

## SENATE THIRD READING

SB 774 (Ashby)

As Amended September 4, 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 judgement 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) Requires that, on or after July 1, 2026, the BREAA shall post information on its website related to the Real Estate Recovery Account, and provide notice to a complainant that includes information related to the Account.
- 7) Requires that the BREAA submit an annual report to the Legislature, beginning January 1, 2028, that includes the balance of the Recovery Account, the number of applicants who applied for payment from the Recovery Account, the number of applicants whose claims were approved, and the total payments made from the Recovery Account.
- 8) *Adds provisions to various sections of the Real Estate Appraisers' Licensing and Certification Law related to BREAA's administration and enforcement of the Real Estate Recovery Account. These provisions are substantially similar to existing laws related to the administration and enforcement of the DRE's Consumer Recovery Account.*
- 9) Requires that the BREAA shall conduct a one-time study on the feasibility

- 10) Extends the Bureau of Automotive Repair's citation remedial training program to January 1, 2028.
- 11) Makes various, non-substantive technical changes to the Real Estate Law.

## COMMENTS

As part of the DRE and BREA's respective sunset reviews, a number of issues and priorities were raised by the board's staff, stakeholders, and legislative committees. These issues were first outlined in the "sunset reports" submitted to the Legislature by the entities 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 and the BREA regarding issues raised in their report. The background paper is available on the Committee's website: <https://abp.assembly.ca.gov/jointsunsethearings>. In early April, the DRE and the BREA 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) *DRE 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.
- 2) *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.

- 3) *DRE 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. [...]

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.

- 4) *DRE 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. *Additionally, recent floor amendments establish a similar process for the BREa pursuant to payments from their Recovery Account. Specifically, the bill would require a real estate appraiser's license to be automatically suspended upon payment from the Recovery Account of a settlement of a claim or toward satisfaction of a judgment based on clear and convincing evidence of fraud, misrepresentation, or deceit with intent to defraud.*

- 5) *DRE 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.
- 6) *BREA Issue no. 2 – Real Estate Appraisers Regulation Fund – Recovery Account – Staff Recommendation in the Background Paper:* The Bureau should provide the Committees with its plan and timeline to comply with BPC Section 11411, which requires the Bureau to create a recovery account and fund the account with 5% of licensing revenue. The Bureau should begin informing complainants of the recovery account and criteria for eligibility. The Bureau should compile complaint data, as specified in BPC Section 11412 (a), and report that data, along with the account balance and actions taken to inform consumers of the recovery account during its next sunset review. This information will inform the Committees as to whether a recovery account is feasible and should be continued or whether the account should be considered for discontinuation.

*BREA Response to the Background Paper:* Since the Recovery Account was created in statute several decades ago, the Bureau has only been contacted by one potential claimant. The Bureau concurs with the staff recommendation from the Bureau's prior sunset report that

the Recovery Account be removed from law. However, the Bureau welcomes the opportunity to collaborate with the Legislature to determine the need for the Recovery Account and if the need is there, to assess whether statutory changes are necessary to implement the Recovery Account.

The Bureau notes several factors that may impact implementation of the Recovery Account, including the Bureau's current fund balance and the impact any Recovery Account would have on future fee increases. Lastly, before deciding whether to establish a Recovery Account, there should be a review of complaints from recent years to assess whether the number of cases with judicial findings of fraud justifies the need for such an account.

*Committee Recommendation:* This bill requires the BREa to post information about the Recovery Account on its website by July 1, 2026, including eligibility requirements and application procedures. It further requires the BREa to, upon receipt of a complaint by a licensee or a member of the public, provide a notification to the complainant that includes information regarding eligibility requirements for the Recovery Account and its application process. Finally, this bill requires the BREa to submit an annual report to the Legislature, beginning January 1, 2026, regarding specified information about the recovery account.

*Recent floor amendments repeal existing, broad statutory language directing the BREa to adopt regulations to implement the Recovery Account, and instead specifically enact the provisions to implement the claims, funding, and administration of the Recovery Account. Specifically, amendments enact language substantially similar to existing law found in BPC Sections 10470-10481, and 10 CCR Sections 3100-3109, which govern the administration and oversight of the Consumer Recovery Account administered by DRE. Among other administrative and operational processes, these amendments require that, on or after January 1, 2026, 5% of any license or certificate fee collected by the BREa shall be credited to the Recovery Account. Further, amendments would require that an appraiser's license be automatically suspended upon payment from the Recovery Account related to a judgement or settlement of a claim related to their license, as further detailed in the above DRE Issue no. 10.*

*BREa Issue no. 6 – Declining and Aging License Population – Staff Recommendation in the Background Paper:* The Bureau should discuss strategies for increasing its license population, especially in the younger demographics. The Bureau should also inform the Committees whether expanding licensure requirements to non-FTR appraisals would be feasible and the impact it would have on consumers, the Bureau, and industry. The Bureau should inform the Committees of whether expanding the Bureau's jurisdiction would result in lowered fees for existing licensees and to what degree. Finally, if the Bureau recommends expansion, the Bureau should discuss whether there are valid exemptions and the rationale for those determinations.

*BREa Response to the Background Paper:* The Bureau plans to prioritize outreach to individuals just starting careers, removing barriers to entry, and enhancing career advancement pathways in its next strategic plan for 2025 – 2030. This may include outreach to high schools and colleges, collaboration with community colleges to implement Practicum programs, expanding the Practical Application of Real Estate Appraisal (PAREA) program in California, and enhancing the traditional supervisory model.

If there is legislative interest in expanding licensure requirements to all appraisals, the Bureau could consider conducting a comprehensive study related mandating appraisal licenses for either all, or a subset of appraisals, performed in California (currently appraisals are only mandated for federally related transactions). There are currently valid exemptions, which are opinions given by a real estate licensee, an engineer, or land surveyor in the ordinary course of the person's business as a Board of Professional Engineers Land Surveyors, and Geologists or licensee of the Department of Real Estate licensee. In addition, a probate referee who is not preparing an appraisal for a federally related transaction and acting pursuant to Sections 400 to 408, inclusive of the Probate code are excluded. Each of these exceptions are identified in BPC section 11302(b). The Bureau will continue to view these as exemptions when conducting the study. At the conclusion of the feasibility study, the Bureau may recommend expansion. The study will also consider if licensing fees can be lowered if mandatory licensure is required and expands the Bureau's licensing population.

*Committee Recommendation:* This bill requires the BREA to conduct a study on the feasibility of mandatory licensing for appraisers in California, and to report its findings to all appropriate committees of the Legislature on or before December 31, 2028. The report shall include, at a minimum, a summary of unlicensed appraisal activities in California and their participant populations, a review of regulatory practices and impacts in other states, detailed regulatory recommendations for California including potential exemptions and an implementation plan, and associated fiscal estimates such as implementation costs, projected revenue, and effects on current license fees.

**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 BRE's licensing and

enforcement activities through January 1, 2030. This fund is fully self-supporting with fee revenue.

- b) BREA 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. BREA indicates it plans to investigate this issue even without legislation and, therefore, anticipates costs to be absorbable. However, codifying the requirement obligates BREA to conduct the study and places potential pressure on BREA's 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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