

Summary of BRE Regulations Regarding Team Names and Fictitious Business Names

The BRE has issued a clarification recently of its team name and fictitious business name regulations. A salesperson can use a "team name" without obtaining a fictitious business name from the county recorder and without registering that team name with the BRE as long as the team name meets the following requirements:

1. The team name includes the surname of at least one of the agents in the team
2. The name is used by two or more real estate licensees who work together to provide licensed real estate services
3. The name does not include any term or terms, such as "real estate broker", "real estate brokerage", "broker" or "brokerage", or any other term that would lead a member of the public to believe that the team is offering real estate brokerage services independent of a responsible broker. The terms "associates", "group" or "team" are acceptable as long as there are at least two licensed real estate agents that are part of the group

If you do not qualify under the team name requirements, then you MUST register for a fictitious business name with the county recorder AND the Bureau of Real Estate BEFORE using the fictitious business name in any capacity. Attached to this memo are several articles from the BRE relative to these issues. Please review the attached forms entitled, "Fictitious Business Name Information", "Advisory and Guidance to Licensees Regarding Assembly Bill 2018 . . . Pertaining to Fictitious Business Names & Team Names", and Advisory and Guidance to Licensees Regarding senate Bill 146 . . . Pertaining to Fictitious Business Names & Team Names".

SB 146 provides that when a "team name" or fictitious business name is used in advertising, including print or electronic media and "for sale" signs it must include and display in a conspicuous and prominent manner, the "team name" and the name and license number of at least one of the licensed members of the team. In addition, it must include the responsible broker's identity including the name of the brokerage AND the brokerage's BRE license number.

The same rule would appear to apply to advertising including open house and for sale signs for individual agents who are not part of a team. All such advertising should include the name of the agent along with the agent's BRE number and the name and BRE license number of the brokerage. The name of the brokerage should be at least as conspicuous as the agent's name.

The form for filing for a fictitious business name can be found on the BRE website. Remember that you cannot obtain a fictitious business name without the signature of the broker of record for the office.

Please contact management with any questions regarding these issues and PLEASE remember to abide by these BRE regulations.

FICTITIOUS BUSINESS NAME INFORMATION

RE 282 (Rev. 9/15)

General Information

The Real Estate Law requires that a fictitious business name must appear on your broker or corporation officer license *before* the name may be used in conducting activities for which a real estate license is required. Refer to Section 10159.5(a) of the Business and Professions (B&P) Code.

Commissioner's Regulation 2731 provides as follows:

2731. Use of False or Fictitious Name.

- (a) A licensee shall not use a fictitious name in the conduct of any activity for which a license is required under the Real Estate Law unless the licensee is the holder of a license bearing the fictitious name.
- (b) The Bureau shall issue a license required under the Real Estate Law only in the legal name of the licensee or in the fictitious business name of a broker who presents evidence of having complied with the provisions of Sections 17910 and 17917 of the Code.
- (c) The commissioner may refuse to issue a license bearing a fictitious name to a broker if the fictitious name:
 - (1) Is misleading or would constitute false advertising.
 - (2) Implies a partnership or corporation when a partnership or corporation does not exist in fact.
 - (3) Includes the name of a real estate salesperson.
 - (4) Constitutes a violation of the provisions of Sections 17910, 17910.5, 17913 or 17917 of the Code.
 - (5) Is the name formerly used by a licensee whose license has since been revoked.
- (d) A license may not be issued or renewed with a fictitious business name containing the term "escrow", or any name which implies that escrow services are provided, unless the fictitious business name includes the term, "a non-independent broker escrow" following the name. Licensees who have been or are issued a license with a fictitious business name with the term "escrow", or any term which implies that escrow services are provided, must include the term "a non-independent broker escrow" in any advertising, signs, or electronic promotional material.

If you are a licensed broker working as a broker-salesperson in the employ of a broker or corporation, their fictitious business name is not required on your license. Do not list your employing broker's fictitious business name on your applications.

Some DBA names cannot be issued or require documentation and clarification per Regulation 2731.

Canceling A Fictitious Business Name

Broker — Submit the following:

- Broker Change Application (RE 204), if cancelling during license period, **or**

- Broker Renewal Application (RE 208), if cancelling at renewal time.

Corporation officer — Submit the following:

- Corporation Change Application (RE 204A), if deleting during license period or at renewal time.

You may also wish to file an abandonment of the DBA with the county clerk.

Adding A Fictitious Business Name

Completing the Fictitious Business Name Statement (FBNS)

- **Registrant** — List the licensee's name as one of the registrants. **Note:** If a licensed broker, the FBNS must be filed on behalf of the broker. If a licensed corporation, the FBNS must be filed on behalf of the corporation.
- **Address** — List the main office address (as shown on CalBRE records) in the business address field.
- **Fictitious business name** — List the name exactly as it will be used.
- **Proper county** — File the FBNS with the county clerk in the county where your main office is located. The FBNS submitted to CalBRE cannot be more than five years old. In addition to filing the FBNS with the address matching the main office, you may also file an additional FBNS where a branch office is located (using the branch office address) and submit the appropriate CalBRE application and the additional FBNS.
- **Proper stamps** — The FBNS submitted to CalBRE must bear the "Filed" and "Certified" stamps from the county clerk's office. **Note:** "Proof of Publication" is not acceptable unless it bears the "filed" stamp.
- **Completed FBNS** — Submit one of the originals or a legible photocopy with the appropriate CalBRE application (see below).

Broker — Submit the following:

- FBNS and a Broker License Application (RE 200), if applying for a broker license, **or**
- FBNS and a Change Application For Broker Licensees (RE 204), if adding during the license period, **or**
- FBNS and a Broker Renewal Application (RE 208), if adding at renewal time.

Corporation officer — Submit the following:

- FBNS and a Corporation License Application (RE 201), if applying for a broker-officer license, **or**
- FBNS and a Corporation Change Application (RE 204A), if adding during the license period or at renewal time.

Mailing Information

Mail the appropriate documents to:

Bureau of Real Estate
P.O. Box 137004
Sacramento, CA 95813-7004



Advisory and Guidance to Licensees Regarding Assembly Bill 2018, Effective January 1, 2015, Pertaining to Fictitious Business Names & “Team Names”

In 2014, the California Legislature passed and the Governor signed Assembly Bill 2018 (“[AB 2018](#)”), amending Section 10159.5 and adding Sections 10159.6 and 10159.7 to the California Business and Professions Code (“the Code”). The provisions of these Code sections *take effect January 1, 2015*.

AB 2018 specifies that a responsible broker *may*, by contract, permit a salesperson to (1) file an application on behalf of the broker with a county clerk to obtain a fictitious business name, (2) deliver to the bureau an application, signed by the broker, requesting the bureau’s approval to use the fictitious business name to be identified with the broker’s license number, and (3) pay for and maintain ownership of such fictitious business name that may be used subject to the control of the broker. The bureau has created a new form titled, “Add/Cancel Salesperson Owned Fictitious Business Name” Form (RE 247), that brokers and salespersons will use to add and/or cancel *salesperson* owned fictitious business names. The RE 247 will be available on the bureau’s website no later than January 1, 2015. Once processed and approved by the bureau, the salesperson owned fictitious business name will appear on the responsible broker’s license record. Furthermore, AB 2018 identifies specific disclosure requirements when salesperson owned fictitious business names are used in advertising, marketing, and solicitation materials.

Additionally, AB 2018 defines a “team name” as a professional identity or brand name used by a salesperson, and one or more other real estate licensees, for the provision of real estate licensed services. AB 2018 specifies that the use of a team name, as defined above, does not constitute a fictitious business name and would not require a separate license if (1) the name is used by two or more real estate licensees who work together to provide licensed real estate services, or who represent themselves to the public as being a part of a team, group, or association to provide those services, (2) the name includes the *surname* (last name) of at least one of the licensee members of the team, group, or association in conjunction with the term “associates,” “group,” or “team,” and (3) the name does not include any term or terms, such as “real estate broker,” “real estate brokerage,” “broker,” or “brokerage” or any other term that would lead a member of the public to believe that the team is offering real estate brokerage services, or imply or suggest the existence of a real estate entity independent of a responsible broker.

AB 2018 also provides, that when a “team name” is used in advertising, including print or electronic media and “for sale” signage, it must (1) include the licensee’s name and license number, as specified, (2) include the broker’s identity, as specified, and (3) not contain terms that imply the existence of a real estate entity independent of the responsible broker.

The provisions set forth in AB 2018 do not change, reduce, or limit a real estate broker’s statutory obligation to supervise salespersons operating under his or her license. Furthermore, any disputes that arise between the responsible broker and the salesperson regarding the ownership and/or use of a salesperson owned fictitious business name is a civil matter and would not fall under the purview of the Bureau of Real Estate.



Advisory and Guidance to Licensees Regarding Senate Bill 146, Effective July 16, 2015, Pertaining to Fictitious Business Names & “Team Names”

Solicitations using salesperson owned fictitious business name must include employing broker’s license identification number.

In 2014, the California Legislature passed and the Governor signed Assembly Bill 2018 (“[AB 2018](#)”), amending Section 10159.5 and adding Sections 10159.6 and 10159.7 to the California Business and Professions Code (“the Code”). The provisions of these Code sections *took effect January 1, 2015*. For additional information please see <http://www.dre.ca.gov/files/pdf/AdvisoryAB2018.pdf>

On July 16, 2015, the Governor signed Senate Bill 146 (“[SB 146](#)”), which immediately makes a number of technical changes, as well as adding clarifying language, to provisions set forth in AB 2018.

Most significantly, SB 146 clarifies the definition of “responsible broker’s identity” to mean a name and the associated license identification number under which the responsible broker is currently licensed by the bureau and conducts business in general or is a substantial division of the real estate firm. Furthermore, the bill specifies a responsible broker’s identity does not include a “salesperson owned fictitious business name” obtained pursuant to B&P 10159.5(a)(2) or the use of a team name pursuant to B&P 10159.6.

SB 146 also provides, that when a “team name” is used in advertising and solicitation materials, including print or electronic media and “for sale” signage, it must (1) include, and display in a conspicuous and prominent manner, the “team name” and the name and license number of at least one of the licensed members of the team, (2) the responsible broker’s identity, as specified, and (3) not contain terms that imply the existence of a real estate entity independent of the responsible broker.

Furthermore, SB 146 specifies that advertising and solicitation materials, including print or electronic media and “for sale” signage, containing a “salesperson owned fictitious business name” obtained pursuant to B&P 10159.5(a)(2) include the name and license number of the salesperson who is using the fictitious business name as well as the responsible broker’s identity, as specified.

The provisions set forth in SB 146 do not change, reduce, or limit a real estate broker’s statutory obligation to supervise salespersons operating under his or her license. Furthermore, any disputes that arise between the responsible broker and the salesperson regarding the ownership and/or use of a salesperson owned fictitious business name is a civil matter and would not fall under the purview of the Bureau of Real Estate.

Special Note: In the Spring 2013 Real Estate Bulletin, the bureau confirmed general approval of fictitious business name requests, submitted by brokers, that include the name of salespersons (and which do not

include the broker's name in the fictitious business name), as long as specified conditions were satisfied. With the passage of AB 2018 and SB 146, as identified above, the bureau will no longer be implementing such policy. Therefore, in order for a fictitious business name, regardless if it is salesperson owned or not, to be added to a broker's license record it must, at a minimum, meet the requirements set forth in Commissioner's Regulation 2731.

(September 28, 2015)