

Kimball, Tirey & St. John LLP

Broker Checkup – Utilizing Licensed Salespersons

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If you are a broker supervising licensed real estate salespersons, there are a number of requirements and procedures to comply with the Real Estate Law and Commissioner's Regulations.

Have you notified the Department of Real Estate (DRE) when hiring or terminating a licensed salesperson?

[Commissioner's Regulation §2752](#) requires the broker to notify the DRE within five (5) days when a salesperson is hired.

This is crucial because [Business & Professions Code §10137](#) further makes it a violation for any broker to employ or compensate, directly or indirectly, any person for performing licensed activity unless that person is a licensed broker, or a salesperson licensed to the broker. A salesperson can only accept compensation for licensed activity through the broker under whom their license is registered.

Thus, a failure to notify timely has the potential to result in multiple violations if the salesperson performs licensed activity, and/or is compensated, before registration.

To notify the DRE of new salesperson hires, you can use Form [RE 214](#), which is available on the DRE's website and allows you to change the status of a salesperson under your broker license.

You may also utilize the DRE's online eLicensing System, available at <https://secure.dre.ca.gov/elicensing/>.

You must also notify the DRE within ten (10) days after a salesperson quits or is terminated. You may use Form [RE 214](#) or the Department's eLicensing System, available at <https://secure.dre.ca.gov/elicensing/>.

Do you have a signed written agreement with the salesperson?

Brokers are required to have signed written agreements with every salesperson. [Commissioner's Regulation §2726](#) requires that the agreement cover the material aspects of the relationship, including supervision of licensed activities, duties of the salesperson, and compensation.

This is one of the first items that the DRE checks for when conducting an audit. They will look to see if the date on the written agreement matches the date of notification, and may also compare dates of compensation to the date of registration.

Are you properly supervising your salespersons?

Brokers are required to exercise reasonable supervision over the activities of his/her salespersons. [Commissioner's Regulation §2725](#) provides the guidance as to reasonable supervision, which includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect, and manage:

- Transactions requiring a real estate license.
- Documents which may have a material effect upon the rights or obligations of a party to a transaction.
- Filing, storage, and maintenance of such documents.
- The handling of trust funds.
- Advertising of any service for which a license is required.
- Familiarizing salespersons with the requirements of federal and state laws relating to the prohibition of discrimination.
- Regular and consistent reports of licensed activities of salespersons.

If you have questions regarding this article, please contact Jozef Magyar at jozef.magyar@kts-law.com or (800)564-6611.

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