

Use of Digitally Altered Images in Advertising

The California Legislature recently passed a number of new laws, many of which may affect REALTORS®. One of these new laws, AB 723 (codified as Business & Professions Code § 10140.8), goes into effect on January 1, 2026, and imposes new obligations on real estate licensees with respect to the use of digitally altered images in advertisements and promotional materials for the sale of real property (and leases of longer than one year).

AB 723 defines “digitally altered image” as: an image, created by or at the direction 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 in the image, including, but not limited to, fixtures, furniture, appliances, flooring, walls, paint color, hardscape, landscape, façade, floor plans, and elements outside of, or visible from, the property, including, but not limited to, streetlights, utility poles, views through windows, and neighboring properties.

While AB 723’s definition of “digitally altered image” seems to mostly target items that are part of the property (e.g., fixtures) or features of the property (e.g., views through windows), real estate licensees should take note that the definition also includes furniture. This means that if a real estate licensee uses virtual staging to add, remove, or change furniture in the property, they will need to disclose that the images have been digitally altered.

Specifically excluded from the definition of “digitally altered images” are images “where only lighting, sharpening, white balance, color correction, angle, straightening, cropping, exposure, or other common photo editing adjustments are made that do not change the representation of the real property.”

Under AB 723, a real estate broker or salesperson, or a person acting on their behalf, who includes a digitally altered image in an advertisement or other promotional material for the sale of real property must include in such material 1) a statement disclosing that the image has been altered, and 2) a link to a publicly accessible website, URL, or QR code that includes, and clearly identifies, the original, unaltered image. The statement must be “reasonably conspicuous,” located on or adjacent to the image, and indicate that the unaltered images can be accessed on the linked website, URL, or QR code.

However, if the digitally altered image is posted on a website over which the broker, salesperson, or person acting on their behalf has control, they may comply with AB 723 by either including the unaltered version of the image in the posting or by including a link to a publicly accessible website that includes and clearly identifies the unaltered image. If exercising the latter option, then the statement discussed in the paragraph above must also be included.

NOTE - In the wake of AB 723, it is likely that many MLSs will adopt rules to address digitally altered images. Members should check with their own MLSs to confirm how the MLS will handle this matter.