

PROPOSED REGULATIONS  
"PETITIONS PROCESS FOR WEBSITE DISCIPLINE INFORMATION REMOVAL"  
Adding § 2915 to Title 10, "Investment", of the California Code of Regulations

ARTICLE 18.5. Substantial Relationship and Rehabilitation Criteria

Section 2915. Petitions for Removal of License Discipline Information from Bureau Internet Posting

(a) This section establishes the process and standards for a petition by a current licensee, as defined by section 10011 of the Code, seeking removal of license discipline information from the Bureau Internet site for license discipline with an effective date more than ten (10) years prior, pursuant to section 10083.2 of the Code.

(b) A petitioner must submit the following information before the Bureau considers the petition complete:

(1) A list of petitioner's criminal convictions since the date the Bureau imposed license discipline, including information on the date of the action and identifying the court and jurisdiction of where the conviction occurred.

(A) "Conviction" includes all state, commonwealth, possession, federal, military, and foreign convictions. "Conviction" includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere or of no contest. A petitioner must disclose all convictions whether the plea or verdict was set aside, the conviction against the petitioner was dismissed or expunged, or if the petitioner was pardoned.

(B) For the purposes of this petition process, "Conviction" does not include:

(i) Convictions for infractions.

(ii) Convictions under section 11357(b), (c), (d), or (e) of the Health and Safety Code, or under section 11360(b) of the Health and Safety Code, if more than two years have passed since the date of the conviction.

(2) A list of all petitioner's professional license discipline since the date that the Bureau imposed discipline, including surrender of a license whether or not an

investigation was pending, whether in California or elsewhere. Each item on this list must include date of discipline, the license type, and the jurisdiction in which the discipline was ordered.

(3) A list of all criminal, civil, or license discipline actions currently pending against petitioner, including the jurisdiction in which the action is pending.

(4) A signed attestation by the petitioner that petitioner certifies (or declares) under penalty of perjury under the laws of the State of California that the information provided as part of the petition is true and correct.

(c) A petitioner must submit all the following items before the Bureau considers the petition complete.

(1) A petitioner must submit the fee amount of \$1,275.00 with each petition. This petition fee is deemed earned by the Bureau upon receipt and not refundable.

(2) A petitioner, or a broker-officer of a corporate petitioner, must submit a completed copy of a Live Scan Service Request, Form RE 237 (Rev. 6/14), hereby incorporated by reference, completed not earlier than 30 days before the date of submission of the petition to the Bureau.

(d) Section 10083.2 of the Code requires the petitioner to provide evidence of rehabilitation to the Commissioner indicating the posting of discipline is no longer needed to prevent a credible risk to members of the public. A petitioner may provide with the petition copies of any documentary evidence that supports petitioner's claims regarding rehabilitation, including, but not limited to, documentation evidencing expungement of criminal convictions and documentation of completed restitution, if applicable.

(e) The criteria for rehabilitation set forth in section 2911 of these Regulations will apply where a petitioner seeks removal of discipline information from the Bureau's website stemming from a Statement of Issues or where petitioner's license discipline stems from an original application for a license. The criteria for rehabilitation set forth in section 2912 of these Regulations will apply where a petitioner seeks removal of discipline information from the Bureau's website stemming from an Accusation, surrender of a license, or other discipline actions ordered by the Commissioner except for a Statement of Issues.

(f) In evaluating a petition, the Commissioner shall take into consideration other violations that present a credible risk to the members of the public since the posting of discipline requested for removal. The Commissioner may consider, when assessing the credible risk to members of the public utilizing licensed activity by the petitioner, any

evidence gathered from an investigation that reflects on petitioner's propensity to honestly, fairly, and efficiently engage in activities requiring a real estate license. A credible risk may be any material indication that license discipline information should not be removed from Internet posting. A "credible risk" includes, but is not limited to, the following:

- (1) Petitioner is currently registered pursuant to the provisions of section 290 of the Penal Code.
- (2) Petitioner is currently on probation or parole.
- (3) Petitioner's license is currently subject to restrictions, and a concurrent petition to remove those restrictions is not granted.
- (4) A felony conviction that remains on petitioner's criminal record without reduction or expungement, where such expungement or reduction is available under applicable law.
- (5) Any professional license discipline on petitioner's Bureau record that is based, in whole or in part, on an offense involving activity that requires a license, where the offense resulted in harm to a client or other consumer in the transaction.
- (6) Petitioner does not make himself or herself reasonably available for interview by the Bureau investigator in the course of the petition investigation.
- (7) Petitioner has not reimbursed the Bureau for payments made from the Consumer Recovery Account associated with a claim filed wherein the petitioner was the judgment debtor.

(g) If the Commissioner grants the petition after investigation, the Commissioner will order removal of the eligible discipline item or items from the licensee's entry in the Public License Information feature.

(h) If the Commissioner denies the petition for removal of discipline from the Public License Information website feature, the petitioner may not submit a new petition for a minimum of one year from the effective date of the denial.

Note: Authority cited: Sections 10080 and 10083.2, Business and Professions Code. Reference: Section 10083.2, Business and Professions Code.

## LIVE SCAN SERVICE REQUEST (*Applicant/Petitioner*)

RE 237 (Rev. 6/14)

*Instructions on reverse.*

### Attention - Live Scan Service Providers

Please note the following information when processing Bureau of Real Estate (CalBRE) license applicants.

- ❖ The Type of Application should indicate **License, Certification, or Permit**, and the Application Title should indicate **Real Estate License**.
- ❖ The Department of Justice and FBI processing fee is to be paid by the applicant and ***should be*** collected at the live scan service provider site.

PART 1 CONTRIBUTING AGENCY		
AGENCY ORI NUMBER <b>A0075</b>	AGENCY ADDRESS SET <b>CALIFORNIA BUREAU OF REAL ESTATE 1651 EXPOSITION BLVD, SACRAMENTO CA 95815</b>	E-MAIL CODE <b>09416</b>
APPLICATION TYPE <b>LICENSE, CERTIFICATION, OR PERMIT</b>	CONTACT NAME <b>LICENSING SECTION</b>	
APPLICATION TITLE <b>REAL ESTATE LICENSE</b>	CONTACT TELEPHONE NUMBER <b>1-877-373-4542</b>	
PART 2 APPLICANT'S PERSONAL INFORMATION		
APPLICANT NAME (LAST, FIRST, & MIDDLE INITIAL)		
FORMER NAME/AKA'S (LAST, FIRST)		
DATE OF BIRTH (MM/DD/YYYY)	GENDER <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	HEIGHT
EYE COLOR	HAIR COLOR	WEIGHT
SOCIAL SECURITY NUMBER	PLACE OF BIRTH	AGENCY BILLING NUMBER <i>Fees paid by applicant</i>
RESIDENCE ADDRESS (STREET/P.O. BOX, CITY, STATE, ZIP CODE)		
YOUR OCA NUMBER (USE SOCIAL SECURITY NUMBER)		LEVEL OF SERVICE <b>CALIFORNIA DEPARTMENT OF JUSTICE / FBI</b>
PART 3 LIVE SCAN TRANSACTION		
OPERATOR NAME	DATE COMPLETED	TRANSMITTING AGENCY
AMOUNT COLLECTED (FOR ROLLING FEE)	AMOUNT COLLECTED (FOR DOJ/FBI PROCESSING)	ATI NUMBER
PART 4 LIVE SCAN RESUBMISSION TRANSACTION		
ORIGINAL ATI NUMBER	LEVEL OF SERVICE REQUESTED FOR RESUBMISSION <input type="checkbox"/> CALIFORNIA DEPARTMENT OF JUSTICE <input type="checkbox"/> FBI	

*Original Copy*  
*Live Scan Operator*

*Second Copy*  
*Bureau of Real Estate*

*Third Copy*  
*Applicant*

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## APPLICANT INSTRUCTIONS

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### **Fingerprint Requirement**

One set of classifiable electronic fingerprints is required from every real estate license applicant. The fingerprint process is completed by a live scan service provider as noted below.

One set of classifiable electronic fingerprints is also required by licensees who hold a restricted license and who are petitioning for removal of restrictions or by individuals who have had their real estate license revoked and are petitioning for reinstatement of their license.

Applicants have the option of getting their fingerprints taken either after passing their examination or after they have submitted their examination application. However, fingerprint processing fees are not refunded if an applicant fails to pass the examination.

Out of state residents either need to make arrangements to get their fingerprints taken at a live scan service provider in California or get fingerprinted out of state using the FBI Applicant Fingerprint Card (FD-258 Rev. 5/99). A fingerprint card will be provided to all out of state applicants with the original license application. It should be taken to a local law enforcement agency for completion and submitted directly to CalBRE with the completed license application, license application fee, and \$49.00 fingerprint card processing fee. Applicants who wish to get their fingerprints taken out of state after submitting their examination application, but before passing their examination, may request a blank fingerprint card by contacting the Licensing Section at 1-877-373-4542.

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### **Completion of Form RE 237 Live Scan Service Request**

The following information must be entered in Part 2 of the form:

- Your printed name and former names (if any).
- Date of birth, gender, height, weight, eye color, hair color, place of birth, social security number (SSN), drivers license number, residence address, and OCA number (same as SSN).

The electronic fingerprint service provider will complete Part 3 of the form.

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### **Submission of Fingerprint Form**

After you have your fingerprints taken by the live scan service provider, a completed copy of this form must be submitted with your original license application or petition application (RE 506). If you choose to get your fingerprints taken before passing your examination, submit a completed copy of this form to the Bureau of Real Estate, P.O. Box 137002, Sacramento, CA 95813-7002, Attn: Fingerprint Desk.

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### **Fees**

*Processing fee* — A fee will be collected by the live scan provider for the processing of your fingerprints by the Department of Justice.

*Service fee* — A separate fee will be charged for the service of taking the electronic fingerprints by the live scan provider. That fee may vary depending on the live scan provider you choose.

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### **Fingerprint Services (Contact the facility for fees & hours.)**

Many California law enforcement agencies and other private providers provide electronic fingerprint services. You may obtain a complete list by checking the Web site of the California Department of Justice at <http://ag.ca.gov/fingerprints/publications/contact.php>. Please note that the hours of operation for each provider may vary and an appointment may be required.