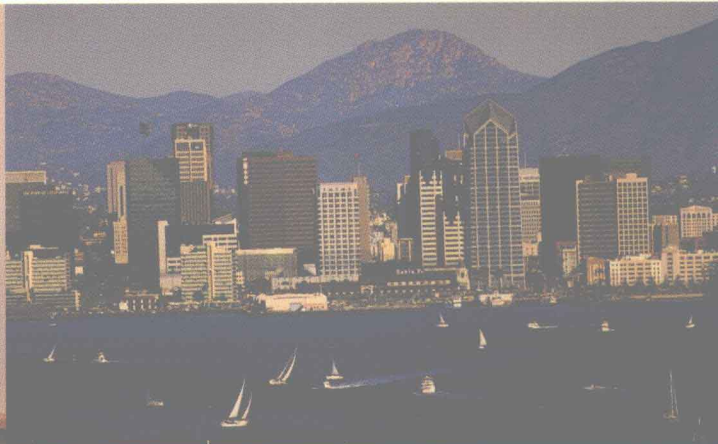
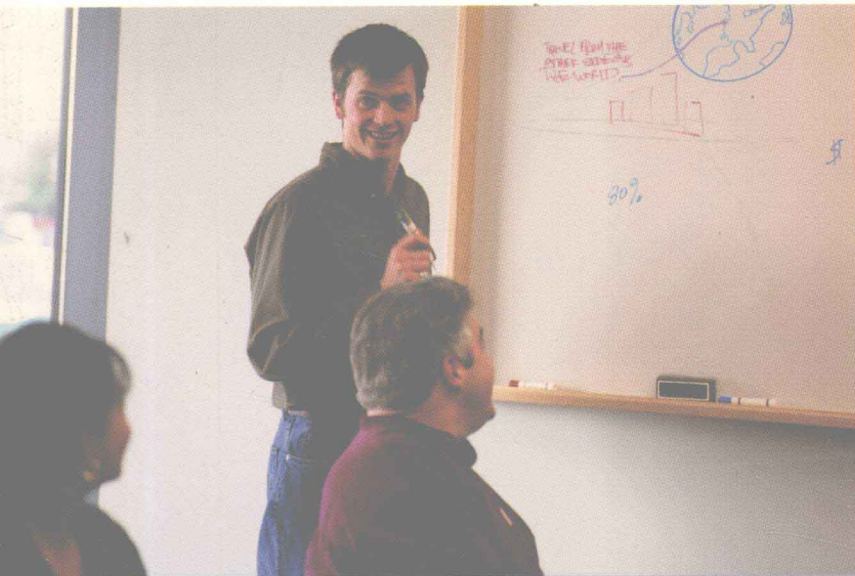


California Real Estate Principles

Fourth Edition



Charles O. Stapleton III • Martha R. Williams

California

Real Estate

Principles

Fourth Edition

Charles O. Stapleton III
Martha R. Williams



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Vice President: Carol L. Luitjens
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Art Manager: Lucy Jenkins
Cover Design: Elizandro Carrington

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Published by Real Estate Education Company®,
a division of Dearborn Financial Publishing, Inc.®,
A Kaplan Professional Company
155 North Wacker Drive
Chicago, IL 60606-1719
(312) 836-4400
<http://www.dearborn.com>

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Printed in the United States of America.

99 00 01 02 10 9 8 7 6 5 4 3 2

Library of Congress Cataloging-in-Publication Data

Stapleton, Charles O.
California real estate principles / Charles O. Stapleton, III,
Martha R. Williams. — 4th ed.
p. cm.
Includes index.
ISBN 0-7931-3157-X
1. Real estate business—California. 2. Real property—
California. I. Williams, Martha R. II. Title.
HD266.C2S73 1999
333.33'0974—dc21

99-10262
CIP

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Preface

California Real Estate Principles is an introduction to the many interesting aspects of the real estate business. This book has been written primarily for the prospective real estate broker or salesperson, but it will also be of interest to the consumer or investor.

It is difficult to overestimate the growing importance of the Internet to the real estate industry. The resources available there have brought together the interests of agents, consumers and investors. Throughout this book you will find addresses on the World Wide Web, a collection of computer sites referred to in this book as *the Web*.

The Web has made the Internet easily accessible to anyone with a computer and modem or, in some cases, a television set coupled with a phone line and wireless keyboard. There are Web sites sponsored by government agencies, sites run by private trade groups and others that are commercial enterprises yet offer a great deal of free information that is both interesting and useful.

We encourage you to explore the sites mentioned in this book to expand on what you read here. To make it easy to find site references, they are highlighted in the margins of the text. There is also a complete list of all site references in the Internet Appendix at the back of the book. As with any resource, you are cautioned to use good judgment when considering the validity of the information you find on the Internet.

HOW TO USE THIS BOOK

Each chapter in this book is divided into **sections**. Usually, each section has one or more **examples** of how the material covered may be applied to real-life situations.

Throughout each chapter are **exercises** that will require you to use what you have learned to solve problems involving practical applications of the topics covered. After you complete an exercise, you

can check your answers by turning to the Answer Key at the back of the book.

The text of each chapter concludes with a **summary** of the material covered, with the most important terms highlighted in **bold type**. **Important terms** also appear in a list that follows the chapter summary. If you are familiar with those terms you should have no problem successfully completing the **achievement examination** at the end of the chapter. Another way to gauge your progress is to attempt to answer the achievement exam questions *before* you begin the chapter text. When you have finished the chapter, you should find the achievement exam much easier to work through a second time.

MONITORING YOUR PROGRESS

You should not be discouraged if at first you do poorly on the examinations despite your best efforts. Part of learning how to succeed at an examination is learning how to take a test. This skill may require some practice, particularly if you have been out of school for some time. Restudy any material you are unsure of, and retake each exam until you can answer 90 percent of the questions correctly.

Don't forget that the Answer Key at the back of the book provides an answer for every exercise and examination question that you encounter as you proceed through the text. Check your work as often as necessary to make sure you understand what you have read. By doing so, you will be more likely to retain what you have learned as well.

ACKNOWLEDGMENTS

The authors wish to thank the real estate educators and professionals who contributed their very helpful criticism of earlier editions of this book. Reviewers of the first edition include George H. Miller, West Valley College; Larry Copeland, Coastline Community College; Kathleen Monaco, Mesa College; Lois Kadosh, REALTOR®; Dr. Alan R. Klofkorn, Irvine Valley College; Don Names, Mt. San Antonio College; and Fred Weber, Saddleback College. Reviewers of the second edition were: Faz Elahi, Los Angeles Community Colleges; Richard Gonzalez, College of Marin; Dr. Alan R. Klofkorn, Irvine Valley College; Arthur L. Olderich, Chaffey College; William H. Pivar, College of the Desert; and Sherry Shindler, Fullerton College.

Reviewers of the third edition were: Ray Benningson, College of Marin; Mark R. Chamberlin, Chamberlin Real Estate School, Inc.; Thomas E. Duffy, Jr., Los Angeles City College; Dr. Joan M. Harrison, Harrison Seminars, Laguna Beach; Ernie Hubert, 2000 School of

Real Estate; Judith Meadows; James R. Overton, Yuba Community College; and J. D. Ryan, Irvine Valley College.

The authors also would like to thank C. Anthony Phillips, CPA, Phillips & Company; Llewellyn Chin, Senior Counsel, California Association of REALTORS®; Yin Bihr, Century 21® Masters, San Marino; Stephanie Booker, Vice President, North American Title Insurance Company; and Juliana Tu, Certified Escrow Officer, Arch Escrow, San Marino.

The authors especially thank the following reviewers for their valuable assistance in the development of *California Real Estate Principles*, Fourth Edition:

Thurza B. Andrew, G.R.I., Butte Community College
Faz Elahi, West Los Angeles College
Meldy Langager, Diablo Valley College
Russell H. Gatlin, Television Education, Inc.
Ignacio Gonzalez, Mendocino Community College
James R. Gormley, Prudential California Realty School of Real Estate
Don Kalal, G.R.I., California Brokers Institute
Larry Scheer, Anthony Schools of San Diego
Jason K. Wolins, Anthony Schools

No real estate text is complete without contract forms and other exhibits. The California Department of Real Estate, California Association of REALTORS®, Professional Publishing Corporation, North American Title Company and others noted throughout the text generously allowed material from their publications to be reprinted.

Of course, this book would not have been possible without the enthusiasm and support of the staff of Dearborn Financial Publishing, Inc. This time around, they include Robert Porché, Senior Development Editor; Ronald J. Liszkowski, Managing Editor; and Lucy Jenkins, who coordinated the book design and graphics. Thank you for your enthusiasm and fine work in producing an updated and attractive book.

Charles O. Stapleton III
Martha R. Williams, J.D.

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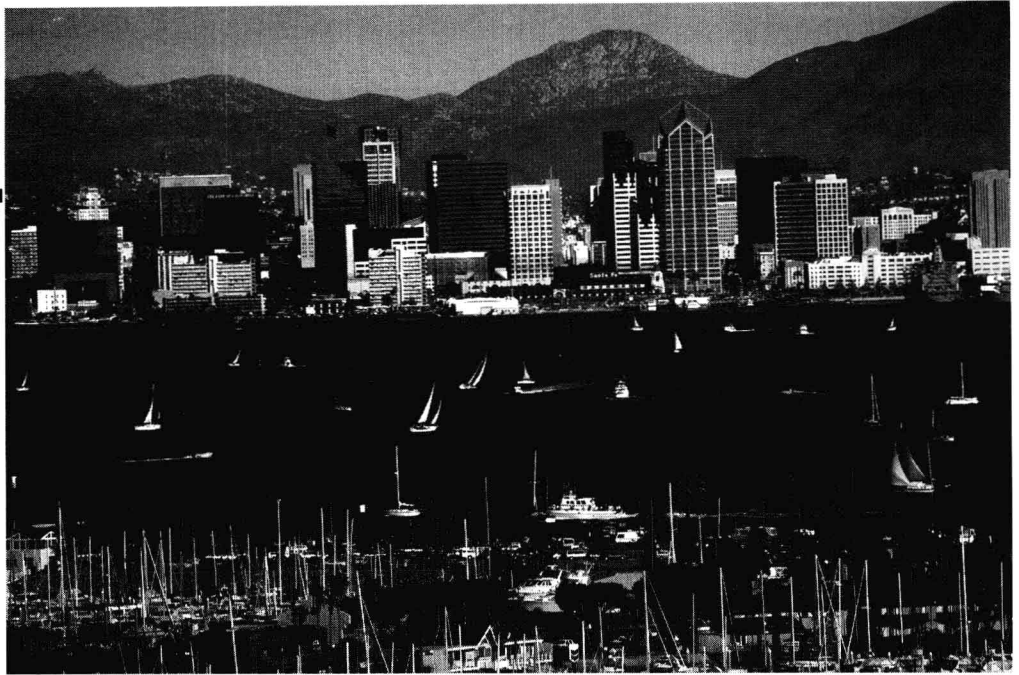
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CHAPTER

1



The Business of Real Estate

THE REAL ESTATE LAW

Before the twentieth century, the common law doctrine of ***caveat emptor*** (a Latin phrase meaning “Let the buyer beware”) prevailed. This meant that buyers of real estate had few protections from unscrupulous sellers and real estate agents. As more people of average means became able to buy housing, the need for regulation of the real estate business became apparent. Eventually, the conduct of property sellers also came under scrutiny and was made the subject of legislation. Today, the motto for both agents and sellers is, “Disclose, disclose, disclose.”

In 1917, California became the first state to legislate licensing requirements for real estate brokers and salespersons. Although that initial legislation was declared unconstitutional, it was quickly amended. The California Supreme Court upheld the **Real Estate Act of 1919**. Now, all 50 states and the District of Columbia license real estate agents. This means that to conduct business as a real estate agent in any state, you must be licensed by that state. In California there are currently about 300,000 real estate licensees.

The state's police power allows it to license real estate agents.

The state's licensing ability is an exercise of its **police power** to enact laws within constitutional limits to promote the public health, safety and general welfare.

Major Provisions of the Law

California legislation has been compiled in a series of books called **codes**. What is commonly referred to as the **Real Estate Law** is actually Division 4 of the **Business and Professions Code**.

- Part 1 covers licensing.
- Part 2 covers transactions and includes the **Subdivided Lands Law**.

www.leginfo.ca.gov

The complete text of all 29 volumes of the California codes, as well as information on bills pending before the California legislature, can be found at **www.leginfo.ca.gov**.

Real estate licensees are also subject to the **Regulations of the Real Estate Commissioner**, which are enforceable as law. These serve to clarify and interpret the Real Estate Law.

The primary purpose of both the Real Estate Law and the Regulations of the Real Estate Commissioner is to protect the members of the public with whom real estate licensees come into contact in their business activities.

Department of Real Estate

The **Department of Real Estate**, headed by the **Real Estate Commissioner**, administers the Real Estate Law in California. Every state has a similar department or agency responsible for enforcing laws concerning real estate licensees.

www.dre.ca.gov

Information about California's Department of Real Estate (DRE), including the current status of all real estate licensees, can be found at the Department's Web site, **www.dre.ca.gov**.

Real Estate Commissioner. The Real Estate Commissioner is appointed by the governor and serves at the governor's discretion. The person selected as commissioner is required to have been a practicing real estate broker in California for five years or engaged in some form of real estate activity for five of the past ten years.

The Real Estate commissioner determines administrative policy and enforces that policy in the best interests of those dealing with real estate licensees. The responsibilities of the Real Estate Commissioner are highlighted in the box at the top of the next page.

Real Estate Advisory Commission. The **Real Estate Advisory Commission** makes recommendations to the Real Estate Commissioner on matters involving the Department of Real Estate.

The ten members of the Real Estate Advisory Commission are appointed by the commissioner, who presides over their meetings. Six commission members must be licensed California real estate brokers. Four commission members must be nonlicensed members of the public. Unlike the commissioner, commission members serve

The Real Estate Commissioner, assisted by Department of Real Estate staff members:

- screens candidates for licensing;
- prepares subdivision public reports;
- conducts licensee disciplinary action;
- investigates nonlicensees performing activities for which a license is required; and
- regulates nonexempt franchises and real property securities.

without compensation, although they are reimbursed for some expenses.

The commissioner must call meetings of the commission at least four times a year. At those meetings, which are open to the public, commission members express their views of department policy and function and make recommendations to the commissioner.

REAL ESTATE BROKERAGE

Anyone handling a real estate transaction in California for compensation must be licensed by the Department of Real Estate as a **real estate broker** or **real estate salesperson**. A real estate salesperson (also referred to in practice as a **sales associate** or **associate licensee**) can act only under the control and supervision of a real estate broker.

A **real estate brokerage** is a business in which real estate license-related activities are performed under the supervision of a real estate broker. A real estate brokerage may have only one broker acting alone. But it may be large enough to have specialized departments with many salespeople, a support staff that includes administrative and clerical workers, and a number of branch offices.

No matter how large a real estate brokerage is or how its ownership is structured, there must always be at least one broker under whose license the real estate activities of the firm are carried out.

Corporation. A brokerage may be set up as a corporation, provided that at least one officer of the corporation is a licensed broker and

is designated the responsible **broker-officer**. The corporation must submit to the Department of Real Estate:

- the corporation license application and fee;
- a **Certificate of Status** issued by the Secretary of State within 30 days prior to submission of the application; and
- a statement of officers as filed with the Secretary of State.

Salespersons working for a corporate real estate licensee may not, individually or jointly, own or control a majority of the outstanding shares of stock of the corporation, either directly or indirectly.

Partnership. A brokerage can be established as a partnership. Every partner who performs activities that require a real estate license must be individually licensed as a real estate broker. At least one broker partner must be licensed at each branch location. The partnership itself needs no separate license.

Use of a Fictitious Business Name

A brokerage, whether an individual, a corporation or a partnership, can do business under a fictitious name. A **fictitious business name statement** must be filed with the county clerk in the county of the broker's principal business address. A copy of the fictitious business name statement must be sent to the Real Estate Commissioner. The business cards of a real estate licensee should use exactly the same name that appears on the license. Any change (such as use of a nickname) requires the filing of a fictitious business name statement. The commissioner may refuse to allow the use of a name that is inappropriate or misleading.

A fictitious name is any name other than that of a real estate licensee.

License Inspection

The broker's license must be available for inspection by the commissioner (or the commissioner's representative) at the broker's principal place of business. If a broker maintains more than one place of business, each branch office must be separately licensed and the license must be available for inspection there. The license of any salesperson(s) working for the broker must also be available for inspection at the broker's main office.

The Broker/ Salesperson Relationship

For purposes of the Real Estate Law, a salesperson is always considered the *employee* of the broker. This means that the broker is held accountable for the salesperson's conduct in performing business activities. For compensation, tax and other purposes, a salesperson can be treated as either an employee or an independent contractor, as discussed in Chapter 6, "The Law of Agency."

The broker and salesperson are required by the Real Estate Law to have a **written agreement** on the duties of each and the compensation to be paid to the salesperson. The agreement may simply take the form of broker and salesperson agreeing (in writing) to be bound by a statement of office procedure and policy.

WHEN A SALESPERSON CHANGES BROKERS

The following steps must be taken when a salesperson changes employment from one broker to another:

1. The former employing broker must notify the Department of Real Estate's Sacramento headquarters immediately, in writing.
2. The former employer must return the salesperson's license certificate within three days of termination of employment and sign the Salesperson Change Application, R/E Form 214.
3. R/E Form 214 must be completed by the salesperson and new employer within five days and sent to:

Department of Real Estate
P.O. Box 187003
Sacramento, CA 95818-7003

WHEN A SALESPERSON IS DISCHARGED

If an employing broker discharges a salesperson for a violation of the Real Estate Law, the broker must immediately file a certified, written statement of the facts with the Real Estate Commissioner.

A sample broker-salesperson contract, with the salesperson treated as independent contractor, appears on the next two pages.

This is the first of many forms that appear in this book. You should be alert to the differences in the types of forms that you will see.

- The content of some forms is *proprietary*, which means that the form is unique to the entity that created it. You will see a copyright notice on such forms, which indicates that you are not allowed to copy the form without permission of the copyright holder.
- Other forms consist of wording that is dictated by state law—what we refer to as *statutory language*. Even though the wording of the form is mandated (and even the style and size of the type used may be dictated by state law), the overall design of the form may still be copyrighted.
- Lastly, there are forms that combine state requirements and those of the association or company creating the form. Those forms also will be copyrighted.

Figure 1.1 Broker-Associate Licensee Contract

CALIFORNIA
ASSOCIATION
OF REALTORS®

BROKER-ASSOCIATE LICENSEE CONTRACT
(Independent-Contractor)

THIS AGREEMENT, made this _____ day of _____, 19____ by and between

_____, (hereinafter "Broker") and
_____, (hereinafter "Associate Licensee").

IN CONSIDERATION of the respective representations and covenants herein, Broker and Associate Licensee agree and contract as follows:

1. **BROKER:** Broker represents that he/she/it is duly licensed as a real estate broker by the State of California, ☐ doing business as _____ (Firm name), ☐ a sole proprietorship, ☐ a partnership, ☐ a corporation. Broker is a member of the _____ Board(s)/Association(s) of REALTORS®, and a Participant in the _____ multiple listing service(s).
2. **ASSOCIATE LICENSEE:** Associate Licensee represents that, (a) he/she is duly licensed by the State of California as a ☐ real estate broker, ☐ real estate salesperson, and (b) he/she has not used any other names within the past five years except _____. Broker shall keep his/her/its license current during the term of this agreement. Associate Licensee shall keep his/her license current during the term of this agreement, including satisfying all applicable continuing education and provisional license requirements.
3. **LISTING AND SALES ACTIVITIES:** Broker shall make available to Associate Licensee, equally with other licensees associated with Broker, all current listings in Broker's office, except any listing which Broker may choose to place in the exclusive servicing of Associate Licensee or one or more other specific licensees associated with Broker. Associate Licensee shall not be required to accept or service any particular listing or prospective listing offered by Broker, or to see or service particular parties. Broker shall not restrict Associate Licensee's activities to particular geographical areas. Broker shall not, except to the extent required by law, direct or limit Associate Licensee's activities as to hours, leads, open houses, opportunity or floor time, production, prospects, sales meetings, schedule, inventory, time off, vacation, or similar activities. In compliance with Commissioner's Regulation 2780, et seq. (Title 10, California Code of Regulations, §2780, et seq.), Broker and Associate Licensee shall at all times be familiar with, all applicable federal, California and local anti-discrimination laws.
4. **BROKER SUPERVISION:**
 - (a) Associate Licensee shall submit for Broker's review:
 - i. All documents which may have a material effect upon the rights and duties of principals in a transaction, within 24 hours after preparing, signing, or receiving same. Broker may exercise this review responsibility through another licensee provided the Broker and the designated licensee have complied with Commissioner's Regulation 2725 (Title 10, California Code of Regulations, §2725).
 - ii. Any documents or other items connected with a transaction pursuant to this agreement, in the possession of or available to Associate Licensee, (i) immediately upon request by Broker or Broker's designated licensee, and/or (ii) as provided in Broker's Office Policy Manual, if any.
 - iii. All documents associated with any real estate transaction in which Associate Licensee is a principal.
 - (b) In addition, without affecting Associate Licensee's status, Broker shall have the right to direct Associate Licensee's actions to the extent required by law, and Associate Licensee shall comply with such directions. All trust funds shall be handled in compliance with Business and Professions Code §10145, and other applicable laws.
5. **OFFICE FACILITIES:** Broker shall make available for Associate Licensee's use, along with other licensees associated with Broker, the facilities of the real estate office operated by Broker at _____ and the facilities of any other office locations made available by Broker pursuant to this agreement.
6. **ASSOCIATE LICENSEE'S REPORT:** Associate Licensee shall work diligently and with his/her best efforts, (a) To sell, exchange, lease, or rent properties listed with Broker or other cooperating Brokers, (b) To solicit additional listings, clients, and customers, and (c) To otherwise promote the business of serving the public in real estate transactions to the end that Broker and Associate Licensee may derive the greatest benefit possible, in accordance with law.
7. **UNLAWFUL ACTS:** Associate Licensee shall not commit any act for which the Real Estate Commissioner of the State of California is authorized to restrict, suspend, or revoke Associate Licensee's license or impose other discipline, under California Business and Professions Code Sections 10176 or 10177 or other provisions of law.
8. **LISTING COMMISSIONS:** Commissions shall be charged to parties who desire to enter into listing agreements and other contracts for services requiring a real estate license, with Broker.

☐ as shown in "Exhibit A" attached which is incorporated as a part of this agreement by reference, or

☐ as follows: _____

Any proposed deviation from that schedule must be reviewed and approved in advance by Broker. Any permanent change in commission schedule shall be disseminated by Broker to Associate Licensee.

9. **COMPENSATION TO ASSOCIATE LICENSEE:** Associate Licensee shall receive a share of commissions which are actually collected by Broker, on listings and other contracts for services requiring a real estate license which are solicited and obtained by Associate Licensee, and on transactions of which Associate Licensee's activities are the procuring cause,

☐ as shown in "Exhibit B" attached which is incorporated as a part of this agreement by reference, or

☐ as follows: _____

The above commissions may be varied by written agreement between Broker and Associate Licensee before completion of any particular transaction. Expenses which must be paid from commissions, or are incurred in the attempt to collect commissions, shall be paid by Broker and Associate Licensee in the same proportion as set forth for the division of commissions.

10. **DIVIDING COMPENSATION WITH OTHER LICENSEES IN OFFICE:** If Associate Licensee and one or more other licensees associated with Broker both participate on the same side (either listing or selling) of a transaction, the commission allocated to their combined activities shall be divided by Broker and paid to them according to the written agreement between them which shall be furnished in advance to Broker.
11. **COMMISSIONS PAID TO BROKER:** All commission will be received by Broker. Associate Licensee's share of commissions shall be paid to him/her, after deduction of offsets, immediately upon collection by Broker or as soon thereafter as practicable, except as otherwise provided in (a) Paragraph 9, above, (b) Broker's Office Policy Manual, or (c) A Separate written agreement between Broker and Associate Licensee. Broker may impound in Broker's account Associate Licensee's share of commissions on transactions in which there is a known or pending claim against Broker and/or Associate Licensee, until such claim is resolved.
12. **UNCOLLECTED COMMISSIONS:** Neither Broker nor Associate Licensee shall be liable to the other for any portion of commissions not collected. Associate Licensee shall not be entitled to any advance payment from Broker upon future commissions.

THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.

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OFFICE USE ONLY
Reviewed by Broker
or Designee _____
Date _____



Figure 1.1 Broker-Associate Licensee Contract (Continued)

13. **ASSOCIATE LICENSEE EXPENSES; OFFSETS:** Associate Licensee shall provide and pay for all professional licenses, supplies, services, and other items required in connection with Associate Licensee's activities under this agreement, or any listing or transaction, without reimbursement from Broker except as required by law. If Broker elects to advance funds to pay expenses or liabilities of Associate Licensee shall pay to Broker the full amount advanced on demand, or Broker may deduct the full amount advanced from commissions payable to Associate Licensee on any transaction without notice.
14. **INDEPENDENT CONTRACTOR RELATIONSHIP:** Broker and Associate Licensee intend that, to the maximum extent permissible by law, (a) This agreement does not constitute a hiring or employment agreement by either party, (b) Broker and Associate Licensee are independent contracting parties with respect to all services rendered under this agreement or in any resulting transactions, (c) Associate Licensee's only remuneration shall be his/her proportional share, if any, of commissions collected by Broker, (d) Associate Licensee retains sole and absolute discretion and judgment in the methods, techniques, and procedures to be used in soliciting and obtaining listings, sales, exchanges, leases, rentals, or other transactions, and in carrying out Associate Licensee's selling and soliciting activities, except as required by law or in Broker's Office Policy Manual, (e) Associate Licensee is under the control of Broker as to the results of Associate Licensee's work only, and not as to the means by which those results are accomplished except as required by law, or in Broker's Office Policy Manual, if any, (f) This Agreement shall not be construed as a partnership, (g) Associate Licensee has no authority to bind Broker by any promise or representation unless specifically authorized by Broker in writing, (h) Broker shall not be liable for any obligation or liability incurred by Associate Licensee, (i) Associate Licensee shall not be treated as an employee with respect to services performed as a real estate agent, for state and federal tax purposes, and (j) The fact the Broker may carry worker compensation insurance for his/her/its own benefit and for the mutual benefit of Broker and licensees associated with Broker, including Associate Licensee, shall not create or inference of employment.
15. **LISTING AND OTHER AGREEMENTS PROPERTY OF BROKER:** All listings of property, and all agreements for performance of licensed acts, and all acts or actions required a real estate license which are taken or performed in connection with this agreement, shall be taken and performed in the name of Broker. All listings shall be submitted to Broker within 24 hours after receipt by Associate Licensee. Associate Licensee agrees to and does hereby contribute all right and title to such listings to Broker for the benefit and use of Broker, Associate Licensee, and other licensees associated with Broker.
16. **TERMINATION OF RELATIONSHIP:** Broker or Associate Licensee may terminate their relationship under this agreement at any time, on 24 hours written notice, with or without cause. Even after termination, this agreement shall govern all disputes and claims between Broker and Associate Licensee connected with their relationship under this agreement, including obligations and liabilities arising from existing and completed listings, transactions, and services.
17. **COMMISSIONS AFTER TERMINATION AND OFFSET:** If this agreement is terminated while Associate Licensee has listings or pending transactions that require further work normally rendered by Associate Licensee, Broker shall make arrangements with another licensee associated with Broker to perform the required work, or shall perform the work him/herself. The licensee performing the work shall be reasonably compensated for completing work on those listings or transactions, and such reasonable compensation shall be deducted from Associate Licensee's share of commissions. Except for such offset, Associate Licensee shall receive his/her regular share of commissions on such sales or other transactions, if actually collected by Broker, after deduction of any other amounts or offsets provided in this agreement.
18. **ARBITRATION OF DISPUTES:** All disputes or claims between Associate Licensee and other licensee(s) associated with Broker, or between Associate Licensee and Broker, arising from or connected in any way with this agreement, which cannot be adjusted between the parties involved, shall be submitted to the Board of REALTORS® of which all such disputing parties are members for arbitration pursuant to the provisions of its Bylaws, as may be amended from time to time, which are incorporated as a part of this agreement by reference. If the Bylaws of the Board do not cover arbitration of the dispute, or if the Board declines jurisdiction over the dispute, then arbitration shall be pursuant to the rules of the American Arbitration Association, as may be amended from time to time, which are incorporated as a part of this agreement by reference. The Federal Arbitration Act, Title 9, U.S. Code, Section 1, et seq., shall govern this agreement.
19. **PROPRIETARY INFORMATION AND FILES:** Associate Licensee shall not use to his/her own advantage, or the advantage of any other person, business, or entity, except as specified provided in this agreement, either during Associate Licensee's association with Broker or thereafter, any information gained for or from the business or files of Broker. All files and documents pertaining to listings and transactions are the property of Broker and shall be delivered to Broker by Associate Licensee immediately upon request or upon termination of their relationship under this agreement.
20. **INDEMNITY AND HOLD HARMLESS:** All claims, demands, liabilities, judgments, and arbitration awards, including costs and attorney's fees, to which Broker is subjected by reason of any action taken or omitted by Associate Licensee in connection with services rendered or to be rendered pursuant to this agreement, shall be:
☐ Paid in full by Associate Licensee, who hereby agrees to indemnify and hold harmless Broker for all such sums, or
☐ Other: _____
- Associate Licensee shall pay to Broker the full amount due by him/her demand, or Broker may deduct the full amount due by Associate Licensee from commissions due on any transaction without notice.
21. **ADDITIONAL PROVISIONS:** _____
22. **DEFINITIONS:** As used in this agreement, the following terms have the meanings indicated:
 (a) "Listing" means an agreement with a property owner or other party to locate a buyer, exchange party, lessee, or other party to a transaction involving real property, a mobile home, or other property or transaction which may be brokered by a real estate licensee, or an agreement with a party to locate or negotiate for any such property or transaction.
 (b) "Commission" means compensation for acts requiring a real estate license, regardless of whether calculated as a percentage of transaction price, flat fee, hourly rate, or in any other manner.
 (c) "Transaction" means a sale, exchange, lease, or rental of real property, a business opportunity, or a mobile home which may lawfully be brokered by a real estate licensee, or a loan secured by any property of those types.
 (d) "Associate Licensee" means the real estate broker or real estate salesperson licensed by the State of California and rendering the services set forth herein for Associate Licensee.
23. **NOTICES:** All notices under this agreement shall be in writing. Notices may be delivered personally, or by certified U.S. mail, postage prepaid, or by facsimile, to the parties at the addresses noted below. Either party may designate a new address for purposes of this agreement by giving notice to the other party. Notices mailed shall be deemed received as of 5:00 P.M. on the second business day following the date of mailing.
24. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Broker and Associate Licensee arising from or related to this agreement, the prevailing party shall, in the discretion of the court or arbitrator, be entitled to reasonable attorney fees in addition to other appropriate relief.
25. **ENTIRE AGREEMENT; MODIFICATION:** All prior agreements between the parties concerning their relationship as Broker and Associate Licensee are incorporated in this agreement, which constitutes the entire contract. Its terms are intended by the parties as a final and complete expression of their agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. This agreement may not be amended, modified, altered, or changed in any respect whatsoever except by a further agreement in writing duly executed by Broker and Associate Licensee.

BROKER:

(Signature) _____

(Name Printed) _____

(Address) _____

(City, State, Zip) _____

(Telephone) _____

(Fax) _____

ASSOCIATE LICENSEE:

(Signature) _____

(Name Printed) _____

(Address) _____

(City, State, Zip) _____

(Telephone) _____

(Fax) _____

NOTE: (1) Broker and Associate Licensee should each receive an executed copy of this agreement.

(2) Attach commission schedules Exhibits A and B if applicable.

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With the rapid changes in both California and federal law, form updates are an ongoing process. By the time you see them, the forms in this book may have already been revised. To keep up with the pace of change, both the California Association of REALTORS® (headquartered in Los Angeles and found at **www.car.org**) and Professional Publishing, Inc. (located in Novato and found at **www.profpub.com**), the two largest forms publishers in the state, have Web sites where form updates can be ordered and even downloaded for immediate use. (Note: At present, CAR forms are available only to CAR members.)

Exercise 1-1

May a broker-salesperson agreement transfer responsibility for all brokerage activities to the salesperson?

ACTIVITIES OF A REAL ESTATE BROKER

The Real Estate Law sets out the activities that require a real estate broker's license. Those activities also may be performed by a licensed real estate salesperson. The law defines a real estate salesperson as someone who is employed for compensation (salary or commissions) by a licensed real estate broker.

Real Property Transactions

The Real Estate Law permits a real estate licensee (broker or salesperson) to represent someone else in any of the following transactions involving real property or a business opportunity.

- Selling or offering to sell, including soliciting prospective sellers
- Purchasing or offering to purchase, including soliciting prospective purchasers
- Exchanging
- Soliciting or obtaining property listings for sale or exchange
- Leasing, renting or offering to lease or rent
- Selling, purchasing or exchanging leases
- Filing an application for purchase or lease involving land owned by the state or federal governments

The Real Estate Law does *not* require licensing for the resident manager of an apartment building or complex, or for the manager (or employees of the manager) of a hotel, motel, auto or trailer park.

Manufactured/ Mobile Homes

The Real Estate Law permits a real estate agent to handle transactions involving a **mobile home** (termed a **manufactured home** in federal regulations discussed in Chapter 14). The home must be registered in compliance with the Health and Safety Code. If it is, the agent can perform the following activities.

- Sell
- Purchase
- Exchange