

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 723 (Pellerin)
Version: July 2, 2025
Hearing Date: July 15, 2025
Fiscal: Yes
Urgency: No
AM

SUBJECT

Real estate: digitally altered images: disclosure

DIGEST

This bill requires a real estate broker or salesperson licensed by the Department of Real Estate (DRE), or a person acting on their behalf, who digitally alters an image used in promotion for the sale of real property to include a conspicuously located disclosure that the image has been altered. The bill requires an unaltered version of the image, or a link to the original image, to be included in the posting.

EXECUTIVE SUMMARY

The staging of home listings has long been a part of the real estate industry, but the increasing popularity and accessibility of photo editing software has given rise to the digital insertion of elements into images of homes, in a practice known as ‘digital’ or ‘virtual’ staging. The author argues that with the advent of better and cheaper photo technology and the proliferation of AI-generated and edited images, there is a potential for consumers to be harmed by misrepresentations in virtually staged or digitally altered photos associated with the sale of real property. This bill seeks to address the issue by providing that a real estate broker or salesperson must conspicuously disclose any altered images used in the promotion for the sale of real estate and provide a version of the unaltered image in the posting. The bill is author sponsored. The Committee received no timely support for the bill. The bill is opposed by the California Association of Realtors. The bill passed the Senate Business, Professions and Economic Development Committee on a vote of 8 to 3.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Licenses and regulates real estate brokers and real estate salespersons in this state by the Department of Real Estate (DRE) pursuant to the Real Estate Law. (Bus. & Prof. Code §§ 10000 et seq.)
 - a) Establishes the Real Estate Commissioner (Commissioner) as the chief officer of the DRE who is required to enforce the Real Estate Law in a manner that achieves the maximum protection for the buyers of real property and those persons dealing with real estate licensees. Bus. & Prof. Code § 10050.)
- 2) Defines “real estate broker” as a person licensed pursuant to Business and Professions Code Sections 10130 et seq. (Bus. & Prof. Code § 10015.)
- 3) Defines “real estate salesperson” to mean a natural person licensed as a salesperson and who, for compensation or in expectation of compensation, is retained by a real estate broker to conduct licensed real estate activities. (Bus. & Prof. Code § 10016.)
- 4) Prohibits, for any real property offered for sale or lease, any advertisement, pamphlet, prospectus or letter concerning any said land or subdivision, to contain any written statement that is false or fraudulent. Makes a violation of this provision a public offense to be punished by a fine not exceeding \$1,000, or by imprisonment in a county jail not exceeding one year. (Bus. & Prof. Code § 10140.)
- 5) Authorizes the Real Estate Commissioner to investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee, and authorizes them to temporarily suspend or permanently revoke a real estate license at any time where a real estate licensee, in performing or attempting to perform any of the acts within the scope of the Real Estate Law, has been found guilty of specified, including:
 - a) Making any substantial misrepresentation.
 - b) Making any false promises of a character likely to influence, persuade, or induce.
 - c) Continued and flagrant course of misrepresentation or making of false promises through licensees.
 - d) Any other conduct, whether of the same or of a different character than specified in this section, which constitutes fraud or dishonest dealing.
 - e) Violating any section, division, or article of law which provides that a violation of that section, division, or article of law by a licensed person is a violation of that person’s licensing law, if it occurs within the scope of that person’s duties as a licensee. (Bus. & Prof. Code § 10176(a), (b), (c), (i), & (m).)

- 6) Defines “artificial intelligence” as an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. (Gov. Code § 11547.64(a).)

This bill:

- 1) Requires a real estate broker or salesperson, or a person acting on their behalf, who includes a digitally altered image in an advertisement to disclose that the image has been altered. The statement must be reasonably conspicuous and located on or adjacent to the image.
- 2) Requires the real estate broker or salesperson, or a person acting on their behalf, when posting a digitally altered image to a website over which they have control, to include an unaltered version of the picture or a link to the original image.
- 3) Defines “digitally altered image” as a still-photo image, created by or at the behest of the real estate broker or salesperson, or person acting on their behalf, that has been altered through the use of photo editing software or artificial intelligence to add, remove, or change elements of the real property in the image, including, but not limited to, furniture, appliances, flooring, and walls.
- 4) Provides that “digitally altered image” does not include the use of photo editing software to adjust lighting, sharpening, white balance, color correction, angle, straightening, cropping, exposure, or other common photo editing adjustments that do not change the condition of the real property.

COMMENTS

1. Stated need for the bill

The author writes:

Increasingly, real estate listings are using AI-manipulated images of the unit, or “digitally staged” photos, to show significantly enhanced versions of the unit to prospective consumers. Without disclosures or photos of the actual state of the listing, consumers are misled into investing time and money into real estate listings that are not in fact like the photos they may see online.

AB 723 simply requires that digitally staged or digitally altered images include a disclosure to the fact that the image has been digitally altered. If the advertisement or promotional material is hosted on a website, the real estate broker or their agent must also include a link to the original image or the unaltered version of the images.

2. This bill seeks to address digital or virtual staging in regards to real estate

Staging a property when it is for sale has been a common practice for real estate salespeople. This can involve ways to depersonalize a space or limit clutter to completely removing an owner's personal property and staging the home with different furniture and decorations. Redfin.com reports that this type of staging can cost anywhere from \$500 to \$600, on average.¹ With the advent of photo editing software and now AI-generated and edited images, real estate salespersons have begun using virtual or digital staging in photos posted on online advertising homes or other properties for sale. Often a note on the photo may be included to indicate virtual or digital staging has occurred, but this is not always the case. This bill seeks to address this issue by offering consumer protections through transparency and disclosures.

The Real Estate Law prohibits a real estate broker or salesperson from making false or misleading statements in advertisements. Some specific prohibitions are:

- Knowingly authorizing, directing or aiding in the publication, advertisement, distribution or circularization of any false statement or representation concerning any land or subdivision. (Bus. & Prof. Code § 10140.)
- Making, or causing to be made, any false, misleading, or deceptive advertisements or representations concerning the services that the licensee will provide to prospective tenants of a rental listing (Bus. & Prof. Code § 10167.11(a).)
- Referring a rental property to a prospective tenant knowing, or having reason to know, that the property has been described or advertised by or on behalf of the licensee in a false, misleading, or deceptive manner. (Bus. & Prof. Code § 1167.11(b)(2).)

As the Senate Business, Professions and Economic Development Committee analysis of this bill notes that:

Article 12 of the National Association of Realtors' (Association) Code of Ethics and Standard of Practice, Effective June 5, 2025, states, REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations..."

To accomplish honest and truthful communications, Association members' duties to the public are described in Standards of Practice. Standard of Practice 12-8 states, "The obligation to present a true picture in representations to the public includes information presented, provided, or displayed on REALTORS®'

¹ Redfin Blog, *Virtual Staging: An Innovative Way to Impress Buyers*, www.redfin.com/blog/impress-buyers-with-virtual-staging/.

websites.” Further, Standard of Practice 12-10 states, “REALTORS®’ obligation to present a true picture in their advertising and representations to the public includes Internet content, images, and the URLs and domain names they use, and prohibits REALTORS® from...misleading consumers, including use of misleading images.”

Similarly, the California Association of Realtors (CAR) reminds their members in a CAR Legal Tool presentation posted to their website, “Staging,” that an advantage to virtual staging is that a buyer cannot ask for items in the picture to be part of the sale. Additionally, the document offers virtual staging cautions, stating, “The property itself should never be altered in a way that could mislead the buyer. If there is an alteration, a clear and explicit warning must be included. Ex: “Here is what the yard could look like with all brush and debris removed.”²

This bill’s provisions align with the code of ethics provisions of the National Association of Realtors’ described above.

3. Statements in opposition

The California Association of Realtors (CAR) writes in opposition unless amended, stating:

[...] Licensees should not be liable for images that appear on third-party websites they do not control or have not contracted with. Once a listing appears on a website or it is often syndicated or sold to other companies with which the licensee has no direct relationship with and cannot monitor or control. Also, other websites and social media scrape and repost data on listings, and again the licensee has no control over what manipulations may occur or what information may be displayed.

Requiring that the changes to the image be material helps ensure that trivial edits made to present the property in its best light do not unintentionally trigger possible liability. All consumers, including buyers of real property, understand that listing agents and sellers will try to present the property in the best light. Liability should not attach to minor visual alterations that do not affect the real property’s actual condition or functionality.

Importantly, California law already protects buyers and consumers by prohibiting false or misleading advertising in real estate under Business and Professions Code Sections 10140 and 10177. Furthermore, brokers and salespeople who misrepresent a property’s condition are also currently subject to disciplinary action by the Department of Real Estate (DRE). Consumers who are misled by undisclosed virtual staging can pursue existing remedies that have consequences ranging from civil

² Sen. Bus. Prof.& Econ. Dev. Comm. analysis of AB 723 (2025-26 reg. sess) as amended Jul. 2, 2025 at p. 4.

damages, fines, and DRE discipline for the licensee that could include the loss of the real estate license in egregious situations. [...]

SUPPORT

None received

OPPOSITION

California Association of Realtors

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: None known.

PRIOR VOTES

Senate Business, Professions and Economic Development Committee (Ayes 8, Noes 3)

Assembly Floor (Ayes 66, Noes 2)

Assembly Appropriations Committee (Ayes 13, Noes 0)

Assembly Privacy and Consumer Protection Committee (Ayes 14, Noes 0)
