
UNFINISHED BUSINESS

Bill No: SB 173
Author: Dodd (D)
Amended: 9/8/17
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 11-0, 3/28/17
AYES: Glazer, Bradford, Cannella, Dodd, Gaines, Galgiani, Hill, Hueso, Lara,
Mendoza, Vidak
NO VOTE RECORDED: Berryhill, Portantino

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/25/17
AYES: Lara, Bates, Beall, Bradford, Hill, Nielsen, Wiener

SENATE FLOOR: 39-0, 5/31/17
AYES: Allen, Anderson, Atkins, Bates, Beall, Berryhill, Bradford, Cannella, De
León, Dodd, Fuller, Gaines, Galgiani, Glazer, Hernandez, Hertzberg, Hill,
Hueso, Jackson, Lara, Leyva, McGuire, Mendoza, Mitchell, Monning,
Moorlach, Morrell, Newman, Nguyen, Nielsen, Pan, Roth, Skinner, Stern,
Stone, Vidak, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Portantino

ASSEMBLY FLOOR: 78-0, 9/14/17 - See last page for vote

SUBJECT: Real estate: Bureau of Real Estate

SOURCE: California Association of Realtors

DIGEST: This bill removes, as of July 1, 2018, the California Bureau of Real Estate (CalBRE) from the Department of Consumer Affairs (DCA) and instead renames the Bureau the Department of Real Estate (DRE) and places it within the Business, Consumer Services, and Housing Agency (BCSH).

Assembly Amendments delay the implementation of the bill until July 1, 2018, and add chaptering out language.

ANALYSIS:

Existing law:

- 1) Establishes in state government the BCSH, which is comprised of various departments including the DCA.
- 2) Establishes the CalBRE within the DCA to license and regulate real estate brokers and real estate salespersons.

This bill:

- 1) Removes, as of July 1, 2018, the CalBRE from the DCA and instead renames the Bureau the DRE and places it within the BCSH.
- 2) Includes chaptering out language to Section 30 of the Business and Professions Code proposed by SB 244 (Lara, 2017) to be operative only if both bills are enacted, as specified.

Background

Purpose of the bill. According to the author, “the Governor’s Reorganization Plan No. 2 (GRP2) was intended to save the state money, improve operational efficiencies, and promote consumer protection. Although many elements of the GRP2 have worked as intended, the abolition of the DRE and concurrent establishment of the CalBRE have not. Since the CalBRE was moved under the DCA, the cost to administer the Real Estate and Subdivided Lands Laws has increased by several million dollars annually. The Bureau’s responsiveness to the public and to its licensees has continued but at the cost of greater resource commitments and burdens on staff and administrators.”

In addition, the author argues that, “if pro rata costs continue to increase as they have each year since the DRE became the CalBRE, money to cover these costs will need to be redirected away from licensing, enforcement, and the issuance of public reports; license fees and public reports fees will need to be raised; and/or the fees that the CalBRE charges stakeholders for services other than licensing and public reports will need to increase.”

This bill has a July 1, 2018, operative date to ensure that the reorganization can be more readily accommodated within the state budget.

Bureau of Real Estate. In 2012, Governor Brown submitted the GRP2 to the Legislature with the intended goal to improve efficiencies within state government. As a result, on July 1, 2013, the then independent DRE became a bureau within the DCA and was renamed the CalBRE.

The CalBRE is the entity responsible for the enforcement of Real Estate Law, the Subdivided Lands Act, and the Vacation Ownership and Time-Share Act of 2004. To facilitate the administration and enforcement of the Real Estate Law and the Subdivided Lands Law, the Commissioner of the CalBRE is empowered to issue regulations known as the Regulations of the Real Estate Commissioner; these have the force and effect of law.

The CalBRE is statutorily mandated to license and regulate mortgage loan originators, real estate, and prepaid listing service licensees, reviewing and approving time share offerings, and approving the continuing education and pre-license courses.

The CalBRE licenses over 400,000 persons in California. In Fiscal Year (FY) 2014-15, the CalBRE issued over 25,000 new licenses and renewed over 79,000 licenses. Real estate licenses are issued for a period of four years. In addition to the four-year license term, licensees are provided two years past their expiration date to renew a license on a late basis. The last fee change occurred in 2009 when license fees were increased to the statutory maximum.

Issues with CalBRE. On March 9, 2016, the Senate Committee on Business, Professions, and Economic Development and the Assembly Committee on Business and Professions, as part of their sunset review hearing, discussed various issues with the CalBRE.

According to the hearing background paper, since the GRP2, the CalBRE appears to be lacking in the receipt of some key services like human resources support and management direction. In addition, the CalBRE noted that purchase orders, IT orders, contract payments, employee reimbursement, and miscellaneous human resources requests have been skipped or have not been processed since the DRE became the CalBRE.

In addition, the hearing found that DCA had failed to provide consistent, on-time payment for utility bills. This led a San Diego utility provider to shut off electricity at a license examination center on January 15, 2015.

Moreover, information shared by DCA, in connection with the sunset review hearing, shows that the cost to operate the CalBRE increased by about \$3.6 million annually, from about \$6.7 million in FY 2011-12 to \$10.3 million in FY 2016-17.

The sunset review hearing also found that since FY 2013-14 the pro rata charges that the CalBRE pays to DCA has more than doubled, even though the CalBRE functions primarily as an independent entity. In FY 2013-14 the pro-rata charges that the CalBRE paid to DCA was approximately \$1.83 million. In FY 2016-17 it is estimated that CalBRE will pay roughly \$5.20 million to DCA.

Related/Prior Legislation

AB 1545 (Irwin, 2015), among other things, would have established the Housing Agency and reconstituted the CalBRE as DRE under the new created Housing Agency. (Held at the Assembly Desk)

AB 1317 (Frazier, Chapter 352, Statutes of 2013) enacted the statutory changes necessary to reflect the changes in law made by the GRP2, including moving the former DRE from under the jurisdiction of the former Business, Transportation, and Housing Agency to become the CalBRE under the DCA within the BCSH.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee, minor one-time costs to CalBRE to facilitate the reorganization. Prior to 2013, CalBRE was a separate department. Because CalBRE continues to maintain its own information technology system and did not move office locations, it is not likely that the new DRE would incur significant costs to make the transition back to being a department.

In addition, increased administrative costs of \$1.84 million per year in 2018-19 and ongoing for administrative support within the new DRE. The new DRE would return to performing all administrative tasks in-house, as was the case prior to 2013.

Also, reduced administrative expenditures of \$1.01 million per year in 2018-19 and ongoing by DCA, because they will no longer be providing administrative support to the new DRE (Real Estate Fund).

Finally, ongoing costs of \$4.40 million per year in administrative costs incurred by DCA that will be charged to the remaining boards and bureaus within DCA.

SUPPORT: (Verified 9/13/17)

California Association of Realtors (source)
American Resort Development Association
be.group
California Apartment Association
California Association of Community Managers
California Association of Mortgage Professionals
California Building Industry Association
California Mortgage Association
Escrow Institute of California
LeadingAge California
PEP Housing
Retirement Housing Foundation

OPPOSITION: (Verified 9/13/17)

Department of Business Oversight
Department of Consumer Affairs
Department of Finance

ARGUMENTS IN SUPPORT: According to LeadingAge California, “while many aspects of the reorganization have worked well, the abolition of the DRE and replacement with the CalBRE has not. Since the reorganization, the cost to administer the Real Estate and Subdivided Land Laws has increased by several million dollars annually and the turnaround times for regulatory actions have increased significantly. The CalBRE’s responsiveness to the public and its licensees has continued but at a great cost of resources and staff.”

In addition, the California Association of Realtors states that “unfortunately, nearly ten percent of CalBRE’s budget is diverted through a so-called pro rata assessment to maintain other unspecified operations of the DCA. This transfer of license monies is, in essence, an off-budget diversion of licensees’ fees that ought better be used to serve the licensees that pay them. Last year’s Business and Professions

Committee Joint Hearing suggests that as much as three or four million dollars could be saved by restoration of the DRE status.”

ARGUMENTS IN OPPOSITION: According to opponents of the bill, SB 173 reverses a change made by Governor Brown in GRP2, undermining the plan’s effort to streamline state agency operations and decrease state costs. CalBRE “is self-sufficient and funded through fees charged for licenses, reports, and permits. By removing the BRE from within DCA, SB 173 would thwart the reorganization’s objectives and disrupt already established shared administrative functions.”

ASSEMBLY FLOOR: 78-0, 9/14/17

AYES: Acosta, Aguiar-Curry, Travis Allen, Arambula, Baker, Berman, Bigelow, Bloom, Bocanegra, Bonta, Brough, Burke, Caballero, Calderon, Cervantes, Chau, Chávez, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Dababneh, Dahle, Daly, Eggman, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez Fletcher, Gray, Grayson, Harper, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Quirk, Quirk-Silva, Reyes, Ridley-Thomas, Rodriguez, Rubio, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Voepel, Waldron, Weber, Wood, Rendon

NO VOTE RECORDED: Low

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
9/15/17 9:20:38

**** END ****