



California's New Disclosure Rule for Digitally Altered Real Estate Marketing

BY POOJA S. NAIR

First impressions in real estate are increasingly made through a screen. Professional photography has always shaped how buyers perceive a home, but today's digital tools can do far more than brighten a room or warm a sunset. They can provide virtual staging and walkthroughs, and enable listing agents and property owners to fix eyesores and property damage. While physical staging can cost thousands of dollars and take time, virtual staging with artificial intelligence dramatically streamlines the process.

On October 10, 2025, Governor Newsom signed into law a first-in-the-nation disclosure requirement for digital alteration of real estate marketing materials. Assembly Bill ("AB") 723, which goes into effect on January 1, 2026 requires licensed real estate brokers and salespersons to clearly disclose when an image used in real-estate marketing has been digitally altered, and makes it a criminal offense to fail to make this disclosure.

AB 723 adds a new Section 10140.8 to the Business and Professions Code, which governs licensed real estate professionals. The law provides that a real estate broker, salesperson, or person acting on their behalf "shall include in the advertisement or promotional material a statement disclosing that the image has been altered and a link to a publicly accessible internet website, URL, or QR code that includes, and clearly identifies, the original, unaltered image. The statement shall be reasonably conspicuous and located on or adjacent to the image and shall include language indicating that the unaltered images can be accessed on the linked internet website, URL, or QR code."

If a digitally altered advertisement or promotional material is posted on an internet website over which the real estate broker, salesperson, or person acting on their behalf, has control, they "shall include the unaltered version of the images from which the digitally altered images were created in the posting" by posting a link to a publicly accessible internet website that includes, and clearly identifies, the original, unaltered image.

The term "digitally altered image" is defined in the statute to mean an image "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, facade, 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." However, the definition does not include 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. For example, the use of a filter to adjust lighting would not trigger the disclosure requirement.

If digitally altered photos materially mischaracterize a home, an affected consumer could have claims for misrepresentation or violations of California's real estate licensing laws and ethical rules for real estate professionals, which prohibit deceptive advertising. AB 723 is meant to supplement rather than rewrite these underlying rules.

The Assembly Bill Analysis of the bill states that: "[t]he end goal of including a disclosure and an unaltered version of, or link to, an image is to alert consumers to look at the image with a dose of skepticism. This bill would help protect California's consumers shopping for real estate by enabling them to know whether or not what they see in advertisements is indeed real, or if they need to investigate the actual condition of the property further."

Opponents of the bill argued that it was unnecessary and duplicative of California law prohibiting false or misleading advertising in real estate, and that brokers and salespeople would already be subject to disciplinary action by the Department of Real Estate.

AB 723 is part of a broader legislative push in California to regulate artificial intelligence. Recent laws include the California AI Transparency Act (Senate Bill 942), which also goes into effect on January 1, 2026, and which requires covered providers to offer AI detection tools and include disclosures that certain content is

AI-generated. In the entertainment context, recent California laws require informed consent by performers for AI-created digital replicas, and prohibit use of a deceased individual's voice or image via AI without consent of their estate.

AB 723 reinforces the established principle that real estate advertising is a representation with legal consequences. Given the increasing sophistication of AI tools and their capacity for altering reality, real estate purchasers will have another tool to review listings, and licensed real estate professionals will have a further disclosure responsibility. ●



Pooja S. Nair is a Partner and Chair of the Food, Beverage, and Hospitality Department at Ervin Cohen & Jessup LLP. She represents clients in real estate litigation and complex business disputes involving contracts, employment, intellectual property, and fraud. Her insights have appeared in Law360, Daily Journal, The New York Times, and the Los Angeles Times. Before joining ECJ, she led the Food and Beverage practice at TroyGould and practiced white-collar defense at Foley & Lardner. She also serves on nonprofit boards and has been recognized as one of Los Angeles's Top Litigators and Trial Attorneys and Most Influential Women Lawyers by the LA Business Journal.