



Courtside *Newsflash!*

CalBRE's Cite & Fine Program Implemented

BY: KELLY A. NEAVEL, ATTORNEY AT LAW
CASEY MCINTOSH, PARALEGAL



Effective July 1, 2014, the California Bureau of Real Estate (CalBRE) can now issue citations and fines to both licensed and unlicensed violators of the Real Estate Law. The "cite-and-fine" program is outlined in detail in California Business and Professions Code § 10080.9 and Commissioner's Regulations 2907.

What you need to know:

- Citations are generally for minor violations that do not involve fraud, dishonesty, or loss or injury to a consumer.
 - Examples:
 - Failure to notify CalBRE of a change in address
 - Failure to disclose a real estate license identification number in their first point of contact advertising material
 - Failure to notify CalBRE of newly employed salespersons who were hired and added to office staff
 - Late or failure to submit required threshold or periodic business activity reports
- Citations may also include an Order of Correction as well as an administrative fine.
- An Order of Correction is a demand to fix or correct the cited violation(s) within a certain amount of time,

usually 30 days. Upon correction, the licensee will submit a Statement of Correction/Compliance to CalBRE.

- The maximum fine that can be assessed on a licensee is \$2,500 per citation.
 - Fine amounts will vary based upon the type of violation and other criteria, such as if the violation was willful or negligent, or if this is the licensee's first offense.
 - A licensee typically has 30 days from receipt of the citation to pay the fine.
- Unlicensed individuals are also subject to citations and fines, which are not subject to a cap.
 - The maximum fine for an unlicensed individual is \$2,500 per unlicensed act or transaction.
 - CalBRE hopes that the citation authority, and what it could cost, will deter unlicensed activity.
- Failure to pay a fine or comply with the terms of the citation shall subject that person to disciplinary action by the Commissioner.
- A license will not be renewed if an unpaid fine remains outstanding or the terms of a citation have not been complied with.
- There is a review process to contest citations.
 - First level is the Citation Review Conference, which is an informal

review of the citation conducted by CalBRE.

- If the first level review fails, an administrative hearing may be appropriate to remedy the matter.
- CalBRE will not post specific information regarding citations or fines to its website, nor will the information be attached to an individual's public licensee website record. However, the information is still public and can be obtained through a request submitted to CalBRE pursuant to the Public Records Act.
- Fines received will go into the Recovery Account of the Real Estate Fund, which is used to assist victims of real estate fraud committed by licensed agents and brokers.

According to CalBRE, the intent of the cite-and-fine program is "to help educate both licensees and nonlicensees alike and to encourage and reinforce compliance with Real Estate Law." Given the amount of fraud and unlicensed activity that CalBRE has been seeing in recent years, this program will be beneficial to the real estate community at large. If all goes according to plan, the program will assist in maintaining the integrity of the real estate profession.

This Newsletter is a copyrighted publication and may not be reproduced or transmitted in any form or by any means without written permission. This article does not necessarily reflect the point of view of The Giardinelli Law Group, APC, or other person or entity who publishes it. This article provides legal information abridged from statutes, court decisions, and administrative rulings and contains opinions of the writers. Legal information is not the same as legal advice, which is the application of law to an individual's specific circumstances. Although every effort is made to ensure the information is accurate and useful, it is recommended that you consult with a lawyer to obtain professional assurance that the information provided and your interpretation of it is appropriate for a particular situation. To request further information or to comment on this newsletter, contact us at (951) 244-1856 and visit our website at www.glawgroupapc.com.