

---

## **Impact of New Real Estate License Disclosure Law on Home Builders**

---

New legislation (SB 1461) included in an updated Business & Professions Code Section 10140.6, becoming effective July 1, 2009, requires licensed California real estate brokers and sales agents to disclose their real estate license numbers on certain “solicitation materials intended to be the first point of contact with consumers,” as well as on purchase agreements for which they act as agents. Many of our home builder clients have contacted us to understand what sales staff need to do to comply with these new requirements when communicating with potential home buyers.

Section 10140.6 (b)(2) states that solicitation materials “include business cards; stationery; websites owned, controlled and/or maintained by the soliciting real estate licensee; and promotional and advertising flyers, brochures, email and regular mail, leaflets; and any marketing or promotional materials designed to solicit the creation of a professional relationship between the licensee and a consumer, or which is intended to incentivize, induce or entice a consumer to contact the licensee about any service for which a license is required.”

Compliance by a home builder with this law requires consideration of the relationship of the builder with its sales staff. If a home builder employs a separate brokerage company to sell its homes, the brokerage company would be required to comply with these requirements in all applicable communications. If the builder sells homes through licensed employees or through use of a separately licensed affiliate that employs licensees, these licensees would need to comply with these requirements when they communicate directly with potential purchasers. However, general communications by the builder about its homes and communities (such as a website), which does not include information about the builder’s licensed sales staff, may not require compliance with these requirements. Each builder’s manner of communicating with potential purchasers through real estate licensees should be reviewed to confirm compliance with the new law before it goes into effect on July 1, 2009.

If you need assistance in evaluating compliance with the new law, please contact Robert J. Bell of our Real Estate Transactions group or any member of the Common Interest Development group.