

Kimball, Tirey & St. John LLP

Property Management Company Licensing in California

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Property management companies must comply with the California Business and Professions Code (B & P) and California Department of Real Estate (DRE) regulations. The following is a summary of some of the significant licensing laws affecting California property managers.

License Requirement. Generally a real estate license is necessary to rent, lease, or manage property or solicit tenants, if done for others, for compensation or in expectation of compensation. (*B & P § 10130 and 10131(b).*)

A license is not required for the following rental activities:

1. A property management company employee if the company manages a residential apartment building, and if the employee is supervised and controlled by a broker of record or a qualified delegate. (A qualified delegate must have a written contract with broker to perform supervisory duties and must be either a broker salesperson or a salesperson with 2 years full-time experience in last 5 years. *Cal. Code Regs. Title 10, §2724.*) This exemption applies only to employees performing the following activities:

- Showing rental units and common areas.
- Handling preprinted rental applications and responding to inquiries from prospective tenants.
- Accepting rent payments, security deposits, or fees for credit checks.
- Providing information about rental rates and other terms and provisions of a lease or rental agreement, as set out in a schedule provided by an employer.
- Accepting signed leases and rental agreements.

(*B & P §10131.01(a)(3).*)

2. A person providing clerical or administrative help such as a stenographer, bookkeeper, receptionist, telephone operator, or other clerical help typing documents prepared by a broker. (*Cal. B & P §10133.2.*)

3. A manager of a hotel, motel, auto and trailer park, or the resident manager of an apartment building, complex, or court, or his/her employees. (*B & P §10131.01(a)(1).*) The resident manager must live on site to qualify for this exemption.

4. When the person involved in the rental activities is acting under a court order (e.g., a bankruptcy trustee or court-appointed receiver). (*B & P §10133(a)(4).*)

5. A film location representative. (*B & P §10133.4.*)

6. Manager of a hotel, motel, or auto and trailer park (*B & P § 10131.01(a)(1)*).
7. A corporate officer or a general partner's rental activities if the activities are for the corporation or partnership (either as tenant or landlord), and the officer or general partner doesn't receive any special compensation for the activities. (*B & P §10133(a)(1), 10137.1*). Seek legal advice regarding the BRE's interpretation of this law if you are relying on this exception.
8. When the person is acting under a power of attorney from the owner. (*B & P §10133(a)(2)*.)
9. A property owner's personal rental activities.
10. An attorney providing legal services to a client. (*Cal. B & P §10133(a)(3)*.)
11. Anyone who solicits, arranges, or accepts reservations or money for transient occupancies (i.e. rentals of less than 30 days). (*B & P § 10131.01(a)(2)*.)
12. Uncompensated rental activities. This exemption applies only if the person does not receive nor expect compensation. (*B & P §10131*.) "Compensation" is defined broadly, and may include anticipated profits from property development. (*Stickel v. Harris* (1987) 196 Cal. App. 3d 575.)
13. A trustee for the beneficiary of a deed of trust when selling under authority of that deed of trust. (§10133 (a)(5) of the Code).

Unlicensed Assistants. The California Department of Real Estate's [Guidelines for Unlicensed Assistants](#), describes acts that may be taken by unlicensed assistants under the supervision of a licensed real estate broker.

Supervisory Responsibilities of Broker. All real estate salespersons must act under the supervision of a licensed real estate broker. Brokers must establish policies, rules, procedures and systems to review, oversee and manage all transactions, documentation, trust funds, advertising, and compliance with discrimination laws. (*B & P §§ 10137, 10159.2; DRE Reg. 2725*.)

Corporate Broker's License. Corporate property management companies must have their own corporate license. They are licensed through a corporate officer who holds a broker's license. *B&P § 10211, Cal. Code Regs. Title 10, §2740*. The broker officer or a qualified delegate must supervise the corporation's activities, officers and salespersons. (*B & P § 10159.2, Cal. Code Regs. Title 10, § 2743*.)

Additional corporate officers may engage in licensed activities, but only if the corporation obtains an additional license for each additional officer-broker (*B & P §§ 10158, 10159.2, 10211*).

A License is Required for Each Business Location. A license is required for each office where a broker conducts business, including each office, apartment building, complex or court where unlicensed people are employed. (*B&P § 10163; B & P §10131.01(c)*). If the broker conducts business in multiple locations, a branch office license must be issued for each additional location (*B & P § 10163*).

LLCs. There are no provisions in the Business and Professions (B&P) Code which authorize a limited liability company (LLC) to become licensed as a real estate broker. (*B&P § 10158, 10159, 10159.2, 10170.5 10180, and 10211. Commissioner's Regulations §§ 2740 – 2746*).

Property managers should be familiar with licensing statutes and regulations. Real estate laws affecting property managers can be accessed online at <http://www.dre.ca.gov/Publications/RealEstateLaw.html>.

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