to the new requirements. DRE published draft regulations last month to help clarify the intent of the law, and the regulations have been posted on the DRE website for public review and comment.

The draft regulations provide a bit more detail than the bill itself, but not much. For example, the regulations specifically identify websites owned, controlled or maintained by the licensee as being covered by the new law. It also states that the type size of the license number must be no smaller than the smallest size type used in the solicitation material. Finally, they broadly interpret "solicitation materials" to include "promotional and advertising material, brochures, e-mail 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."

In practice, it may prove difficult to draw a clear line between activities which are regulated as "licensed activities" and those which are not. Organizations with more than one licensee, or corporate licensees, may have questions about how their practice is affected by the new law. Until final regulations are adopted and DRE provides more clarity about these issues, it would seem prudent to err on the side of caution. In other words, if in doubt, do not leave it out (the licensee's license number, that is).

For more information, or to discuss the impact of the new law in more detail, please call Robert Mills, Dave Kroot, or any other attorney at Goldfarb & Lipman.

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