

**BROKER RISK MANAGEMENT
WEEKLY PRACTICE TIP**

Digitally Altered Images – How to Handle

AB 723, a new law affecting digitally altered images, was enacted and became effective January 1, 2026. That new law imposes several new requirements when agents use “digitally altered images” in their advertising and promotional materials. When dealing with digitally altered images, it is recommended that agents and brokerage management be aware of the following:

1. This law applies to sales of ALL types of real estate transactions, including land sales, commercial/industrial properties, apartment houses, and properties being leased in excess of one year.
2. Agents and brokerages determine if the image has been digitally altered.
 - A. A “digitally altered image” means an image:
 - 1) created by or at the direction of the real estate broker or salesperson, or person acting on their behalf; and,
 - 2) 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.*)
 - B. A “digitally altered image” **does not include** an image 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.
 - C. If in doubt, comply with the following required procedures.
3. **Advertising:** When a digitally altered image is used in advertising:
 - A. The law requires that a digitally altered image used in an **advertisement or other promotional materials** for the sale of ALL real estate includes:
 - 1) A reasonably conspicuous statement located on or near the image stating that the image has been digitally altered.
 - 2) A link to a publicly accessible internet website, **URL, or QR code**, in which the original image is clearly identified; *and*,
 - 3) The statement must also indicate that the unaltered image can be accessed at the **link, URL or QR code**.
 - B. If the digitally altered image is **posted on a website controlled by a broker or sales agent**, they may comply by **either**:
 - 1) Including the **unaltered image** in the posting;

- 2) By including a link, **URL**; **or**
 - 3) **QR code**, that clearly identifies the unaltered image.
4. A statement is required to accompany the digitally altered images: The following language is recommended by BRM to use “on or near” digitally altered images to satisfy this condition:
- “This image has been (or these images have been”) digitally altered and may not accurately represent the elements displayed in the image(s). Unaltered/original versions of this digitally altered image unaltered image can be viewed at this (link, URL and/or QR code).”
5. What is meant by “on or near” the image?
- A. “On” is clear. The required statement is superimposed on the image itself.
 - B. “Near” can be subjective. Most MLSs have implementing guidelines/rules regarding where and how the unaltered image and required statement must be displayed in that MLS. When in doubt, consult with your broker or manager. One guiding principle would be “Can the image and statement be easily and readily accessed by the viewer without having to search?”
6. **Question:** Would a photograph be considered digitally altered if you change the sky and add clouds? Add a fire to a fireplace? Use photographs prior to staging and then remove the staging? Add a virtual sunset?

Answer: The threshold for determining whether a photograph is digitally altered is whether the change affects the elements of the property itself. Therefore, the determination should be whether the change in the photograph materially affects the value or desirability of the property. Specifically, adding a cloud to the sky likely does not affect the property. However, if the property is in a location where sunsets are not common, adding a sunset could be problematic. Adding a fire to a fireplace may affect the property if the fireplace is not capable or fit for a fire. For example, if the fireplace is electric and a fire cannot be lit in it, or is in a jurisdiction which prohibits fireplace fires, such alteration could be problematic.

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