

REAL ESTATE BULLETIN

Official Publication of the California Division of Real Estate

GOODWIN J. KNIGHT, Governor

Sacramento, January, 1956

D. D. WATSON, Commissioner

Loan Brokerage Questions Answered

Effect and Application of New Legislation on Handling of Mortgage Loans

Listed below are a number of questions and answers dealing with the new mortgage loan broker law, added to the Civil Code at the last session of the Legislature.

The greater part of these questions have been asked specifically by mortgage loan brokers, requesting an interpretation of certain provisions of the law. These naturally are the more technical type of questions and deal with some of the finer points. The first six questions, also the last question in the series, are of a general nature and more for general information.

All questions and answers, except those just referred to, have been reviewed by the Office of the Attorney General. The reader should have a copy of the law available for reference to the sections mentioned.

1. (Q) *To whom and what does the new mortgage loan broker law apply?*

(A) It applies most directly to any broker or salesman who negotiates a first loan of \$10,000 or less on real estate, or a second loan of \$5,000 or less. It also applies to one who acts as an agent in buying or selling existing trust deeds, and, in one respect, regulates the provisions of short term loans. (See below.) In this latter case, the law regulates the loan even if no broker is involved.

2. (Q) *In what respect does the mortgage loan broker law affect lenders?*

(A) It requires that substantially equal monthly installments, without a balloon payment, be provided for where the loan is for less than three years and installment payments are required. This applies to both first and second trust deed notes. It applies even when no broker is involved. It does not apply if the note is not amortized.

3. (Q) *What does the new mortgage loan broker law do?*

(A) Primarily, it does two things: (1) It requires a broker or salesman to deliver a statement of expenses and charges before the borrower is obligated to complete the loan; and (2) it

limits the commissions and the expenses that can be charged to the borrower.

4. (Q) *Is there any particular form of statement of costs and expenses that must be used?*

(A) Yes, the form must be approved by the Real Estate Commissioner, and the information that must be included is specified in the law. The commissioner has prepared a sample form that may be used, and any differing forms must be submitted for approval.

5. (Q) *Does this law apply to all agents?*

(A) No, certain exemptions are set forth in the law such as bank representatives, FHA loans, agents for building and loan associations, insurance companies, etc.

6. (Q) *What are the penalties for violations of the law?*

(A) Possible revocation or suspension of real estate licenses, treble damages and criminal punishments.

7. (Q) *Certain documents in connection with negotiating a real estate loan must be signed, and copy given to the borrower, at the licensed office of the broker. Does the law permit any forms used in making a loan to be signed at the borrower's home?*

(A) Neither the statement of estimated costs and expenses, nor any compensation agreement with the borrower may be executed at the borrower's home. This must be done at the place of business of the person negotiating a loan as specified in his license. However, the law does not prohibit the broker or salesman from making out any statement which is *informa-*

(Cont. on Page 219)

Contracts May Be Affected By Failure to Observe License and Subdivision Law

The State Legislature has set up various requirements which real estate brokers and subdividers must meet in dealing with the public. Failure to observe these laws may put the broker or subdivider at a serious disadvantage.

Of recent years, the courts have found rather consistently in favor of persons who have sued to rescind deals when procedures defined by the law have been ignored. Therefore, the broker or subdivider should not take these directives lightly, but be sure to comply in every respect.

For instance, the broker who fails to give a copy of a listing to a person who signs it, or who fails to provide a copy of any other real estate contract to which he gets a signature, may find himself in a position where he loses a deal and a large commission. Furthermore, the law states the commissioner may revoke or suspend his license for failure to observe these statutory provisions.

The broker or salesman who is not sure of what is required of him in a transaction, will certainly do well to obtain a copy of the law and study it carefully. The requirements are not numerous, but they are very important.

Likewise, the subdivider who fails to file his subdivision with the com-

(Cont. on Page 223, Col. 3)

LOFTUS REAPPOINTED

Governor Goodwin J. Knight has reappointed Edward M. Loftus, Los Angeles, as a member of the State Real Estate Board (Commission) for a full four-year term starting January 15, 1956. Mr. Loftus had filled the unexpired term of Mr. Leland P. Reeder, deceased.

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Published Bimonthly by the
DIVISION OF REAL ESTATE

STATE OF CALIFORNIA
GOODWIN J. KNIGHT, Governor

D. D. WATSON
Real Estate Commissioner

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**Flying Space Declared
In the Public Domain**

In an unprecedented decision on June 27th, a federal judge ruled out a town's right to bar low-flying planes on airport takeoff. This court decision may have broad effects on every community near an airport in all parts of the Country.

A permanent injunction has been issued against the village of Cedarhurst, Long Island. This community lies at the end of Idlewild International Airport's runways. After a series of crashes in the New York City metropolitan area by planes that were either landing or taking off, Cedarhurst passed a law making it a misdemeanor to fly over the village at less than 1,000 feet. The major airplanes using the airport, the CAB and the Port of New York Authority filed

DISCIPLINARY ACTION—OCTOBER AND NOVEMBER, 1955

NOTE: Any person whose license has been suspended or revoked, or whose license application has been denied, has the right to seek a court review. This must usually be done within 30 days after the effective date of the commissioner's decision.

Therefore a list of actions is not published in this *Bulletin* until the period allowed for court appeal has expired; or, if an appeal is taken, until a final determination of the court action. A list of persons to whom licenses are denied upon application is not published.

LICENSES REVOKED DURING OCTOBER AND NOVEMBER, 1955

Name	Address	Effective date	Violation
Page, Betty Jean..... Real Estate Salesman	775 Post St., San Francisco.....	9/ 1/55	Sec. 10177 (b), (f)
Herring, Willard Edward..... Real Estate Broker	6717 Katherine Ave., Van Nuys	10/ 5/55 (Granted right to restricted licenses)	Secs. 10177 (f) & 10302 (c)
Krause, John..... Business Opportunity Broker	3 Bolinas Rd., Fairfax.....	10/25/55	Secs. 10176 (c), (i); 10177 (f); 10302 (c) & Secs. 2830, 2831 & 2832 of R. E. Comm. Regulations
Bennett, Albert W..... Real Estate Broker	4579 Rolando Blvd., San Diego	11/ 4/55	Secs. 10177 (b) & 10302 (b)
Miller, Donald Wicks..... Real Estate Broker	3261 W. Avenue I, Star Rt. 1, Box G, Lancaster	11/ 8/55	Sec. 10177 (a), (f)
Adams, Harold Stewart..... Real Estate Broker	1874 Sutter St., San Francisco ..	11/15/55 (Granted right to restricted license)	Secs. 10176 (c), (i); 10177 (f) & Secs. 2830, 2831 & 2832 of R. E. Comm. Regulations
Pugh, Lloyd Reed..... Real Estate Broker	1674 W. Second St., Los Angeles	11/17/55	Sec. 10177 (b), (f)
Krantz, Samuel..... Real Estate Broker	Suite 211, 260 S. Beverly Dr., Beverly Hills	11/22/55	Sec. 10177 (b)
Krantz, Samuel..... President of Kranshire Realty and Investment Co.	Suite 211, 260 S. Beverly Dr., Beverly Hills	11/22/55	Sec. 10177 (b)

LICENSES SUSPENDED DURING OCTOBER AND NOVEMBER, 1955

Name	Address	Effective date and term	Violation
Richards, Marion Sands..... dba Richards Realty Co. Real Estate Broker	2988 National Ave., San Diego..	9/ 6/55 90 days	Secs. 10176 (g) & 10177 (f)
Higgs, Leo C..... Real Estate Broker	2842 Sacramento St., Berkeley..	10/13/55 90 days	Secs. 10176 (i) & 10177 (f)
Graham, Wells Fremont..... Real Estate Broker	39 S. Euclid Ave., Pasadena....	10/21/55 60 days (50 days suspended)	Secs. 10160; 10162 & 10164
VanLanigan, Leona Beatrice..... Real Estate Salesman	806 S. Robertson Blvd., Los Angeles	10/21/55 60 days	Sec. 10177 (a), (d), (f)
Thomas, Rollo Harlan..... Real Estate Broker	13600 Oxnard St., Van Nuys....	11/ 1/55 30 days	Secs. 10176 (a), (i) & 10177 (f)
Botts, Ernest Jasper..... Real Estate Broker	2700 Imperial Ave., San Diego..	11/ 1/55 30 days	Secs. 10176 (i) & 10177 (d), (f)
Winbourne, Tom Ballard..... Restricted Real Estate Broker	4701 N. Maine St., Baldwin Park	11/21/55	Sec. 10156.7
Sheldon, Marvin Leopold..... Real Estate Salesman Business Opportunity Salesman	980 Sutter St., San Francisco...	Indefinitely 11/30/55 6 months	Secs. 10141; 10176 (a), (b), (d), (g), (i); 10177 (f); 10262; 10301 (a), (b), (d), (g), (i) & 10302

suit seeking an injunction against the village.

After a nonjury trial, Judge Bruchhausen issued his findings in a 36-page decision. According to United Press, he declared the Cedarhurst statute null and void and issued the injunction, claiming that the doctrine, "he who owns the land owns the air above it," is no longer completely valid. In this concept air space is part of the public domain.

Moreover, the judge stated that Congress has adopted comprehensive air-traffic plans for operations around airports and therefore municipalities do not have the power to establish their own regulations on flying. It was apparent to the judge that any rulings requiring "air pilots to maintain altitudes of at least 1,000 feet do not apply to aircraft engaged in takeoffs or landings."

(From *Urban Land* published by *Urban Land Institute.*)

Mortgage Loan Brokerage Questions and Answers

(Cont. from Page 217)

itive only and preliminary to making an agreement, away from the office.

8. (Q) *At what point during the negotiations for the loan must the statement of information to the borrower be executed?*

(A) The law does not specify, so the statement can be executed and furnished to the borrower at any time during the loan process. The statement must be executed and delivered to the borrower, before borrower is obligated to complete the loan.

9. (Q) *Section 3081.921 of the Civil Code refers to persons who, for compensation, sell, purchase for resale, etc., trust deed or mortgage notes, and fixes the maximum charges as provided in Section 3081.3(b). Does this section apply only to agents, or does it apply to principals as well, who speculate in mortgages and trust deeds?*

(A) This section applies to agents who negotiate sales, purchases, etc., for a compensation, and does not apply to an individual who buys and resells a mortgage or trust deed note, as a principal. The law is not designed to prohibit speculation by principals, provided there is no subterfuge to evade the provisions of the law.

10. (Q) *The law provides for the commissioner to approve the form of the statement to be given borrowers setting forth the itemized costs. The commissioner has adopted a standard approved form. May this form be incorporated in an application agreement?*

(A) There is no legal prohibition. However, any such form must be submitted to the commissioner for approval to determine that none of the material controverts the standard form.

11. (Q) *In the event of default by the borrower after he has signed the loan agreement, may the broker lawfully charge the borrower the agreed commission and other expense outlays he has actually made?*

(A) Assuming the broker is able and ready to arrange the loan as specified in the agreement, there is no prohibition against the broker charging the borrower the agreed commission and other expense outlays he has actually made except, in the situation covered by Section 3081.4; namely, when the loan is not consummated due to the failure of the borrower to disclose the outstanding liens upon the real property, then the borrower is liable for the costs and expenses actually incurred by the broker [Section

3081.2(a)] and for charges in an amount not to exceed one-half of the charges authorized by paragraph (b) of Section 3081.2.

12. (Q) *Would it be contrary to the provisions of the law for the contract with the borrower to provide that he must pay reasonable attorney's fees of the broker's attorney, in event it becomes necessary for the broker to employ an attorney for the purpose of collecting any amounts due the broker?*

(A) The sections of the Civil Code under discussion do not prohibit such a provision in the agreement.

13. (Q) *Do the limits placed on the broker's charges in event he sells an existing note apply to the principal amount of the note, or the unpaid principal of the note at the time of the sale?*

(A) To the unpaid principal balance of the note.

14. (Q) *These sections of the Civil Code limit the amount of costs, expenses and charges which may be imposed by the broker upon the borrower. May the broker lawfully accept a commission from the lender in addition to the amounts received by him from the borrower?*

(A) Yes, provided there is full disclosure of the fact to both borrower and lender, and their consent received, and the practice is not used as a subterfuge to violate the intent of the law.

15. (Q) *Does the fact that a broker is a loan correspondent for an insurance company permit him to negotiate private loans (i.e., loans negotiated other than as an agent of an insurance company) without complying with the mortgage loan broker law?*

(A) No.

16. (Q) *Must the statement of estimated costs and expenses or compensation agreements referred to in Section 3081.1 be executed at the licensed place of business of the agent negotiating the loan in every instance, in view of the difficulty in dealing with a resident of another state, persons ill at home or in the hospital, etc.?*

(A) The law makes no exceptions. It makes the following definite provision: "Such statement and any other compensation agreement with the borrower shall be executed at the place of business of the person negotiating the loan as specified in his license."

17. (Q) *The last clause of the first paragraph of Section 3081.5 states, " * * * provided, that no installment including the final one shall be greater than twice the amount of the smallest installment." Does this apply only to loans for less than three years?*

(A) Yes.

18. (Q) *Under the mortgage loan broker law, may a broker negotiating a loan charge a fee for appraisal, escrow and notary services if he actually performs these services in connection with the loan?*

(A) Yes, under the proviso that the services must actually be performed by the broker (Section 3081.2(a)).

19. (Q) *Is it permissible for a broker to negotiate a loan for less than three years and provide for no installment payments on the note, the principal and interest to be payable on a due date?*

(A) Yes. The law provides that when installment payments are provided, they must be substantially equal over the period of the loan, if said loan is for less than three years. (Section 3081.5.)

20. (Q) *If the mortgage or trust deed loan note is written for three years or more, does the equal installment provision apply?*

(A) No. It applies to a note, the maturity date of which is less than three years.

21. (Q) *Do the provisions limiting the charges, commissions, etc., and the giving of a statement of estimated cost to the borrower apply to a lender who does not negotiate through a broker?*

(A) No. However, he should take care to see that his charges do not make the rate usurious.

22. (Q) *If a person buys a trust deed note that was given prior to the effective date of the law, and said note is not amortized in accordance with the provisions of the present law, what is the present holder's position?*

(A) He is not in violation while he holds the original note. He is probably governed by the terms of the law in connection with any renewal of the note.

23. (Q) *Does the law apply in case of sale of an existing note insured or guaranteed by FHA or VA?*

(A) No. The provisions do not apply to any loan guaranteed or insured by an agency of the Federal Government or for which a commitment to so guarantee or insure has been made by such agency.

24. (Q) *Do the provisions of the law apply to loans in any amount?*

(A) No. They do not apply to any bona fide first loan amounting to more than \$10,000, or a second loan, or any lien junior thereto, for more than \$5,000.

(Cont. on Page 223, Col. 1)

Real Estate Education Offered Again

Spring Schedule of University Extension Realty Courses Is Announced

Specialized real estate courses at the professional level will again be offered this spring by University of California, University Extension, in cooperation with the Division of Real Estate and the California Real Estate Association.

This program of instruction in real estate subjects, which may lead to award of the Certificate in Real Estate, was initiated for the benefit of the working real estate men and women of California. Only those persons who are already licensed as real estate brokers or salesmen, or who are engaged in work in closely allied fields, or who have already started on the program, are eligible for registration in most of the courses. They are not intended for persons studying for license examinations.

Many licensees who have not had the advantage of a formal education in real estate subjects have found the real estate certificate program of great value. It offers an opportunity to learn more about specialized phases of the real estate field under competent, practical instructors.

Certificate in Real Estate

A Certificate in Real Estate is awarded by University Extension to those who complete with satisfactory grades eight courses in the program. It is possible to obtain the certificate in two years time if enrollment is made in two courses each term.

Until comparatively recently there has been little opportunity for formal education in real estate and the Certificate in Real Estate is rapidly gaining recognition as a measure of professional stature. In many cases, professional education has meant improved service to clients and customers with resultant increased earnings.

Program is State-wide

University Extension courses in real estate will be offered any place in the State where there is sufficient demand. If the schedule given below does not show courses in your vicinity and you feel there is enough interest to warrant bringing them to your community, get in touch with the nearest real estate board or write directly to University Extension, 540 Powell Street,

San Francisco, or 813 S. Hill Street, Los Angeles.

A nominal enrollment charge is made for each course. Courses are given in the evening, the usual meeting lasting 2½ hours. Following is the spring schedule, giving place, starting date and class hours.

SPRING PROGRAM, 1956

SOUTHERN AREA

Los Angeles: Hillstreet Building
Elements of Real Estate and Urban Land Economics XL 180—Tues., Feb. 7, 7-9.30 p.m.
Real Estate Practice X 482AB—Wed., Feb. 22, 7-9.30 p.m. and Fri., Feb. 24, 7-9.30 p.m.
Legal Aspects of Real Estate X 483AB—Wed., Feb. 22, 7-9.30 p.m.
Real Estate Finance X 484AB—Thurs., Feb. 23, 7-9.30 p.m.
Advanced Real Estate Appraisal X 490ABC, Tues., Feb. 7, 7-9.30 p.m. (Class limited to 45 students)

Westwood: U.C.L.A. (B. A. E.)
Elements of Real Estate and Urban Land Economics XL 180—Tues., Feb. 7, 7-9.30 p.m.
Real Estate Practice X 482AB—Wed., Feb. 22, 7-9.30 p.m.
Legal Aspects of Real Estate X 483AB—Mon., Feb. 20, 7-9.30 p.m.
Real Estate Finance X 484AB—Wed., Feb. 22, 7-9.30 p.m.
Valuation of Real Property XL 181—Tues., Feb. 7, 7-9.30 p.m. (Class limited to 45 students)
Advanced Real Estate Appraisal X 490ABC—Tues., Feb. 7, 7-9.30 p.m. (Class limited to 45 students)
Property Management X 491AB—Mon., Feb. 20, 7-9.30 p.m.
Real Estate Exchanges and Taxation X 494AB (An approved Group Three Elective)—Wed., Feb. 22, 7-9.30 p.m. (Class limited to 35 students)
Economic Aspects of Residential Construction and Design X 493AB (Not open to students who have credit for Engineering X 419AB, Architectural Design and Construction for the Realty Profession) (An approved Group Three Elective)—Thurs., Feb. 23, 7-9.30 p.m.

Alhambra: Alhambra High School
Real Estate Practice X 482AB—Thurs., Feb. 23, 7-9.30 p.m.
Legal Aspects of Real Estate X 483AB—Tues., Feb. 21, 7-9.30 p.m.

Real Estate Finance X 484AB—Mon., Feb. 20, 7-9.30 p.m.

Valuation of Real Property XL 181—Thurs., Feb. 9, 7-9.30 p.m. (Class limited to 45 students)

Real Estate Exchanges and Taxation X 494AB (An approved Group Three Elective)—Tues., Feb. 21, 7-9.30 p.m. (Class limited to 35 students)

Downey: South Junior High School, 12500 South Birchdale

Real Estate Practice X 482AB—Tues., Feb. 21, 7-9.30 p.m.

Legal Aspects of Real Estate X 483AB—Thurs., Feb. 23, 7-9.30 p.m.

Advanced Real Estate Appraisal X 490ABC—Mon., Feb. 6, 7-9.30 p.m. (Class limited to 45 students)

Fullerton: Fullerton Junior College

Real Estate Practice X 482AB—Mon., Feb. 20, 7-9.30 p.m.

Real Estate Finance X 484AB—Wed., Feb. 29, 7-9.30 p.m.

Riverside: University of California

Real Estate Finance X 484AB—Tues., Feb. 21, 7-9.30 p.m.

Advanced Real Estate Appraisal X 490ABC—Mon., Feb. 6, 7-9.30 p.m. (Class limited to 45 students)

Property Management X 491AB—Wed., Feb. 22, 7-9.30 p.m.

San Diego: Roosevelt Junior High School, 3366 Park Blvd.

Real Estate Practice X 482AB—Thurs., Feb. 9, 7-9.30 p.m. (Class limited to 40 students)

Legal Aspects of Real Estate X 483AB—Wed., Feb. 8, 7-9.30 p.m.

Advanced Real Estate Appraisal X 490ABC—Thurs., Feb. 9, 7-9.30 p.m. (Class limited to 45 students)

Economic Aspects of Residential Construction and Design X 493AB—Mon., Feb. 6, 7-9.30 p.m.

Real Estate Exchanges and Taxation X 494AB—Tues., Feb. 7, 7-9.30 p.m. (Class limited to 35 students)

South Bay Area: Redondo Union High School, Redondo Beach

Valuation of Real Property XL 181—Tues., Feb. 7, 7-9.30 p.m. (Class limited to 45 students)

NORTHERN AREA

Berkeley Campus: Dwinelle Hall

Legal Aspects of Real Estate 824AB—Mon., Feb. 27, 7-9.30 p.m.

Residential Construction and Design 857AB—Tues., Feb. 28, 7-9.30 p.m.

Principles of Real Estate Appraisal 860ABC—Thurs., Mar. 1, 7-9.30 p.m.

City and Regional Planning X 153CD (An approved Group Three Elective)—Wed., Feb. 1, 7.30-10 p.m.

Concord: Pleasant Hill High School, Room 502

Real Estate Finance 806AB—Wed., Feb. 15, 7-9.30 p.m.

(Cont. next page)

North State Schedule

(Cont. from preceding page)

- Hayward: 21144 East 14th Street,
Conference Room
Economics of Real Estate 886AB—Wed.,
Feb. 29, 7-9.30 p.m.
- Oakland: 1730 Franklin Street
Economics of Real Estate 886AB—Mon.,
Feb. 6, 7-9.30 p.m.
Real Estate Practice 804AB—Tues., Feb.
7, 7-9.30 p.m.
Real Estate Finance 806AB—Thurs., Feb.
23, 7-9.30 p.m.
Advanced Real Estate Appraisal 887ABC—
Mon., Feb. 27, 7-9.30 p.m.
Commercial and Investment Properties
880AB—Thurs., Mar. 1, 7-9.30 p.m.
Advanced Real Estate Practice 885AB—
Thurs., Feb. 23, 7-9.30 p.m.
- Fresno: Fresno Realty Board Auditorium,
2123 Amador Street
Property Management 842AB—Wed., Mar.
7, 7-9.30 p.m.
- Marin County: San Rafael High School,
Room 61
Real Estate Finance 806AB—Wed., Feb.
29, 7-9.30 p.m.
- Modesto: Modesto Junior College
Legal Aspects of Real Estate 824AB—
Wed., Feb. 8, 7-9.30 p.m.
City and Regional Planning X 153AB (An
approved Group Three Elective)—
Tues., Jan. 31, 7-9.30 p.m.
- Napa: Napa Junior College, Room 34
Principles of Real Estate Appraisal
860ABC—Tues., Mar. 6, 7-9.30 p.m.
- Burlingame: Burlingame High School,
Room 16
Real Estate Finance 806AB—Wed., Feb.
29, 7-9.30 p.m.
Real Estate Practice 804AB—Thurs., Feb.
9, 7-9.00 p.m.
- Los Altos: Mountain View High School,
Room 26
Real Estate Practice 804AB—Tues., Feb.
28, 7-9.30 p.m.
- Palo Alto: Jordan Junior High School,
Room F-5
Principles of Real Estate Appraisal
860ABC—Tues., Feb. 7, 7-9.30 p.m.
- Redding: Location and room to be an-
nounced
Real Estate Practice 804AB—Fri., Mar. 9,
2-4.30 p.m. and 7-9.30 p.m.; Sat., Mar.
10, 9-11.30 a.m. (Classes will meet on
alternate weekends)
- Sacramento: 1020 N Street, Room 102
Property Management 842AB—Tues., Feb.
14, 7-9.30 p.m.
Residential Construction and Design
857AB—Mon., Feb. 20, 7-9.30 p.m.
- San Francisco: 140 Montgomery Street
Real Estate Practice 804AB—Wed., Feb.
8, 7-9.30 p.m.
Real Estate Finance 806AB—Tues., Feb.
21, 7-9.30 p.m.
- Principles of Real Estate Appraisal
860ABC—Mon., Feb. 13, 7-9.30 p.m.
Legal Aspects of Real Estate 824AB—
Tues., Feb. 21, 7-9.30 p.m.
Residential Construction and Design
857AB—Tues., Feb. 14, 7-9.30 p.m.
- San Francisco: 540 Powell Street
Property Management 842AB—Mon., Feb.
27, 7-9.30 p.m.
- Santa Cruz: Santa Cruz High School, Sci-
ence Bldg., Room 2
Salesmanship 841AB—Thurs., Mar. 1,
7-9.30 p.m.
- Stockton: Stockton College, Library Bldg.
Economics of Real Estate 886AB—Wed.,
Mar. 7, 7-9.30 p.m.
- Vallejo: Vallejo Junior College, Room 42
Property and Casualty Insurance 871ABC
—Thurs., Feb. 2, 7-9.30 p.m.
- Visalia: Mt. Whitney High School,
Room R-2
Legal Aspects of Real Estate 824AB—
Tues., Feb. 14, 7-9.30 p.m.

Broker-Salesman Employment Contracts Useful When Salesman Moves to New Employment, Contract Averts Difficulties

There is often much dissension and bickering when a salesman leaves one broker's employ, and enters the employ of another. The Division of Real Estate receives numerous calls from such salesmen who complain that the brokers they are leaving are making unreasonable demands upon them, refusing to sign their transfer applications, and various other things. Then the broker often complains that the salesman has not given him notice, has "stolen" his listings, intends to sell to his prospects, etc.

Usually when the complaint is sufficiently serious for the division to make some inquiry, it has been found that the dissension could have been avoided had there been a better understanding of the employment relationship. Then again, often the broker is disgruntled over losing the services of a producing salesman, or the salesman has become unhappy because he feels that the broker has shown favoritism to other salesmen in furnishing leads, and otherwise aiding them.

Contract At Beginning

A great many of these misunderstandings could be eliminated by entering into a rather definite contract when the salesman is employed. We have previously discussed the careless manner in which many brokers put a salesman to work. One salesman reported he had to find out about his commission arrangement from other salesmen. While he was assigned a desk, he was not advised as to work-

ing hours, area he was to cover, or what listings were available to him. **It is understandable that misunderstandings and disputes will arise between the broker and salesmen when the employment arrangements are so carelessly made.**

One purpose of the requirement that the broker the salesman is leaving sign the transfer application is to insure he is given proper notice of the change. Without this requirement, a salesman might transfer to another broker and work for him for some time before his former broker became aware of the move. This actually happened in the old days before the rule was adopted. It is not intended that a broker may put a salesman out of business merely by refusing to sign his transfer. That is not the purpose of the requirement.

Broker Bound to Report Dishonesty

If the broker feels that the salesman has been dishonest in any respect or has otherwise violated the provisions of the license law, he is duty-bound to report the facts immediately to the commissioner. The law requires this action. But the broker has no right to refuse to sign a salesman's transfer application. His remedy is to report any misconduct to the commissioner without delay.

Signing the transfer also serves the purpose of notifying the commissioner that the erstwhile employing broker is no longer responsible for the salesman's actions. Whether the old or new broker signs the transfer application first is not of great importance. The main thing is that the transfer application form bear both signatures.

When the salesman mails or brings in the transfer application, his pocket card should be attached so that the exact license record is available to the division. The salesman license itself is to be sent in by the broker.

New Mortgage Loan Broker's Statement Adopted

Reproduced alongside is the Mortgage Loan Broker's Statement form which has been approved by the Real Estate Commissioner. It was adopted officially on December 9, 1955, and supersedes the earlier form which appeared in the September *Bulletin*.

An exact copy of this statement (except that type size must be no less than 10 pt.) must be used by mortgage loan brokers when negotiating loans in compliance with Section 3081.1 of the Civil Code, effective October 1, 1955.

Any mortgage loan broker who wants to use a form differing in any respect from the form approved by the commissioner may seek approval of the proposed form by filing a copy at any office of the division with a request for consideration.

The mortgage loan broker is required to deliver an exact copy of the filled-in statement form to the borrower at the time the borrower signs it. The agent keeps a copy on file for a period of three years after the date of signing. The purpose of the entire requirement is to inform the borrower fully of the terms of the transaction in which he is involved.

The new form was devised and approved by the Real Estate Commissioner with the advice of the Attorney General after suggestions from the industry had been carefully weighed. It is believed the new form is much easier to use, while still complying to the letter and spirit of the law regulating mortgage loan brokerage.

Sample Form Available

The commissioner has prepared sample copies of the approved Mortgage Loan Broker's Statement form. They are printed in proper type size on legal-size paper, with all information required by law on one side of the paper. On the back of the sheet, in position after tumbling, is space for the required signatures. Anyone interested may pick up a copy of this sample form at any office of the division or can have one mailed by writing to the Division of Real Estate, 1021 O Street, Sacramento.

(SAMPLE FORM)

JOHN DOE REAL ESTATE CO.
SACRAMENTO, CALIFORNIA

LICENSE NO.

MORTGAGE LOAN BROKER'S STATEMENT

Description and address of property involved.....

Statement of all liens against property as disclosed by borrower:

..... \$.....
 \$.....
 \$.....

1. Description of loans to be secured:

Principal sum of the note \$..... Rate of interest per annum%
 Estimated amount of interest, if scheduled payments are made per contract, is \$.....
 Term of note..... Number of installments.....
 Amount of each installment which includes interest and principal . . . \$.....
 Approximate balance due at maturity \$.....
 Terms of prepayment privilege, if any.....

2. Costs, expenses, charges and funds to lien holders and creditors:

(a) Maximum costs and expenses estimated by broker:

- 1. Any premium or other charges for insurance, other than fire insurance \$.....
- 2. Appraisal fees \$.....
- 3. Escrow fees \$.....
- 4. Notary and recording fees \$.....
- 5. Credit investigation fees \$.....

Give below any other costs and expenses

- 6. \$.....
- 7. \$.....
- 8. \$.....

Total costs and expenses (1 to 8 inclusive) \$.....

(b) Total charges, other than above, including bonuses, brokerage or commissions for negotiating, procuring, arranging or servicing loan to be paid to broker \$.....

(c) Borrower's estimate of amount of loan funds to be paid to prior lien holders or borrower's creditors.

Names and addresses of persons to be so paid, with amounts:

..... \$.....
 \$.....
 \$.....
 \$.....

Total funds to lien holders and creditors \$.....

TOTAL COST, EXPENSES, CHARGES AND FUNDS TO LIEN HOLDERS AND CREDITORS . . . \$.....

3. Recapitulation:

Principal sum of the note \$.....
 Less: Costs, expenses, charges and funds to lien holders and creditors \$.....

4. Balance to be delivered to borrower \$.....
 (Based upon borrower's representations as to liens and debts)

(Reverse side—See next page)

Mortgage Loan Questions

(Cont. from Page 219)

25. (Q) If the contract is in accordance with Section 3081.5, and later the lender agrees to accept reduced installment payments which cause the final payment to be more than twice the amount of the lowest payment, and the loan is for less than three years, is the broker or lender in violation under Section 3081.5?

(A) No, unless there was an understanding at the time the note was executed that the prescribed installment payments would be reduced after the execution of the loan so that the final payment would be more than twice the amount of the lowest payment.

26. (Q) The agent for an insurance company negotiates a loan for the company. Must he give the borrower a copy of estimated costs and expenses?

(A) No. However, any provision of the Real Estate Law (license) must be observed with respect to giving the person signing a copy of any agreement pertaining to any service for which a license is required. (See Section 10142 of Business and Professions Code.)

27. (Q) May a real estate broker use trust deeds as part payment on the sale of a property, if submitted by the purchaser?

(A) Yes. The mortgage loan broker law does not control this.

28. (Q) Is a collection charge collected by the broker from the borrower for receiving payments and transferring them to the lender one of the charges included in Civil Code Section 3081.2(b)?

(A) Section 3081.2(b) and Section 3081.3(b) provide that the total amount of the charges include any fees to be received by the broker for the "servicing" of a loan. Servicing charges would include the collection fee referred to in the question.

29. (Q) Where can I get a copy of these laws?

Reverse of Sample Form

The undersigned broker hereby certifies that the above-described loan is being made in compliance with Chapter 8, Title 14 of Part 4 of Division 3, of the Civil Code of the State of California.

SIGNED AT....., ON
Street Address City State
 THE..... DAY OF....., 195....., AND THE BORROWER HEREBY ACKNOWLEDGES
 RECEIPT OF COPY OF THIS STATEMENT.

JOHN DOE REAL ESTATE CO. Lic. No.....
 By

Do not sign this statement in blank

.....
BROKER OR AUTHORIZED REPRESENTATIVE

.....
BORROWER

.....
BORROWER

(Sec. 3081.1, Civil Code, requires that this statement must be executed at the place of business, as specified in the license, of the person negotiating this loan.)

State Wants L. A. Office Space; Will Sell Some Realty

A state lease on approximately 85,000 square feet of space in a Los Angeles office building at Fourth and Hill Streets expires in August, 1956, and the State Department of Finance invites immediate submission of competitive offers on alternative locations. The space to be leased will house offices of the Board of Equalization, Department of Alcoholic Beverage Control, Department of Education, Department of Industrial Relations, and others.

A new state-owned office building to be erected at First and Broadway in downtown Los Angeles is now in planning, and premises for the above-named agencies will be leased for a term of three to five years, pending completion of the new state building. For further particulars, interested brokers should contact the Property Acquisition Division of the Department of Finance, State Capitol, Sacramento.

State Lands for Sale

Hunters, fishermen and boat owners might be interested in the State's proposed sale of two San Joaquin River islands located a few miles northwest of Stockton. The islands are known as Vulcan and Walters, comprise approximately 24 acres and 18 acres respectively, and will be sold at public auction in Stockton, probably within the next 30 days.

Other properties to be sold within the next 30 to 60 days by the State (these on a sealed bid basis) include:

(A) Any Division of Real Estate office will sell you a copy of the Real Estate Law pamphlet, which includes these provisions, at a cost of 25 cents plus 1 cent tax.

A 26.5-acre parcel located near San Bernardino and described as suitable for subdivision purposes.

Some 298 acres of rugged hill land in back of the Veterans' Home at Yountville in Napa County.

A 15-acre parcel of farm land, complete with residence, barn, well, etc., in the heart of the Napa Valley, near Yountville.

Two residential lots, 2.52 and 4.84 acres respectively, located near Atascadero State Hospital in San Luis Obispo County.

Complete information on all of these properties and instructions on how to submit offers may be obtained by writing to Property Acquisition Division, Department of Finance, Room 5154, State Capitol, Sacramento.

Deficiencies In Contracts

(Cont. from Page 217, Col. 3)

missioner, or who fails to impound the deposit money or comply with permitted alternatives specified by law and adopted regulation, may come to grief. Court rescission of sales contracts may result. In addition, the subdivider may find himself enjoined from further sales by the commissioner.

Subdivision Manual in Preparation

The subdivision regulations are comparatively clear and simple. Any subdivider who feels he needs further information concerning them is welcome to contact any office of the Division of Real Estate for advice. The commissioner now has in preparation a brief manual which will be available for distribution in the near future. This will outline the necessary steps to be taken and the rules to be observed.

An important thing for a subdivider to remember is that, whenever he changes the setup of his subdivision by rearranging his sales program, changing his contract forms, or in any other way deviating from the plan he has submitted to the commissioner, he should immediately notify the division. Such changes without notification have been held by the courts to be grounds for the buyers to rescind.

BULLETIN SUBJECT INDEX

Editor's Note: This index covers articles appearing in *Bulletins* issued during 1955. For earlier years, see indexes in January, 1955, and January, 1953, issues.

A number of readers maintain complete *Bulletin* files in three-ring binders and the indexes are compiled chiefly for their benefit.

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