

## SENATE THIRD READING

SB 774 (Ashby)

As Amended July 9, 2025

Majority vote

**SUMMARY**

Extends the sunset dates for the Department of Real Estate (DRE or Department) and the Bureau of Real Estate Appraisers (BREAA or Bureau) to January 1, 2030, and makes additional technical changes, statutory improvements, and policy reforms to each entity's respective practice act in response to issues raised during the sunset review oversight process.

**Major Provisions**

- 1) Extends the sunset dates for both the DRE and the BREAA until January 1, 2030.
- 2) Requires that the annual report submitted by the DRE to the Legislature regarding military license data include the number of applicants who request to apply military education, training, or experience towards meeting licensure requirements per license type, and how many requests were accepted by the DRE.
- 3) Grants the Real Estate Commissioner authority to grant payment to an individual pursuant to the Consumer Recovery Account if the final judgment was established by proof by preponderance of the evidence, while maintaining that the automatic suspension of the respective license would still be conditioned on the final judgment being established by proof by clear and convincing evidence.
- 4) Adds specific language regarding fingerprinting requirements for various DRE applicants and licensees.
- 5) Provides that a licensee's email address shall not be disclosed as a public record pursuant to the California Public Records Act, unless required by an order of a court of competent jurisdiction.
- 6) Extends the Bureau of Automotive Repair's citation remedial training program to January 1, 2028.
- 7) Makes various, non-substantive technical changes to the Real Estate Law.

**COMMENTS**

As part of the DRE's sunset review, a number of issues and priorities were raised by the board's staff, stakeholders, and legislative committees. These issues were first outlined in the DRE's "2024 California Department of Real Estate Sunset Review Report" submitted to the Legislature in January. Subsequently, as part of the Joint Sunset hearings conducted by the Assembly Committee on Business and Professions and the Senate Business, Professions and Economic Development Committee, committees issued "background papers" highlighting recommendations to the DRE regarding issues raised in their report. The background paper is available on the Committee's website: <https://abp.assembly.ca.gov/jointsunsethearings>. On April 3<sup>rd</sup>, the DRE responded to these recommendations and presented committee staff with potential

reforms and statutory language to address various issues. As further detailed below, this bill addresses certain issues discussed in these reports and responses:

- 1) *Issue no. 1: Data Tracking—Staff Recommendation in the Background Paper:* DRE should inform the Committees when it plans to track applicants who offer military education, training, or experience toward meeting licensing or credentialing requirements. The Department should update its business practices to allow data collection and as part of its business modernization project, implement data reporting capability to meet requirements of sunset review. The Department should also work with the Committees before the next sunset review to identify data that are not applicable to DRE and those that should be reported.

*DRE Response to the Background Paper:* The Department has the authority to accept relevant military service, education, or training toward meeting licensing requirements. As there is currently no requirement for applicants to identify if the submitted experience is related to military service, the Department does not separately track this type of experience nor the number of applicants who offered military education, training, or experience toward meeting licensing requirements. Going forward, in an effort to better track military experience used by applicants for licensure, the Department will add this category to its data tracking system so that staff can identify and document this information. The Department expects this functionality to be available within the next fiscal year.

The Department acknowledges the concerns regarding the availability of data and is taking decisive action to improve its data reporting. On February 25, 2025, per the Committee's request, the Department submitted additional information addressing 13 of the 19 data items cited above. The Department looks forward to working with the Committee to better identify data that should be reported and data that is not applicable to the Department for the purposes of future sunset reviews.

In addition, the Department is developing a comprehensive data warehouse to centralize its information efficiently to support more accurate data gathering and reporting. The plan is for the data warehouse to directly feed into the California Open Data Portal, making data more accessible to the public.

*Committee Recommendation:* The bill requires additional information to be included in the DRE annual military licensing data report, including the number of applicants who requested to apply military education, training, or experience towards meeting licensure requirements. The bill would additionally require the DRE to inquire as to whether the applicant for licensure is serving or has served in the military and whether the applicant intends to apply military experience and training toward licensure requirements. The bill requires the DRE to post specified information on its website about how one can apply military experience and training toward licensure requirements.

- 2) *Issue no. 8: Applicant Fingerprint Authority—Staff Recommendation in Background Paper:* The Department should conduct a comprehensive review of its fingerprint requirements to determine if any amendments are needed to implement the Department's intent for applicant and licensee fingerprinting to comply with P.L. 92-544. The Department should provide the Committees with proposed amendments necessary to ensure it continues to receive criminal reports and subsequent arrest records for all applicants and licensees to which the requirement applies.

*DRE Response to the Background Paper:* The Department has conducted a comprehensive review of its statutes and determined that, for applicants, state statute does not meet the requirements of federal Public Law 92-544 which outlines the criteria state laws must meet to grant access to federal level fingerprint-based criminal histories (background check information). The Department has drafted language to address the issue and is working with the California Department of Justice (CA DOJ) to refine the language and subsequently share with the Committees.

In order to access criminal background check information from the Federal Bureau of Investigation (FBI), state statute must meet the criteria of Public Law 92-544. In fall of 2022, DRE received a letter from CA DOJ regarding its authority for employee FBI background checks. In 2023, trailer bill updated California Business and Professions Code Section 10073.5 to address the concerns of the FBI regarding DRE's authority to access federal background checks for employees.

In spring 2024, DRE participated in a FBI review of CA DOJ and its administration of federal background check data. Based on those meetings, DRE learned that the FBI currently has Business and Professions Code Section 10177 on file via CA DOJ as the state statute that grants DRE authority for federal fingerprint-based background check data.

DRE is concerned that Business and Professions Code Section 10177 does not include the required elements outlined in Public Law 92-544. While DRE has not yet received an official communication from the FBI indicating it is out of compliance with Public Law 92-544 for purposes of applicant federal fingerprint-based background checks, it seeks to proactively work with CA DOJ to update the statute that authorizes DRE to receive federal fingerprint-based background checks so that it meets the requirements of Public Law 92-544. As the Department's statute for employee federal fingerprint-based background check data was identified as insufficient in December of 2022, DRE seeks to ensure it is compliant on the applicant statute as well.

*Committee Recommendation:* The bill adds fingerprinting language to relevant code sections regarding applicants for licensure, as recommended to the Committees by the DRE in consultation with the Department of Justice.

- 3) *Issue no. 10: Consumer Recovery Account Claims—Staff Recommendation in the Background Paper:* The Department should inform the Committees of how many consumers were denied CRA payments due to the higher evidentiary standard imposed after the *Demoff v. Bell, et. al.*, decision and the total payments that would have been made had the standard not changed. The Department should also provide Committee staff with proposed language to address all issues relating to disbursing CRA funds as intended when the account was created.

*DRE Response to the Background Paper:* The Department has provided the Committee with proposed language to address the outlined issues related to disbursing Consumer Recovery Account funds and will attach an additional copy of the proposed language to the Department's sunset review responses.

The Department has invested additional staff time to work with Consumer Recovery Account applicants to gather additional documentation that will allow the Department to make payments from the Account under the higher evidentiary standard. However, even with this

additional support, decisions on at least two cases were significantly delayed due to the Demoff court decision. Unfortunately, because of the Demoff decision, consumers filing claims to the Consumer Recovery Account who have obtained their underlying judgment via default now have to undergo additional obstacles in obtaining relief. This further exacerbates the timeframe a consumer must wait to receive recompense for the actions of a real estate licensee.

In addition, while uncertain as to the direct cause, it is notable that in the four years preceding the Demoff decision (excluding Fiscal Year 19/20), 69.25 claims were paid annually on average while after the Demoff decision (excluding Fiscal Year 19/20), only 11.5 claims were paid annually on average.

To prevent further delay and avoid withholding relief to consumers in the future, the Department has proposed language to address the court's concerns.

*Committee Recommendation:* The bill authorizes the DRE to grant payment to a consumer pursuant to the Consumer Recovery Account if the final judgement was established by proof by preponderance of the evidence or a higher standard of proof, while preserving the clear and convincing standard of proof for license suspensions or revocations.

*Issue no. 11: Technical Changes—Committee Recommendation:* The bill makes various technical changes to the Real Estate Law, including striking outdated references to the now-defunct conditional licensure program, eliminating gendered pronouns, striking non-operative statute, and updating various cross-references.

### **According to the Author**

This bill is necessary to make changes to the Department of Real Estate and the Bureau of Real Estate Appraisers to improve oversight of the regulated professions under their jurisdiction.

### **Arguments in Support**

None on file.

### **Arguments in Opposition**

None on file.

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee:

### 1) DRE:

- a) Ongoing costs of approximately \$69.9 million (Real Estate Fund and other special funds) annually to support 386.7 positions for the continued operation of DRE's licensing and enforcement activities through January 1, 2030. This fund is fully self-supporting with fee revenue.
- b) DRE anticipates all costs resulting from the changes in this bill to be absorbable.

### 2) BRE:

- a) Ongoing costs of approximately \$6.7 million (Real Estate Appraisers Regulation Fund) annually to support 28.8 positions for the continued operation of BREAs licensing and enforcement activities through January 1, 2030. This fund is fully self-supporting with fee revenue.
  - b) BREAs estimates minor and absorbable costs to submit the Recovery Account report to the Legislature.
  - c) One-time cost pressures over a two-year period of an unknown amount, potentially in the tens-of-thousands of dollars, to conduct a feasibility study on mandatory licensing for real estate appraisers and to report findings and recommendations to the Legislature by December 1, 2028. BREAs indicates it plans to investigate this issue even without legislation and, therefore, anticipates costs to be absorbable. However, codifying the requirement obligates BREAs to conduct the study and places potential pressure on BREAs budget.
- 3) BAR anticipates minor and absorbable costs from the extension of the citation and remedial training programs for automotive repair dealers. The total cost to establish and implement the program was approximately \$150,000 in 2021, including one-time costs. Ongoing costs to maintain the program are likely in the tens-of-thousands of dollars annually.

## VOTES

### SENATE FLOOR: 38-0-2

**YES:** Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

**ABS, ABST OR NV:** Limón, Reyes

### ASM BUSINESS AND PROFESSIONS: 17-0-1

**YES:** Berman, Flora, Ahrens, Alanis, Bains, Caloza, Chen, Elhawary, Hadwick, Haney, Irwin, Jackson, Krell, Lowenthal, Macedo, Nguyen, Pellerin

**ABS, ABST OR NV:** Bauer-Kahan

### ASM APPROPRIATIONS: 15-0-0

**YES:** Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache, Ta, Tangipa

## UPDATED

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