

INVITATION FOR COMMENTS
PROPOSED CHANGES UNDER THE
CALIFORNIA CORPORATE SECURITIES LAW OF 1968
(Additions shown by underline and deletions shown by strikethrough.)

1. Section 260.204.1.1 is added to read:

§ 260.204.1.1 Investment Adviser Brokers.

(a) A real estate broker who operates within the course and scope of a real estate license that is issued by the Bureau of Real Estate is exempt from the provisions of Section 25230 if either of the following conditions are met: (1) the real estate broker is a broker-dealer under Section 25210 or (2) the real estate broker is only engaged in a securities offering that is qualified by the Department under Section 25113 and complies with Sections 25234, 25237, 25238 and 25241.

(b) A real estate broker shall provide the Commissioner additional information on a form prescribed by the Commissioner that indicates whether the real estate broker is relying on (1) or (2) of this exemption.

(c) Failure to provide the information to the Commissioner in (b) shall result in the loss of relying on this exemption.

Note: Authority cited: Sections 25204 and 25610, Corporations Code.

Reference: Sections 25113, 25204, 25210, 25230, 25234, 25237, 25238 and 25241, Corporations Code.

2. Section 260.204.1 is amended to read:

§ 260.204.1. Real Estate Brokers Effecting Transactions in Securities.

An exemption from the provisions of Section 25210 of the Code is hereby granted, as being necessary and appropriate in the public interest and for the protection of investors, to any person who is a real estate broker as defined in Section 10131 of the Business and Professions Code, duly licensed to engage in the business of a real estate broker in this state, and whose business as a broker-dealer, in addition to any transactions within Section 25206 of the Code, is limited to any or all of the following:

(a) Transactions involving all of the outstanding securities of an existing business if the transactions have been negotiated as transactions for the purchase or sale of real estate or substantially all of the assets of the existing business, or both, but excluding those transactions involving a merger, consolidation, or other reorganization; or

(b) Transactions in the shares or memberships of mutual water companies in connection with a sale of an interest in real property; or

(c) Transactions in investment contracts sold or offered for sale with, or as part of, residential condominium units or time share uses or estates, if the sale of such investment contracts has been qualified pursuant to Chapter 2, (commencing with Section 25110), Part 2, Division 1, Title 4 of the Code; or

(d) Transactions in a series of notes secured by interests in the same real property, or in undivided interests in a note secured by real property, pursuant to a qualification under Section 25110, Section 25120 or Section 25130 of the Code or pursuant to the exemption contained in Section 25102(e), Section 25102(i) or Section 25102.5, other than an offering which is made pursuant to a registration under the Securities Act of 1933 or a Regulation A exemption under that act (17 CFR 230.231 et seq.).

(e) A real estate broker relying on this exemption shall provide the Commissioner additional information on a form prescribed by the Commissioner, which shall include the following:

(1)The subsection of this provision the real estate broker is relying on under this exemption and the real estate broker license number issued by the Bureau of Real Estate.

(2) If a real estate broker is engaged in transactions in any interest in any corporation, limited liability company, general or limited partnership, joint venture, unincorporated association or similar organization formed for the sole purpose of, and engaged solely in, investment in or gain from an interest in real property, including, but not limited to, a sale, exchange, trade, or development, the real estate broker shall include the following information:

(A) The names of: the officers and directors in the case of a corporation; managers in the case of a manager-managed limited liability company; members in the case of a member-managed limited liability company; general partner in the case of a limited partnership; or persons performing similar functions, in the case of other types of organizations.

(B) The names of all licensed persons that will undertake the activities in (A).

(C) The offering disclosure documents provided to prospective purchasers.

(D) A list of all state and federal licenses required to further the purposes in

(e)(2).

(f) A real estate broker that relies upon an exemption authorized by subdivision (e) of Section 25102 and provides information to the Commissioner under Section 25102.2 will be in compliance with subsection (e) of this provision.

(g) Failure to provide the information to the Commissioner in (e) shall result in the loss of relying on this exemption.

Note: Authority cited: Sections 25204 and 25610, Corporations Code.

Reference: Sections 25204 and 25206, Corporations Code.

3. Section 260.204.6 is amended to read:

§ 260.204.6 Licensed Lenders.

An exemption from the provisions of Section 25210 of the Code is hereby granted, as being necessary and appropriate in the public interest and for the protection of investors, to:

(a) Any person licensed as a finance lender under the California Finance Lenders Law (Division 9, commencing with Section 22000 of the Financial Code) when acting under the authority of that license, or licensed as an industrial loan company doing business under the Industrial Loan Law (Division 7, commencing with Section 18000 of the Financial Code), when engaged in transactions in a series of notes secured by interests in the same real property, or in undivided interests in a note secured by real property, pursuant to a qualification under Section 25110, Section 25120 or Section 25130 of the Code, or pursuant to the exemption contained in Section 25102(e) or Section 25102(i) of the Code, other than an offering which is made pursuant to a

registration under the Securities Act of 1933 or a Regulation A exemption under that act (17 CFR 230.231 et. seq.).

(b) A person licensed as a business and industrial development corporation (“BIDCO”) under the Business and Industrial Development Corporations Law (Division 15, commencing with Section 31000 of the Financial Code) when engaged in the sale of notes, and guarantees thereof by the United States Small Business Administration or other federal governmental agency, arising from loans to businesses in this state, made by a licensed BIDCO pursuant to the requirements of the Business and Industrial Development Corporation Law and regulations promulgated thereunder.

(c) A person relying on this exemption shall provide the Commissioner additional information on a form prescribed by the Commissioner, which shall include the following:

(1) Whether the person is licensed as a finance lender or industrial loan company.

(2) If a finance lender is engaged in transactions in any interest in any corporation, limited liability company, general or limited partnership, joint venture, unincorporated association or similar organization formed for the sole purpose of, and engaged solely in, investment in or gain from an interest in real property, including, but not limited to, a sale, exchange, trade, or development, the finance lender shall provide the following information:

(A) The names of: the officers and directors in the case of a corporation; managers in the case of a manager-managed limited liability company; members in the case of a member-managed limited liability company; general partner in the case of a

limited partnership; or persons performing similar functions, in the case of other types of organizations.

(B) The names of all licensed persons that will undertake the activities in (A).

(C) The offering disclosure documents provided to prospective purchasers.

(D) A list of all state and federal licenses required to further the purposes in

(c)(2).

(d) Failure to provide the information to the Commissioner in (c) shall result in the loss of relying on this exemption.

Note: Authority cited: Sections 25204 and 25610, Corporations Code.

Reference: Section 25204, Corporations Code.