

REAL ESTATE BULLETIN

Official Publication of the Division of Real Estate—D. D. Watson, Commissioner

VOL. IX

JANUARY, 1950, SACRAMENTO, CALIFORNIA

No. 3

Fewer Enter Ranks of Real Estate Brokers As Result of New Legislation

The expected sharp decline in the number of applications for real estate broker licenses has taken place following the effective date of the new "prerequisite qualification" legislation. Since September 1, 1949, the commissioner can issue an original broker license only to a person who can show that he was a licensed real estate salesman for at least two years and actively engaged in that business, or prove equivalent experience in general real estate. As an alternative qualification, the applicant may show graduation from a four-year college or university course which course included specialization in real estate.

Prior to the enactment of this legislation, original applications for broker license averaged between 700 and 800 per month in 1949. Now that applicants must show prerequisite qualification, the number of applications for broker license has dropped to an average of about 125 per month.

Presently about half of the applications received for broker license are from persons who can show two years' experience as licensed real estate salesmen actively engaged in the business. An application of this type must be supported by a certified statement of the employing broker to the effect that the applicant was "actively" engaged.

Of the remaining applications, most are based on claims of equivalent "experience in general real estate." By the terms of the law, a committee of State Real Estate Board members must evaluate the sufficiency of the applicant's claim. The Real Estate Board is not taking this responsibility lightly and the members have devoted considerable time to weighing these applications.

Many "equivalent experience" claims are "borderline." The board for the present has adopted the policy of personally interviewing such applicants. Usually a committee of three meets with the commissioner for this purpose. To save time and expense, southern board members interview southern applicants and northern members applicants from the northern part of the State.

DIRECTORY OF LICENSEES IS NOW AVAILABLE

The 1949-50 Directory of Brokers and Salesmen licensed by the Division of Real Estate is now ready for distribution.

Only a limited number of copies of the directory have been printed. Licensed brokers may have copies free of charge. But, because of the limited supply, a policy of "first come, first served" must be followed.

If you want a directory, send in your request at once to the Division of Real Estate, 1021 O Street, Sacramento, Calif. The book will be sent free and postpaid to those brokers ordering it until the supply is exhausted.

Home Ownership

A report recently released by the Census Bureau shows a substantial increase in the number of owner-occupied houses, and owner-operated farms. The rate of increase has continued since 1945, despite higher prices in the postwar years.

Half of the 6,000,000 families, who have bought homes since the war, moved into them from rented quarters; another one million from doubling up with relatives.

Home ownership has also spread down into the lower income brackets. The Federal Reserve Board finds that four of every ten families with yearly incomes of less than \$3,000 own their own homes.

Commissioner Meets With License Law Officials

The annual meeting of the National Association of License Law Officials, held in Chicago November 14-16, 1949, was attended by the Real Estate Commissioner and Supervising Deputy, Ray Westcott. The organization's membership includes licensing officials of 36 states, three Canadian provinces and two U. S. territories which have license laws affecting those who deal in real estate.

At least 10 of these political units require that applicants for license as real estate brokers must show some previous experience in the business as a qualification for license. Since the experience requirement in the California Real Estate Law is new, the commissioner was particularly interested in obtaining information from administrators in those states which have "experience qualifications" as part of their licensing laws.

California was the first State to adopt a regulatory real estate license law and its pioneer legislation has supplied the framework for most of the licensing statutes enacted by the various states, provinces and territories. Highlights of California experience were presented to the delegates and they in turn offered valuable suggestions relating to enforcement and administration of licensing law.

Amended Real Estate Law Published

The Real Estate Law brought up to date, including changes made by the last session of the Legislature, with complete marginal notes and new index, is now available in pamphlet form.

The price is 25 cents postpaid. Send orders to the Division of Real Estate, 1021 O Street, Sacramento, or pick up a copy at any of the division's offices.

What Is Termite Clearance?

A seller of property who agrees to give the buyer a "termite clearance" is obligated to pay for the preventative and remedial work outlined as necessary in the report of a licensed structural pest control operator, according to a recent decision in the Superior Court in Los Angeles County.

The decision states that in issuing a "termite clearance," it is necessary for a licensed pest control operator to inspect the premises in question and render a report of the type required by Section 8525 of the Business and Professions Code; and therefore a covenant to furnish a termite clearance obligates the seller to put the premises in a condition where it is free from all wood destroying insects and fungi and from conditions fostering their presence or growth in and on the premises.

In effect, the court found that the seller was not only required to pay for the eradication of existing termites, but to pay for such work as might be required to prevent the recurrence or reinfestation of termites in the premises at a future time.

Undoubtedly, a great deal of contention regarding the existence or non-existence of termites would be removed if deposit receipt agreements and escrow instructions were to contain language clearly defining just what proportion of the expense of termite work is to be borne by the seller and buyer. The use of the phrase "termite clearance" may possibly subject the seller to a much greater liability than he intended to assume, resulting in dissatisfaction against the broker who prepared the agreement.

Another approach to the question of how to completely express the will of the contracting parties when making sales conditional upon termite control has been used successfully by the Berkeley Real Estate Board as mentioned in a previous issue of this bulletin. The Berkeley board members use a standard termite clause which calls for payment by the seller for corrective measures which would include the eradication of termites and binds the buyer to pay for any preventative work in the control of termite infestation.

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VOL. IX JANUARY, 1950 No. 3

Published Bimonthly by the

DIVISION OF REAL ESTATE

STATE OF CALIFORNIA

EARL WARREN, Governor

D. D. WATSON

Real Estate Commissioner

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	Gaylord K. Nye, Supervising Deputy

Publishing Names of Disciplined Licensees

Should the commissioner publish the names of those individuals whose licenses have been revoked or suspended after hearing for violation of the Real Estate Law?

This proposal has been made many times to the commissioner and has been considered by the advisory board. Final determination has not yet been made but there is nothing in the law to preclude such publication.

In some states, the licensing law makes publication of the names of offenders mandatory, but such is not the case in California. Some brokers and title and escrow companies argue that they are entitled to know what licenses have been revoked or suspended so that they may be protected against dealing with those individuals. Others feel that general publication possibly would have graver effects in some cases than in others and thus might be considered unfair.

Director of Agriculture Brock reports that large acreages formerly devoted to cotton, wheat, rice, and potatoes in California are being diverted to other uses in 1950 under government price support and acreage allotment programs.

Keeping Licenses Inactive

Brokers who are not actively engaged in the business and thus not maintaining an office must "inactivate" their licenses by turning them into the division with a request for cancellation. The law allows the renewal of these licenses each subsequent year and their cancellation at issuance upon request. In effect, this means that a person holding such an inactive broker license may keep it dormant by paying his annual fee and ordering the license canceled each year upon issuance. The canceled license may be reinstated at any time during the year upon request and the payment of a \$1 fee.

In order for such a licensee to renew his license each year, he must fill out a renewal application and pay the regular renewal fee. Persons, whose broker licenses are in an "inactive" status, are sent renewal forms prior to the end of the license year.

A salesman may also keep his license status by renewing and canceling each year. However, he must obtain the signature of a broker on his renewal application. It is therefore necessary that he find some broker who is willing to sign the application as an employer with the knowledge that the salesman actually will not be employed or active until he applies for reinstatement sometime in the future.

Note: Those salesmen whose licenses are "inactive" are not reminded before the end of the license year of the impending renewal time for the reason that a salesman must have an employer. Inactive—there is no current record of an employer and therefore no current address. It is up to the individual inactive salesman then, to complete the necessary arrangements for keeping his license status.

Veterans Home Loans

The State Director of Veterans Affairs has announced that California veterans who are eligible may now obtain construction financing on new homes.

Formerly, the State bought only homes already built and sold them to veterans on contracts of sale. The maximum commitment of state funds on a residence is \$7,500 on a total price, including lot, of \$10,000. Full information can be obtained from the Department of Veterans Affairs.

*Sale as Ryan
S.P. 549610
Judge U and Shinn
account Sept 14
1949*



The Mechanics of Handling Complaints

As a general rule, complaints against licensees submitted to the Real Estate Commissioner must be written, and the essential facts of the grievance set forth. The complainant is welcome to deliver the written complaint in person, and discuss the matter with a complaint deputy. Many complaints are made orally but before the division takes action, they must be reduced to writing.

The complaints are then carefully analyzed to determine whether the allegations, if true, constitute a violation of the Real Estate License Law and come within the commissioner's jurisdiction. If not, the complainant is informed by letter of the commissioner's reason for not undertaking further handling of the complaint.

If the written complaint indicates a violation, the deputy sends the respondent licensee a summary of the complaint, requesting an answer in which the licensee is to set forth his version of the questioned transaction. If the answer seems to clear up the matters complained of and no evidence of a transgression on the part of the licensee appears, the complainant is notified, and the matter rests. When, however, the complaint warrants further action, it is customary to call a conference, except in special cases where it is thought a conference would serve no purpose or might be detrimental to the investigation.

Conferences are held before deputy commissioners, are informal in nature and considered a part of the investigation. The parties may have legal counsel present, but the questioning is conducted by the deputy.

If the conference and available documentary evidence indicate a violation

Wayne T. Wilcox Passes

Wayne T. Wilcox, Senior Deputy Real Estate Commissioner of the Los Angeles office, died of a heart attack on Sunday, October 16. Coming to the Division of Real Estate in 1935 under Commissioner J. Mortimer Clark, he remained with the division until his death.

He is survived by his widow, a son and daughter, his sister and his mother and several grandchildren, to all of whom go the deepest sympathies of his fellow workers.

on the part of the licensee, the deputy makes a recommendation and the matter may be set for formal hearing. These hearings are held before a hearing officer drawn from a panel of such officers maintained by the Administrative Procedure Division. The testimony of all parties appearing is taken under oath, and the testimony is taken down by a court reporter.

Following the hearing, the hearing officer prepares his findings and recommendations which are presented to the commissioner for his consideration. The commissioner may accept the recommendations of the hearing officer, or he may modify them. All formal hearings must be conducted in accordance with the provisions of the Administrative Procedure Act.

All penalties meted out by the commissioner are subject to judicial review.

Discharge of Salesman

Brokers employing salesmen please note!

If you discharge a salesman for dishonest practice or any violation whatever of the Real Estate Law, you must immediately file a report of the facts and circumstances with the commissioner.

Occasionally a broker, who is forced to discharge a salesman because he is not satisfied with the employee's honesty, refuses to sign the salesman's transfer application. *This is not sufficient.* As a matter of fact the law states that the broker himself is liable to disciplinary action if he fails to report the salesman's violation.

Investigation by the division will follow receipt of the broker's report. If evidence indicates that the salesman may be guilty of law violation, a hearing will be held and appropriate action taken by the commissioner.

Personnel Assignments Within the Division

Mr. Gaylord K. Nye, Supervising Deputy of the San Francisco office, has been temporarily assigned to the supervision of the Sacramento office. This change was necessitated by the tendered resignation of Mr. R. S. Davis from the position of Assistant Commissioner, effective December 15th, and the resignation of Mr. Ralph C. Harrison as Supervising Deputy, effective November 30th. The latter retired because of the critical condition of his health.

Mr. John S. McVay, formerly deputy in charge of the San Diego office, has been appointed to one of the new senior deputy positions recently authorized in the Los Angeles office. The other two senior deputy positions in southern California have been filled by Mr. Bernard A. Neches and Mr. John C. Miles, Jr., both of whom had been deputies in that office. All three gained their promotions as a result of competitive examinations within the Division.

Mr. Saxon A. Lewis, formerly deputy in charge of the Oakland office, has been appointed senior deputy in San Francisco.

As senior deputies, these men supervise directly the enforcement, investigation, and subdivision work of several deputies.

Percentage of Renewals

Although transactions in real estate declined from their boom "peak," an unusually high percentage of licensees saw fit to keep their license status beginning the 1949-50 Fiscal Year. Of 55,000 real estate brokers licensed in 1948-49, over 49,000, or 90 percent, renewed their licenses. More surprising, perhaps, was the high rate of renewal in salesman licenses. Of the 24,000 licensed salesmen, 17,000, or over 70 percent, renewed their licenses for the present year.

These figures do not take into account many late renewals which necessitated the payment of double renewal fees.

Practical Real Estate Education for Youth Urged

The potential value to the general public of education in real estate matters was stressed at the annual Conference of Real Estate License Law Officials held in Chicago, November 14-16. The group urged that study of elementary real estate laws and principles be included in grammar and high school courses.

The officials maintained that some general real estate education will help prepare our citizens, particularly young people, to acquire homes or make other real estate investments with greater judgment and safety.

The following resolution on education was adopted by the group:

WHEREAS, It has been our observation as real estate license law enforcement officials that there is an urgent need on the part of the citizens for a broader knowledge pertaining to real property ownership, and

WHEREAS, More knowledge of real property ownership by our citizens is in keeping with maintaining democratic principles, and

WHEREAS, Only a relatively small percentage of the citizens of this country enter institutions of higher learning; therefore, be it

Resolved, That the National Association of License Law Officials assembled for its Twenty-first annual convention at Chicago this 16th day of November, 1949, recommends that its individual members contact the heads of their respective State Departments of Education and urge that the study of elementary real estate laws and principles be included as required subjects in all elementary and high schools in their respective states.

Qualification Forms

Supplementary forms to be used in connection with *original broker applications* are now available at all offices of the division.

When writing for forms, indicate the type of qualification claimed by the applicant. Better still, the applicant is advised to call personally at any division office, and discuss his qualifications with a deputy.

District Assignments For Deputies

For some time past, each deputy working out of the Sacramento office has been assigned a definite zone within the territory for investigation and subdivision work. The geography of the Sacramento Office territory, comprising the San Joaquin and Sacramento Valleys and the mountain counties from Kern County north to the Oregon line, lends itself to this type of individual assignment.

Because of the apparent success of this plan in the Sacramento area, the Real Estate Commissioner is experimenting with definite territory assignments for deputy personnel working out of the Los Angeles and San Francisco offices. To lay out distinct zones in these areas is more difficult, but it is believed any problems involved can be overcome.

GI Violations

In recent months, several real estate brokers throughout the State have been convicted in the federal courts for participation in transactions in which approved appraisal prices on homes sold to veterans have been exceeded, and so-called "under the table" payments made to the seller.

In all such cases, accusations have been prepared and the matter set for formal hearing to determine if the license should be revoked or suspended. A number of such hearings have been held to date, and in most cases they resulted in license suspensions for the violators.

Salesmen Transferring Employment

The Real Estate Commissioner requires a salesman transferring from the employ of one broker to that of another to obtain the signatures of both brokers on his *transfer request*.

Return of Deposits

Many complaints received against real estate licensees involve failure to return deposits made on the purchase of property when the transaction is not completed. This type of complaint seems to increase with the return of a more normal market.

It is fundamental that the wording in the deposit receipt should be so clear that there can be no dispute as to who is entitled to the deposit in case the transaction is not completed. Provision should be made for the disposition of the deposit no matter who fails to perform and any conditions should be clearly stated.

It is the duty of the licensee who draws up the deposit receipt to incorporate in that instrument wording covering the full intent of the party making the deposit and the intent of the seller who may accept the offer.

It should be thoroughly understood that the agent's authority to accept deposits on behalf of his principal is based upon and limited by the wording of the authorization to sell (listing) he receives from his employer or principal.

A licensee should not hesitate to seek legal advice in case of an involvement regarding the return of a deposit where the contract, facts and the respective rights of all parties are not entirely clear.

Please observe that requests to the division for change of address, cancellation of license, addition of branches, etc., must be personally signed by the affected licensee. Unsigned requests, typewritten signatures, or any signature other than that of the licensee affected cannot be honored, and only result in unnecessary delay and additional correspondence.

It is interesting to note that 10,000,000 people plan to buy or build homes within the next four years according to a study report recently released by the Federal Reserve Board.