

# Explanation of Change Without Regulatory Effect

## California Bureau of Real Estate Appraisers

### Section 100 CHANGE WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(a), of the California Code of Regulations (CCR), the Department of Consumer Affairs, Bureau of Real Estate Appraisers (Bureau) submits this written statement explaining why the proposed amendment to section 3733 of Chapter 6.5 of Title 10, of the CCRs and the incorporated form by reference, "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" [Rev. 2015]), does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Subject to the approval of the Office of Administrative Law, the Bureau proposes to amend text in CCR section 3733 and the incorporated form as follows:

#### CCR 3733

The Bureau proposes to revise CCR section 3733, to change the revision date for the form incorporated by reference as follows:

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Bureau shall consider the disciplinary guidelines entitled "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" [Rev. ~~2015~~2024] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Bureau and/or administrative law judges in its/his or her discretion determines that the facts of the particular case warrant such a deviation -- for example: the presence of mitigating factors; the age of the case; evidentiary problems.

#### "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" (Guidelines) Form:

A. Address Change: The Bureau proposes to revise the Guidelines by repealing the Bureau's prior address and adding its current address on page 9, paragraph 6 and page 11, paragraph 12, respectively, as follows:

6. Cost Reimbursement. Respondent shall reimburse BREAA its investigation and prosecution costs in the sum of \$ \_\_\_\_\_. The payment shall be made within 30 days of the effective date the Decision and Order, unless BREAA agrees in writing to payment plan. Payment shall be made to the Real Estate Appraisers Regulation Fund, c/o Bureau of Real Estate Appraisers, ~~1102 Q Street, Suite 4100, Sacramento, California 95811~~3075 Prospect Park Drive, Suite 190;

Rancho Cordova, CA 95670, by check or money order and shall indicate on its face the notation: "BREA Case No. \_\_\_\_." Respondent shall also submit a copy of the invoice with payment, which will be provided by BREA. If full payment is not received by BREA by the date due as noted in the invoice, a 10 percent late penalty shall be added to the unpaid balance and interest will accrue on the unpaid balance at the pooled money investment rate in effect at that time, until the full amount is paid. Respondent shall not be eligible to renew his or her license until such time as full payment of the outstanding costs have been made. Failure to timely reimburse BREA's costs of its investigation and prosecution shall constitute a violation of the probationary order or further disciplinary action.

12. Payment of Fine. Respondent shall pay a fine in the sum of \$ \_\_\_\_\_. The payment shall be made within 30 days of the effective date of the Decision and Order, unless BREA agrees in writing to payment plan. Payment shall be made to the Real Estate Appraisers Regulation Fund, c/o Bureau of Real Estate Appraisers, ~~4102 Q Street, Suite 4100, Sacramento, California 958113075~~ Prospect Park Drive, Suite 190; Rancho Cordova, CA 95670, by check or money order and shall indicate on its face the notation: "BREA Case No. \_\_\_\_." Respondent shall also submit a copy of the invoice with payment, which will be provided by BREA. If full payment is not received by BREA by the date due as noted in the invoice, a 10 percent late penalty shall be added to the unpaid balance and interest will accrue on the unpaid balance at the pooled money investment rate in effect at that time, until the full amount is paid. Respondent shall not be eligible to renew his or her license until such time as full payment of the outstanding fine has been made. Failure to make payment on the fine shall constitute a violation of the probationary order or further disciplinary action.

B. Revision Date: The Bureau also proposes to amend the revision date of the footer on every page of the Guidelines document, as follows:

A Manual of Disciplinary Guidelines and Model Disciplinary Orders (Rev ~~2015~~2024)

C. Removal of gendered pronouns and replacement with gender neutral terms: The Bureau propose to remove references to "he or she" and "he/she" and replace them with "Respondent" on pages 1 and 10 of the Guidelines.

D. Correction of grammar and formatting: The Bureau proposes to make the following non-substantive changes to grammar and formatting of the Guidelines document as follows.

The Bureau proposes to add a hard return before the section name and title columns for Section 3527(b) on page 4 so that Section 3527(b)'s name and title ("Failure to Maintain and Submit Personal Information or Contact Change") are

completely together with the minimum and maximum penalties section at the top of page 5, which would cause repagination of other items that follow.

The Bureau also proposes to add the word “n” after “a” in the title for the Section 3721(a)(8) title so that it reads “Prohibited from Participating in an Insured Depository Institution.”

## **Justification**

The Bureau moved its physical office location to 3075 Prospect Park Drive, Suite 190; Rancho Cordova, CA 95670 on February 4, 2019. As a result, the Bureau proposes to amend this regulation and the form incorporated by reference as noted above to delete the Bureau’s former address and add its current address in the Guidelines document. This update will ensure removal of inaccurate information about the Bureau’s actual address, consistent with information already provided to the public including, per 10 CCR section 3761. The Bureau also proposes to change the revision date of the Guidelines document in the text of CCR section 3733, and the title and the footer of the Guidelines document itself to more accurately reflect when the document was last revised by the Bureau.

The terms “he or she” or “he/she” are being removed and replaced with “Respondent” to ensure the use of gender-neutral language in the Bureau’s laws and regulations in accordance with Assembly Concurrent Resolution 260 (Chapter 190, Statutes of 2018), which encourages state agencies to avoid the use of gendered pronouns when drafting policies, regulations, and other guidance. The Bureau also proposes to correct grammar and formatting to improve readability without altering the substantive content of the originally adopted text.

These proposed amendments do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of CCR section 3733. Thus, the Bureau’s proposed amendments may be considered a change without regulatory effect.