



REAL ESTATE

Bulletin

EDMUND G. BROWN, *Governor*

January-February 1959

F. W. GRIESINGER, *Commissioner*

New Regulation Adopted

All Loan Costs To Be Revealed To Borrower

A new official regulation further detailing loan costs which must be shown in the Mortgage Loan Broker's Statement has been adopted by the Real Estate Commissioner.

When a broker charges a borrower a commission for getting a loan, he must first furnish the borrower with a filled out Mortgage Loan Broker's Statement. This statement sets forth the terms of the loan, the charges to be made and other pertinent information. The form is signed by the broker, then by the borrowers. The object, of course, is to make sure the borrower knows how much money he will actually get and how much the service is costing him.

The new regulation provides that *all loan costs and expenses, including reconveyance fees, title costs, existing loan charges, etc.*, must be shown on the statement which the borrower receives.

Regulation Adopted

The official text of the new regulation which became effective January 15, 1959, follows:

"Section 2842.7. *Costs and Expenses to Be Shown on Mortgage Loan Broker's Statement.* The costs and expenses provided for in Section 3081.2(a) of the Civil Code shall include all costs to the borrower in connection with the making of the loan except the charges provided for in Section 3081.2(b). These costs and expenses shall include the following as well as all others: charges made by existing loans, costs of investigating or guaranteeing title, reconveyance fees, and forwarding fees. All such costs and expenses shall be shown on the statement required by Section 3081.1 of the Civil Code."

LATE REPORT

NEW COMMISSIONER APPOINTED

Governor Edmund G. Brown has announced the appointment of Wynne A. Savage, San Bernardino, as Real Estate Commissioner, the appointment to be effective about March 1, 1959.

Mr. Savage will succeed Fred A. Griesinger, Arcadia, who has held the post for approximately two years. As Real Estate Commissioner Mr. Savage will serve as a member of the Governor's Council and becomes a voting member of the State Public Works Board.

Donald McClure has been re-appointed Assistant Commissioner, having served in this capacity since 1955. Mr. McClure, as Assistant Commissioner, is the chief administrative officer of the Division of Real Estate.

Legislators Act to Keep Mortgage Loan Broker Law

Assembly Bill No. 122 extending the life of the "Mortgage Loan Brokerage Law" has been introduced in the California Legislature. Unless this or similar legislation is passed, the law, which became effective on October 1, 1955, will expire this year.

Thirty-eight Assemblymen, including Charles E. Chapel who introduced the original legislation in 1955, are listed as sponsors of the bill. The mortgage loan brokerage law (Secs. 3081.1 through 3081.93 of the Civil Code) sets maximum commissions and charges for certain specified types of loans secured by real property and requires the filling out of a "Mortgage Loan Broker's Statement."

Commission Policy

Certificate Courses Count Toward Broker's License

The State Real Estate Commission has adopted the policy of crediting the candidate for broker license with the equivalent of one year's experience as a real estate salesman when the candidate holds a Certificate in Real Estate awarded by the University of California Extension Division.

The Real Estate Law stipulates that an applicant for original real estate broker license must have had two years of full-time active experience as a real estate salesman, or equivalent general real estate experience, or specialized real estate education as part of four-year college or university course. According to the commission's policy, one satisfactory combination of these qualifying elements would be: verified full-time work as a licensed salesman for one year plus attainment of the Certificate in Real Estate.

Any claim of qualification for real estate broker license, other than a claim based upon two years of full-time experience as a licensed salesman, is considered by a committee composed of at least three members of the State Real Estate Commission, which either approves or disapproves it or determines what, if any, partial credit may be given.

Certificate Requirements

A Certificate in Real Estate is an award made by the University Extension
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REAL ESTATE BULLETIN

Official Publication of the
California Division of Real Estate

January-February 1959

Published Bimonthly in Sacramento by the
DIVISION OF REAL ESTATE

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EDMUND G. BROWN, Governor

F. W. GRIESINGER
Real Estate Commissioner

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NEW M. O. & G. EXAM

A new examination for renew-
able mineral, oil and gas license
is being given to those taking
their final exams for that license.

Prospective examinees should
study the Division of Real Es-
tate's new *Reference Book* and
Bulletins No. 177 and No. 42,
published by the State Division
of Mines.

The new examination contains
questions on gas, oil and mineral
operations and on minerals, valua-
tion and financing, plus prob-
lems in filling out forms com-
monly used in the business.

DISCIPLINARY ACTION—OCTOBER, 1958, AND NOVEMBER, 1958

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. Names of persons to whom licenses are denied upon application are not published.

**Licenses Revoked During October, 1958,
And November, 1958**

Name	Address	Effective date	Violation
May, Edwin Hendrickson..... Real Estate Broker	1122 S. Robertson Blvd., Los Angeles	10/ 3/58	Secs. 10137; 10176(a), (i) & 10177(f)
Developers Sales Corp., Edwin Hen- drickson May—Subdivision Mgr. Real Estate Corporation	1122 S. Robertson Blvd., Los Angeles	10/ 3/58	Secs. 10137; 10176(a), (i) & 10177(f)
Thompson, Thomas Waddy..... Real Estate Salesman	116 S. Date St., Rialto.....	10/ 3/58	Secs. 10176(e), (i) & 10177(f)
Caskey, Charles Pete..... Real Estate Broker	c/o Ted Caskey, Box 532, North Hollywood	10/ 8/58	Secs. 10176(a), (i) & 10177(f)
Grisham, Kelcie Clarence..... Real Estate Broker Business Opportunity Broker	283 S. Livermore Ave., Livermore	10/10/58	Secs. 10176(e), (i); 10177(d), (f); 10302(d), (e); Secs. 2830, 2831 & 2832 of R.E. Comm. Rules and Regulations
Osborne, Anne H..... Real Estate Salesman	Terminal Island, Box 7, San Pedro	10/22/58	Sec. 10177(b)
Cheney, Jack Hestwood..... dba Best Properties Real Estate Broker	1367 W. Holt, Ontario.....	10/25/58	Secs. 10176(i) & 10177(f)
Harvey, Martin..... Real Estate Salesman	117 Pearl St., Monterey.....	11/ 5/58 (Granted right to restricted license on terms and conditions)	Secs. 10177(b) & (f)
Strather, Cordella Mary..... Real Estate Broker	651 E. 45th St., Los Angeles 11	11/13/58	Sec. 10177(f)
Wentworth, Leon Haldin..... Real Estate Broker Business Opportunity Broker	1112 Coloma Way, Roseville....	11/17/58	Secs. 10176(a), (e), (g), (i); 10177(f) & 10302(e)
Ryan, Timothy Edward..... Real Estate Salesman	1242 N. Crescent Heights, Los Angeles 46	11/20/58	Secs. 10177(b) & (f)
Seymour, Russell Neil..... Real Estate Salesman Business Opportunity Salesman	1762 Borden St., San Mateo....	11/24/58 (Permanently stayed on terms and conditions after period 275 days)	Secs. 10177(f) & 10302(e)
Young, Steven Peter..... dba The Steven P. Young Company Real Estate Broker	264 N. Hwy. 101, Encinitas.....	11/26/58	Secs. 10176(e), (i); 10177(d); Secs. 2830 & 2831 of R.E. Comm. Rules and Regulations

**Licenses Suspended During October, 1958,
And November, 1958**

Name	Address	Effective date and term	Violation
Allen, Manuel Lee..... Real Estate Broker	7552 Westminster Blvd., West- minster	10/ 3/58 90 days (60 days of suspen- sion stayed for period one year)	Secs. 10137; 10176(e); 10177(d), (f), (g) & (h)
Pett, Miles Max..... Real Estate Salesman	8082 Bolsa, Midway City.....	10/ 3/58 30 days	Secs. 10137; 10176(e); 10177(d) & (f)
Johnson, Frank Pierce..... Real Estate Broker	1319 S. Main St., Santa Ana....	10/28/58 10 days	Secs. 10176(e), (i) & 10177(f)
MacDonald, Dorothy Dickens..... Real Estate Broker	2308 Union St., San Francisco..	11/17/58 60 days (Stayed perman- ently)	Secs. 10176(e), (i); 10177(f); Sec. 2830 of R.E. Comm. Rules and Regulations
Carmen, Sandra Ann..... dba Carmen Realty Co. Real Estate Broker	8221 DeLongpre, Los Angeles 46.	11/20/58 30 days	Secs. 10177(b) & (f)
Wotring, William Edward..... Real Estate Salesman	524 Dryad Rd., Santa Monica ..	11/20/58 60 days (Stayed for one year)	Sec. 10177(b)
Lesinsky, Rudolph..... Real Estate Broker	3617 Whittier Blvd., Los Angeles	11/21/58 30 days	Secs. 10176(a), (i) & 10177(f)
Grisanti, Robert David..... Real Estate Broker	726 S. Soto St., Los Angeles....	11/21/58 15 days	Secs. 10176(a), (i) & 10177(f)
Jaques, Frank Zurr..... Restricted Real Estate Broker	1610 Jefferson St., Napa.....	11/17/58 Indefinitely	Sec. 10156.7

Spring 1959 Real Estate Certificate Program

Presented by University Extension, University of California
For Continuing Studies in Real Estate

Brokers, salesmen and students throughout the State can take advantage of a spring program of refresher courses and specialized training offered by the University Extension, University of California. Courses in the Certificate Program in Real Estate are designed to broaden the broker's or salesman's knowledge of fields in which he already has some work experience, or introduce him to new opportunities which depend upon learning essentials of such specialized fields as commercial and investment properties, property management and advanced appraisal. The courses attempt to furnish latest information on new techniques and developments in both general and specialized phases of the real estate field.

Description of Courses

Courses are open to individual enrollment apart from the Certificate Program. Following are listed the courses offered in the spring program:

- Trends and Factors Influencing Real Estate
- Real Estate Practice
- Legal Aspects of Real Estate
- Real Estate Financing
- Principles of Real Estate Appraisal
- Essentials of Residential Design and Structure
- Property Management
- Commercial and Investment Properties
- Advanced Real Estate Appraisal
- Advanced Real Estate Appraisal (Rural)
- Real Estate Exchanges and Taxation
- Brokerage Administration and Procedures
- Estimating for Residential Construction
- Estimating for Light Commercial Construction
- City and Regional Planning

The number and type of course offerings in a particular locality depend on several factors, among them: fa-

Commission Policy

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sion upon the successful completion of eight specified courses in the certificate program. In general, the required subjects may be completed in two years if enrollment is made in two courses each term. However, there are several alternative methods of satisfying the certificate requirements.

cilities, demand, availability of teachers, previous offerings, etc. One city may have only one course scheduled for the spring term; in other places, those interested have a very wide choice.

Classes in the northern area are held in Berkeley, Burlingame, Fresno, Hayward, Los Altos, Merced, Modesto, Mountain View, Napa, Oakland, Palo Alto, Redwood City, Sacramento, Salinas, San Francisco, San Jose, San Rafael, Santa Cruz, Stockton, Turlock, Vallejo and Visalia.

Classes in the southern area are held in Bakersfield, Bell, Chula Vista, Costa Mesa, El Centro, Lancaster, Long Beach, Los Angeles, Oceanside, Ontario, Orange County area, Palm Springs, Pomona, Redondo Beach, Riverside, Rosemead, San Diego, San Fernando Valley, Santa Ana, Santa Barbara, Sepulveda, Ventura, and at the Westwood campus of the University of California at Los Angeles.

Most classes are held 7 to 9.30 p.m., but some day classes are open for registration. Additional information can be obtained by writing or calling University Extension, 2441 Bancroft Way, Berkeley 4, California, or 813 South Hill Street, Los Angeles 14, California.

Behind the Scenes of a Disciplinary Hearing

As a law enforcement agency, the Division of Real Estate investigates many complaints involving unlawful conduct on the part of California licensees. The majority of investigations are initiated by written complaints from sellers or buyers in real estate transactions. However, fewer than one complaint in ten leads to a formal hearing which could result in suspension or revocation of license.

How are complaints investigated? What type of evidence is gathered for a formal hearing? When John Q. Public writes a letter complaining about a broker's or salesman's actions in a transaction, the complaint is immediately assigned to a Deputy Real Estate Commissioner for investigation. The deputy first makes an analysis of the complaint to determine in what respects the law may have been violated. Often the information in the letter is inadequate and the complainant must be asked for more complete information.

Investigative Procedure Is Varied

The deputy's investigative procedure depends on the nature of the violation. Let us use a comparatively simple case as an example. Assume John Q. Public, who now lives in Texas, writes to the division stating that he has employed a broker to

handle rental collections for him on property located in Los Angeles. According to the letter, the broker has forwarded no payments for the last three months and has failed to answer requests for information. Mr. Public further believes that the property has not been vacated by its tenants.

In investigating a complaint of this type, the deputy commissioner would call on the tenants to find out if they have been paying their rent regularly to the broker. If so, the deputy would attempt to obtain evidence of payment, such as canceled checks, or receipts. The deputy would also call on the broker to determine how he handled the rent money. If the broker claims to have put the money in his trust account, his records would be checked for deposits and withdrawals, and the bank account records would be subpoenaed if necessary.

In the event the broker could not properly account for the rent money, a formal accusation would be drafted by the deputy, alleging commingling and conversion of trust funds in violation of the California Real Estate Law and the Commissioner's Rules and Regulations. The deputy investigating the case would be named as the complainant and a date for formal hearing would be set.

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JUST FOR THE RECORD . . .

**A Summary of Selected Items of Interest
Concerning Activities of the Division of Real Estate
As Reported Monthly to the Governor . . .**

Out-of-State Subdividers Seek California Buyers

California residents have recently been exposed to numerous newspaper and magazine advertisements offering for sale or lease newly subdivided lands located outside the State. These offerings have largely consisted of residential property located in Florida, Hawaii and speculative New Mexico oil and gas lands. Usually, the subdividers do not reside or maintain offices in California.

California law requires the Commissioner to inspect and report upon subdivisions offered for sale in this State. To meet his responsibilities in this connection, the commissioner has endeavored to gain compliance from these out-of-state promoters by enlisting the co-operation of California newspapers and alerting the subdividers to the provisions of the California law regulating subdivision sales.

Rise in Number of Examinations

During 1958, total examinations given including orals climbed to 34,305, the largest number recorded in many years.

As an indication of the increased interest in obtaining a license, 15,801 original licenses (including 465 business opportunity) were issued during the year as compared with 11,164 in 1957.

Disciplinary Proceedings

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Formal Hearings Are Held to Determine Discipline

Formal disciplinary hearings are serious matters and should not be taken lightly by the parties involved. If the original complaint is unjustified, impartial investigative procedure by deputy commissioners should soon make this apparent and resolve the dispute. However, if a formal accusation has been drawn and a hearing date set, the parties involved can be sure that sufficient evidence has been obtained to warrant a full hearing on the matter.

No Slack in Subdivision Activities

The high level of subdivision activity which has been apparent since June, 1958, continued during the latter months of the year. Despite reported signs of "tight mortgage money" and a normal seasonal decline in tract starts at this time of the year, it is noteworthy that a large number of Public Reports were issued during December, allowing the affected subdividers to begin their sales programs.

In December, final subdivision reports totaled 302, placing 10,874 new lots on the market. The lot total compares with the year's low of 4,573 in February and year's peak of 16,109 reached in May. The total in December, 1957, was 5,753 lots.

The year ended with 2,497 new subdivision filings with the Real Estate Commissioner as compared with 2,371 in 1957.

Subdivision Law Violator Enters Guilty Plea

A property owner who had been intermittently selling off parcels from a tract he owned was charged with violation of the laws regulating the creation and sale of new subdivisions. Recently, he appeared before a superior court for a probation hearing, judgment and sentence on his plea of guilty of violating Section 11010 of the Business and Professions Code, which requires the prospective subdivider to file with the Real Estate Commissioner a notice of intention to sell.

The court suspended the imposition of judgment and sentence, granting probation for two years upon condition that there be no further violation. The court also ordered the offender to pay \$125 in costs to the county.

A deputy real estate commissioner presented the matter to the county district attorney for action after the property owner was advised of the requirements of the law in respect to new subdivisions and failed to comply with them.

Criminal Conviction For Illegal Loan Transactions

A one-time real estate broker was recently convicted in the Los Angeles criminal courts for operating without a license and for committing usury in connection with illegal loan transactions. His broker license had been revoked by the Real Estate Commissioner prior to the acts which brought on the criminal action.

The illegal transactions involved real estate loans with a purported interest rate of 10 percent. However, in each transaction the borrower actually received considerably less than the face amount of the note and, in effect, he paid a large bonus to the lender in addition to the broker's commission and expenses. The loan papers were prepared in the name of a licensed broker, but it was shown at the trial that the latter did not in fact negotiate the loan and was instead merely a dummy in the transaction.

The defendant ex-broker was fined \$800, given a suspended 60-day jail sentence and placed on probation for two years for operating without a license and also suffered a suspended sentence of a \$400 fine or 60 days in jail on each of two usury counts. The lender in the transaction was convicted of usury and was fined a total of \$300.

Laws to be Enforced

It is the commissioner's policy to take disciplinary action against licensees and to seek criminal prosecution for actions of this kind. While the applicable laws may seem technical in one sense, they exist primarily for the protection of the helpless and distressed, and experience shows that the harm caused by violations can be far more serious than the phrase "a mere technicality" would imply.

DISCIPLINARY ACTION

In January, 1959, the Commissioner issued orders revoking 33, denying 20, and suspending 4 licenses.

Examination for Renewable License Requires Early Preparation

Are you preparing for a final examination? If you are, you would do well to begin your preparation at an early date. Although the same general ground is covered as in the examination for original license, the renewable license test is far more comprehensive and requires considerably broader study, understanding and specific knowledge, if a passing grade is to be attained.

An all-day session is in store for the candidate. The examination is given in two parts—one in the morning and one in the afternoon. Forms commonly used in the real estate business must be filled out; arithmetical calculations must be made in connection with closing and valuation problems; and the candidate must display a reasonable knowledge of varied phases of the real estate business.

Problems in Filling Out Forms

Every renewable license examination features a set of blank forms, including deposit receipts, listings, contracts of sale, etc. These forms are to be filled out to create binding contracts based on the facts given in the problems. Questions are also asked on

the meaning of clauses included in the standard forms. Some problems require knowledge of current Cal-Vet, FHA, and conventional lending policies and regulations. Too many candidates appear for examination knowing little more than that these different types of financing do exist.

It has been said that "a good listing is a sale half made." Since good listings depend on a proper estimate of value, a reasonable knowledge of the different approaches to valuation is necessary and is a proper field of inquiry in the examination. Would you negotiate a sale of commercial property without a knowledge of zoning regulations? If you obtained a listing of acreage suitable for subdivision purposes, shouldn't you know how to release portions of the property from a blanket deed of trust? Could you properly protect your client and yourself without a knowledge of the real estate license laws and the commissioner's regulations? If you take a deal to escrow, shouldn't you know something about how an escrow is handled and how a title company operates? Every candidate for a renewable license should ask himself these and many more questions before satisfying himself that he is properly prepared for the examination.

Why Study Specialized Real Estate Fields?

Since the California Real Estate Law does not provide for "specialized real estate licenses," the examinations for broker or salesman must in some measure cover the entire spectrum of real estate agency activity. This includes questions on leasing, escrows, title insurance, homestead requirements, contracts of sale, valua-

SUPPLY OF REFERENCE BOOK SOON AT DIVISION OFFICES

A second shipment of the new 1959 *Reference Books* is being rushed to the division branch offices and the Sacramento main office to replenish stock exhausted by unexpectedly heavy demand after publication was announced in the November-December *Bulletin*.

All offices of the division will soon have the new *Reference Books* for sale (\$2.60 including tax) and all back orders are being filled as soon as possible.

The completely revised book is intended to serve the needs of current and prospective licensees and others, including instructors, for readily accessible information about recent rules, principles, theories, laws and practices relating to real estate, real estate licensing and license examinations.

A number of prominent members of the real estate industry, educators in the real estate field and licensing authorities from other states have reviewed the publication and commented favorably on it.

tion, property management and mortgage loan brokerage requirements. With this in mind, any renewable license candidate who obtains a broad practical experience or applies himself to serious study or, best of all, combines experience with study of theory, can expect to have the minimum knowledge necessary to qualify for a renewable license.

This examination has placed another sturdy rung in the ladder leading toward professional stature for the real estate industry. The number of candidates passing examinations together with the large number who continue their real estate studies after obtaining a license combine to show that those really interested have a firm grasp on the ladder and a desire to reach the top.

DISCOUNTED LOANS CAN BE USURIOUS

See July, 1958, *Bulletin* for details.

TAX DEDUCTION ALLOWED FOR EDUCATION EXPENSES

New regulations of the Internal Revenue Service allow taxpayers to deduct certain expenditures for education. This could be of interest to brokers and salesmen who are taking real estate courses to improve their professional skills and knowledge. The relevant excerpt from Regulation T.D. 6291 reads:

"1.162-5. Expenses for Education. Expenditures made by a taxpayer for his education are deductible if they are for education (including research activities) undertaken primarily for the purpose of:

(1) Maintaining or improving skills required by the taxpayer in his employment or other trade or business; or

(2) Meeting the express requirements of a taxpayer's employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by the taxpayer of his salary, status or employment."

Can Model Homes Be Branch Offices?

What constitutes a branch office in a new tract or subdivision? What regulations apply when an office building, as such, is not constructed but model homes are headquarters for the sale of other homes?

Generally speaking, most subdividers or tract brokers maintain an office in the garage of a model home and have literature, contracts and other material available for their salesmen. The model home is often used for closing or preliminary agreements. This constitutes a branch office and the broker must obtain a branch office license for that location.



Where several model homes are used or where, upon the sale of one home, the office is moved to another model home in the tract, a branch office license may be issued to the broker with the address showing the name of the tract and the city or county in which it is located. This permits the branch office to be moved from one location to another within the tract without having to obtain additional licenses.

It is recognized that a branch office established in a tract for the sale of houses within the tract is usually on a temporary basis only. However, it is important that branch office licenses be obtained for each subdivision tract where salesmen are employed, literature is passed out, deposits are taken, contracts are signed, etc. **The broker handling the subdivision sales for the subdivider will be held responsible for this requirement.**

The phone rang in the real estate office. A soft feminine voice said, "Do you sell maternity dresses?" The enterprising real estate salesman answered, "No, I'm sorry, lady, but would you be interested in buying a larger house?"

Commissioner's Forum

Examination for Renewable License

Q. What can a sales manager do to help one of his better salesmen meet the new examination requirements for renewable license? I find that he is worried about how to prepare for the exam. He needs help!

—W.E.H., Broker

A. A new *Reference Book* has just been published by the Division of Real Estate. It covers to the fullest practicable extent matter contained in the examination for renewable license and includes sample questions and problems similar to those in current examinations. In addition, most libraries contain a number of publications dealing with the real estate business and courses are available in public and private schools in many localities. However, it must be emphasized that academic study alone will not guarantee passing the examination. The keynote in the examination is the practical side—to test the candidate's knowledge of how to handle a normal real estate transaction properly in strict compliance with legal requirements and, in general, in a manner for the best interest of his principals and of the general public. A balance of practical experience and intensive study makes the best preparation for the tests.

Public Reports

Q. I have filed all the necessary subdivision papers with the Real Estate Commissioner for a Public Report. May I take deposits and put them in a trust account while I am waiting for the report?

—P.J., Subdivider

A. No. Section 2795 of the Commissioner's Regulations provides that no binding agreement shall be entered into until a true copy of the Commissioner's Public Report has been delivered to the prospective purchaser and he has been given an opportunity to read it.

How High the Moon!

Q. I want to be one of the first to sell a lot on the moon. Have claims already been staked out for moon property?

—W.J.M., Promoter

A. We suggest you delay your promotion until you can take your clients to inspect the property.

Loan Fee by Broker

Q. Can a real estate broker charge a fee for getting a loan for a borrower and obtain the loan funds from his wife or from one of his salesmen?

—J.L.T., Insurance Agent

A. Yes, if he makes full disclosure of the facts and obtains written consent from the borrower to do so (See Sec. 2845, Commissioner's Regulations).

This section is open to questions from licensees on matters of general interest concerning the Real Estate Law, subdivisions, and mortgage loan laws.

Address your letter to the Editor of the *Bulletin*, Division of Real Estate, 1015 L Street, Sacramento.

Subdivision Filing

Q. I am the owner of a tract of land. In 1953 I sold off one lot described by metes and bounds; in 1954 I sold a second lot; in 1956 I sold two more parcels; and recently I sold another lot. I still own the remainder of the original parcel. Do I have to make a subdivision filing with the Division of Real Estate?

—V.L.S., Landowner

A. Yes, lands divided for the purpose of sale or lease, whether "immediate or future," into five or more lots are defined as "subdivided" lands. Since your land has been divided into more than five lots (actually six, counting the remaining parcel), you are required to file under the provisions of the subdivision laws enforced by the Real Estate Commissioner (Secs. 11000-11021, B. & P. Code).

As a matter of fact, you are already in technical violation of the law since a "notice of intention to sell" should be filed when the intent to divide into five or more becomes evident or, in any event, prior to the sale of the fifth parcel.

It is important to remember that the subdivision law administered by the Real Estate Commissioner does not provide a time limit for the application of the subdivision definition rule. This must be distinguished from the one year rule peculiar to the "Subdivision Map Act," which provides for local regulation and control of a subdivision's physical features.

In the Opinion of the Court

Inactive Member of Real Estate Firm Can Be Unlicensed

The Wisconsin Real Estate Brokers' Board attempted to require a license for a widow who was inactive in a partnership having a broker's license. The widow questioned the requirement.

The Court Held: The board's interpretation of the law was invalid and the inactive partner would not have to be licensed. It is possible for an inactive and unlicensed member of a corporation or partnership to receive benefits from brokerage sales by the active and licensed members, but he must not and cannot actively engage in the transactions. (*Frankenthal et al. v. Wisconsin Real Estate Brokers' Board*, 88 N. W. 2d 352.)

Possession of Lottery Ticket Leads to Disciplinary Action

A Florida broker was convicted of possession of a lottery ticket and the Florida Real Estate Commission instituted proceedings to revoke or suspend his license on the grounds of moral turpitude.

The Court Held: There are no varying degrees of moral turpitude and the mere possession of a lottery ticket constitutes a crime of moral turpitude. Both custom and statute hold a real estate broker to a very high standard of integrity and morality. (*James C. Everett v. Earle L. Mann and Florida Real Estate Commission*, Appeal No. 33399, Ninth Judicial Court, Orange County, Florida.)

Educational Qualification for License

An applicant for real estate license in Ohio claimed educational qualification for license based on passing two real estate courses offered by a private school in Cleveland. The Ohio Board of Real Estate Examiners denied his license application on the ground that the school was not a college and that it was not approved by the board.

The Court Held: Educational alternative qualification was constitutional to assure the public of the licensee's competency and the board was correct in withholding accreditation. (*In re Russo*, 150 N. E. 2d 327.)

Nonresident Broker Denied Claim for Commission

A broker was licensed in New York but not in New Jersey. He obtained the services of a New Jersey broker to assist him in negotiating a sale of real property located in New Jersey to a New York purchaser. The New York broker's claim for commission was denied by the New Jersey court.

The Court Held: The New Jersey license law provides that no person shall engage either directly or indirectly in the business of a real estate broker without being licensed in that state to do so. Unlicensed brokers could not receive the aid of New Jersey courts to enforce their brokerage agreements. (*Tanenbaum et al. v. Sylvan Builders, Inc., et al.*, 142 A. 2d 247.)

A Case of Negligence?

A real estate salesman recently offered to sell a home to prospects who were interested if they could use some of the rooms for rental purposes. The prospective purchasers wanted to know whether zoning allowed such use and the salesman advised he would find out. Upon his later assurance that the house was zoned to allow room rentals, the prospects completed the transaction and took occupancy.

A short time later the purchasers found that they could not obtain a permit to rent rooms because the area was not so zoned and a variance could not be obtained. The purchasers suffered because they needed the income from rented rooms to support the property.

What Happened?

The salesman claimed to have phoned the local office of the planning commission and to have been assured over the phone that the zoning permitted rentals. An investigation by a Deputy Real Estate Commissioner disclosed that no one in the local planning commission office would admit to a telephone conversation relative to zoning with the salesman in question.

Was this a case of negligence on the part of the salesman? How far must the agent go to verify representations he makes regarding zoning or other conditions important to the transaction?

Conclusion

An agent should always be able to substantiate his positive statements or representations. Important matters that are relied upon by purchasers should be verified beyond any doubt. If the public is taken advantage of in such a transaction, those concerned are not likely to recommend the services of real estate brokers or salesmen in the future.

LICENSE EXPIRING?

Better check the expiration date on your license! Too many licensees are having to pay penalty fees for reinstatement or are losing their license rights altogether.

Licenses are running out practically "around the clock" and you should know when yours is due to expire and be prepared to renew it by filing the proper form and paying the proper fee.

As a service and convenience, the division sends out reminders before licenses expire, but it can happen that the notice will get lost in the mail. The final responsibility for keeping your license right rests with you!

An application for renewable license examination is mailed from Sacramento about four months before the original license expires.

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ANNUAL SUBJECT INDEX

On this page, the subjects covered in the past year's *Bulletin* articles are indexed by month and page number. Since 1951 the page numbering of the *Bulletin* issues has been consecutive as if all issues were part of one volume.

Indexes for earlier years can be found in the January-1958, 1957, 1956, 1955 and 1953 issues.

For those who may have missed copies of earlier *Bulletins*, a limited supply is available at Sacramento.

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Oral Interview Record

During a two-year period, over 498,000 feet of recording tape was used by the oral examiners conducting interviews in the Los Angeles office.

All oral interviews are recorded for the benefit and protection of the examinees and the tapes are retained for a period of four months for the purpose of review. Thereafter, the tapes are electrically erased and used over again, thus affording substantial savings.

Reminder for Nonlicensees

Readers of the *Real Estate Bulletin* who are not licensees are reminded that the card attached to the November-December issue must be returned immediately if they wish to stay on the 1959 mailing list now being compiled. We are required to delete from our list the names of those *nonlicensees* who do not indicate by positive action that they want to continue receiving the *Bulletin*.

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