

AMENDED IN SENATE MAY 16, 2013

SENATE BILL

No. 332

Introduced by ~~Senator Emmerson~~ *Senators Emmerson and DeSaulnier*

February 19, 2013

An act to ~~amend Section 10230 of the Business and Professions Code, relating to real estate.~~ *amend Section 100508 of the Government Code, relating to health care coverage, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 332, as amended, ~~Emmerson. Real estate: sales.~~ *California Health Benefit Exchange: records.*

Under the federal Patient Protection and Affordable Care Act (PPACA), each state is required, by January 1, 2014, to establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. Existing state law establishes the California Health Benefit Exchange (Exchange) within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014.

Under the California Public Records Act (CPRA), public records of state and local agencies are open to public inspection, as specified, unless a record is exempt from disclosure. Existing law exempts specified records of the Exchange from CPRA and requires, except for the portion of a contract that contains the rates of payment, contracts entered into, and amendments to contracts entered into, by the board to be open to inspection after one year.

This bill would instead make open to public inspection the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees. The bill would provide that the one year exemption from disclosure for contracts with participating carriers apply to those contracts entered into on or after the effective date of the bill. The bill would also require that the portion of the contract or amendment containing the rates of payment be open to inspection 3 years after a contract or amendment is open to inspection pursuant to these provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law exempts, from the regulation of transactions in trust deeds and real property sales contracts, the negotiation of a loan by or on behalf of a real estate broker in connection with a qualifying sale or exchange of real property in which the broker acted as the agent of one or more of the parties to the sale or exchange, or the sale or exchange by or on behalf of the broker of a promissory note created for the purpose of financing a qualifying real property sale or exchange transaction in which the broker acted as the agent of one or more of the parties to the qualifying real property sale or exchange regardless of the time of the sale or exchange of the promissory note.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 100508 of the Government Code is
- 2 amended to read:
- 3 100508. (a) Records of the Exchange that reveal any of the
- 4 following shall be exempt from disclosure under the California
- 5 Public Records Act (Chapter 3.5 (commencing with Section 6250)
- 6 of Division 7 of Title ~~1~~: 1):
- 7 ~~(1) The~~
- 8 The deliberative processes, discussions, communications, or
- 9 any other portion of the negotiations with entities contracting or
- 10 seeking to contract with the Exchange, entities with which the
- 11 Exchange is considering a contract, or entities with which the

1 Exchange is considering or enters into any other arrangement under
2 which the Exchange provides, receives, or arranges services or
3 reimbursement.

4 ~~(2) The impressions, opinions, recommendations, meeting~~
5 ~~minutes, research, work product, theories, or strategy of the board~~
6 ~~or its staff, or records that provide instructions, advice, or training~~
7 ~~to employees.~~

8 ~~(b) (1) Except for the portion of a contract that contains the rates~~
9 ~~of payment, contracts entered into pursuant to this title shall be~~
10 ~~open to inspection one year after their effective dates.~~

11 ~~(2) If a contract entered into pursuant to this title is amended,~~
12 ~~the amendment shall be open to inspection one year after the~~
13 ~~effective date of the amendment.~~

14 *(b) The following records of the Exchange shall be exempt from*
15 *disclosure under the California Public Records Act (Chapter 3.5*
16 *(commencing with Section 6250) of Division 7 of Title 1) as*
17 *follows:*

18 *(1) (A) Except for the portion of a contract that contains the*
19 *rates of payments, contracts with participating carriers entered*
20 *into pursuant to this title on or after the date the act that added*
21 *this subparagraph becomes effective, shall be open to inspection*
22 *one year after the effective dates of the contracts.*

23 *(B) If contracts with participating carriers entered into pursuant*
24 *to this title are amended, the amendments shall be open to*
25 *inspection one year after the effective date of the amendments.*

26 *(c) Three years after a contract or amendment is open to*
27 *inspection pursuant to subdivision (b), the portion of the contract*
28 *or amendment containing the rates of payment shall be open to*
29 *inspection.*

30 *(d) Notwithstanding any other law, entire contracts with*
31 *participating carriers or amendments to contracts with*
32 *participating carriers shall be open to inspection by the Joint*
33 *Legislative Audit Committee. The committee shall maintain the*
34 *confidentiality of the contracts and amendments until the contracts*
35 *or amendments to a contract are open to inspection pursuant to*
36 *subdivisions (b) and (c).*

37 *SEC. 2. This act is an urgency statute necessary for the*
38 *immediate preservation of the public peace, health, or safety within*
39 *the meaning of Article IV of the Constitution and shall go into*
40 *immediate effect. The facts constituting the necessity are:*

1 *In order to ensure that public resources are managed efficiently*
2 *and appropriately in the state's efforts to facilitate the purchase*
3 *of qualified health plans through the California Health Benefit*
4 *Exchange by qualified individuals and small employers beginning*
5 *January 1, 2014, it is necessary that this act take effect*
6 *immediately.*

7 SECTION 1. ~~Section 10230 of the Business and Professions~~
8 ~~Code is amended to read:~~

9 ~~10230. (a) This article does not apply to the negotiation of a~~
10 ~~loan by or on behalf of a real estate broker in connection with a~~
11 ~~qualifying sale or exchange of real property in which the broker~~
12 ~~acted as the agent of one or more of the parties to the sale or~~
13 ~~exchange, nor to the sale or exchange by or on behalf of the broker~~
14 ~~of a promissory note created for the purpose of financing a~~
15 ~~qualifying real property sale or exchange transaction in which the~~
16 ~~broker acted as the agent of one or more of the parties to the~~
17 ~~qualifying real property sale or exchange regardless of the time of~~
18 ~~the sale or exchange of the promissory note. For the purposes of~~
19 ~~this subdivision, a "qualifying" sale or exchange of real property~~
20 ~~is one that is subject to the requirements of Article 3 (commencing~~
21 ~~with Section 2956) of Chapter 2 of Title 14 of Part 4 of Division~~
22 ~~3 of the Civil Code.~~

23 ~~(b) Subdivision (a) shall not apply to the negotiation of loans~~
24 ~~or to sales or exchanges of promissory notes in connection with~~
25 ~~the financing of a real property sale or exchange transaction in~~
26 ~~which the broker had a direct or indirect monetary interest as a~~
27 ~~party.~~