



New Regulations Tighten Loan Operations

The abuses of public confidence by some real property loan brokers, particularly discount brokers, involving the handling of large sums of clients' money, have prompted Commissioner W. A. Savage to amend certain existing regulations and adopt others in emergency action for the immediate protection of the investing public. The new and changed regulations, having been approved by the California Attorney General, are designed to tighten control by:

- Stipulating that mortgage loan advertising of all types must be cleared with the Commissioner at least 10 days prior to use.
- Prohibiting the use of unjustified superlatives and other misleading advertising. Specifically, some 17 "come on" gimmicks are spelled out and ruled out.
- Requiring proper recording of trust deeds or assignments of trust deeds within a specified time by brokers who negotiate the loans or the sale or exchange of the trust deeds.
- Strictly defining the conditions under which mortgage loan brokers may withdraw funds from escrow for purchase of notes secured by deeds of trust.
- Requiring the mortgage loan broker to give notice to the Commissioner of names and addresses of independent licensed escrow companies the broker may use in his transactions, and also requiring the broker to put the escrow company on notice that funds are deposited and are to be disbursed in accordance with the Commissioner's Regulations.
- Specifying the type of records to be kept by discount brokers and setting three years as the minimum time they must be kept available for inspection.
- Providing for the filing with the commissioner of a notice of intention before two or more notes secured by parcels in the same subdivision and executed by the same maker (or his associates) may be offered to the pub-

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LOAN BROKERS!

PLEASE READ FULL TEXT OF NEW REGULATIONS

While certain of these new and amended regulations apply only to discount brokers, most will concern operations of any real property loan broker. Therefore, all real property loan brokers are urged to read these regulations carefully and keep them for ready reference, presenting any questions to the nearest office of the Division of Real Estate. *Full text of regulations starts on Page 476.*

BOND REQUIREMENT FOR LOAN BROKERS

On the advice of the Attorney General, hundreds of real property loan brokers have been directed by the Real Estate Commissioner to cease any activity in the mortgage loan field until they have posted suitable bonds as required by Section 3081.05 of the Civil Code or have made satisfactory showing that their loan brokerage business is confined to the negotiation of original hard money loans and, if so, that they do not "actually or constructively in any way keep, have charge of or otherwise handle any of the funds involved in the loan(s)."

As rapidly as scheduling will allow, an augmented staff of auditors meanwhile is checking the accounts and operations of real property loan broker firms, particularly those dealing as "discount brokers."

COMMISSIONER RECEIVES PRIZED AWARD

Commissioner W. A. Savage was named "Citizen of The Year" by the San Bernardino Board of Realtors at its 1961 installation ceremonies. This significant mark of community esteem, designated the Frank Whitelock Citizen of The Year award in honor of Real Estate Commission member Frank L. Whitelock, is given each year to the "San Bernardinan" deemed to have made the greatest overall contribution to community well-being by the calibre of his citizenship.

The award is particularly meaningful because it is not restricted to real estate professionals; the recipient is selected following a city-wide survey of service-minded citizens from

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Commissioner W. A. Savage (L) receives award from Kenneth Dyal, National Orange Show Secretary-Manager.

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Real Estate Commissioner

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Commissioner

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all walks of life. Furthermore, three community leaders who are not in the real estate business select the award winner.

In making the presentation, Kenneth Dyal, Secretary-Manager of San Bernardino's National Orange Show, emphasized this broader aspect of the Commissioner's citizenship, pointing out that civic, church, and fraternal affairs have claimed much of his interest over the years.

He has been a Rotarian for more than 31 years, an Elk 36 years, a member of his local Chamber of Commerce, a Mason for 31 years, a Shriner

Disciplinary Action—October, 1960, and November, 1960

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, 1960, and November, 1960

Name	Address	Effective date	Violation
Hamond, Wesley James Real Estate Salesman	15124 El Camino St., Paramount	10/14/60 (Granted right to restricted license)	Secs. 10177(b) & (f)
Leiter, Edward Real Estate Salesman	Apt. 12, 401 Montana Ave., Santa Monica	10/14/60 (Granted right to restricted license)	Secs. 10177(b) & (f)
Swishhelm, Paul Kimble, Jr. Real Estate Salesman	3421 W. 8th St., Los Angeles	10/14/60 (Granted right to restricted license on conditions)	Secs. 10177(b) & (f)
Campbell, Davis Wright, Jr. Real Estate Salesman	Apt. 84, 2909 Marconi Ave., Sacramento	10/17/60	Secs. 10177(b) & (f)
Siebenaler, Charlotte Lynn Real Estate Broker	3668 Adams Ave., San Diego dba Charlotte Lynn's Realty	10/18/60	Sec. 10177(f)
Ball, Ellsworth Ray Real Estate Salesman	1208 Gould Lane, Hermosa Beach	10/21/60 (Granted right to restricted license)	Secs. 10177(a) & (f)
Silva, Manual Arthur Real Estate Broker	4056 Foothill Blvd., Oakland dba San Lorenzo Realty Co.	10/24/60 (Granted right to restricted real estate salesman license on conditions)	Secs. 10176(e), (i); 10177(f) & (l)
Root, Robert Real Estate Salesman	10304 Norris St., Pacoima	10/28/60	Secs. 10177(b) & (f)
Katzdorn, Alexander Anton Real Estate Broker	14441 Harbor Blvd., Santa Ana	11/ 3/60	Secs. 10160; 10162; 10177(b), (d) & (f); Secs. 2771(a) & 2772 of R.E. Comm. Rules and Regulations
Zimbardi, Vincent James Real Estate Broker	711 S. Vermont Ave., Los Angeles; 817 S. Parkview, Los Angeles	11/ 9/60	Secs. 10177(b) & (f)
Anderson, Charles Hanway Real Estate Salesman	820 Foothill Blvd., La Canada	11/10/60 (Granted right to restricted license)	Secs. 10177(b) & (f)
Radam, Gordon Arthur Real Estate Salesman	Apt. 28, 1200 Davis St., San Leandro	11/14/60	Secs. 10176(e), (i); 10177(f) & (l)
Everett, Archie Restricted Real Estate Broker	Rm. 201, 2223 El Cajon Blvd., San Diego	11/18/60	Secs. 10176(j); 10177(d), (f) & (g); Sec. 2830 of R.E. Comm. Rules and Regulations

Licenses Suspended During October, 1960, and November, 1960

Name	Address	Effective date and term	Violation
Enright, Burton Earl Business Opportunity Salesman	19 Pine Ave., Long Beach	10/ 6/60 120 days	Secs. 10177(f); 10301(a), (i), (j); 10302(d) & (e)
Fink, Ralph Arthur Real Estate Broker	594 Fremont, Monterey	10/10/60 15 days	Secs. 10176(a), (i); 10177(f), (l) & 10302(e)
Bellucci, Alfred Real Estate Broker	1000 Mirabella St., Novato	11/14/60 30 days (Stayed permanently)	Secs. 10177(f) & 10177.5
Shaw, Donald George Real Estate Salesman	11753 Wilshire Blvd., Los Angeles	11/23/60 30 days minimum (Terms and conditions)	Secs. 10130; 10139; 10177(e) & (f)
Robinson, Gordon Omer Real Estate Salesman	11753 Wilshire Blvd., Los Angeles	11/23/60 30 days minimum (Terms and conditions)	Secs. 10130; 10139 & 10177(f)
Gallagher, Kenneth Arthur Real Estate Broker	15315 S. Lakewood Blvd., Paramount	11/29/60 5 days	Secs. 10177(d) & 11010; Secs. 2794 & 2795 of R.E. Comm. Rules and Regulations

for 6 years, a member of the First Congregational Church of San Bernardino; and has been an active participant in the community serving projects of all of them.

As to Mr. Savage's professional accomplishments in the real estate and appraisal field as a broker since 1937,

and as an administrator since his appointment as Real Estate Commissioner, March 1, 1959, State Treasurer Bert A. Betts, summarized a sheaf of commendatory telegrams from leaders in government and business by saying ". . . his leadership in this field has been outstanding . . ."

New Policy Strengthens Subdivision Controls

In line with the provisions of Secs. 11010 and 11011 B. & P.C., the Real Estate Commissioner has issued a policy directive which now requires subdividers, under some circumstances, to furnish more detailed information about water supply, availability of utilities, and road and street conditions before a Commissioner's Subdivision Public Report will be issued.

While these requirements will not hinder in any way the operations of the great majority of subdividers and developers in California, they should put a damper on the growing tendency of promoters to take any piece of land, regardless of its present value and location in California or elsewhere, and attempt to offer it in glowing terms as subdivision property. These procedures are designed to give the prospective buyer a better picture of what the offering actually is, and the costs connected with making it reasonably livable.

Specifically, if the subdivider represents that water is to be furnished, more complete evidence of a sufficient and potable supply and an adequate distribution system must go into the record; if private wells are to be relied upon, availability and cost data must be furnished for the guidance of the prospective purchaser.

Requirements Spelled Out

A subdivider of a "speculative" tract of land will no longer be able to say it is not his intention to service parcels with water, electricity and access and interior roads, and let it go at that. In such case, where the parcels to be offered are five acres or less in size or where the parcels, regardless of size, are offered as potential residential sites, the subdivider will be required to furnish engineering data as to (1) the cost of reaching a water supply and distributing it in necessary quantity to each site in the tract; (2) the cost of running access roads and interior streets and roads, and maintaining them to meet local requirements, and (3) the cost of making electricity available for domestic purposes.

License Boom Exceeds Population Explosion

California's explosive population gain is being outmatched percentagewise by the rise in number of real estate and business opportunity licenses in effect. To give an idea, for every 125 persons (including infants, teenagers and elder citizens) residing in the San Francisco area there is one license issued by this agency. The year before there was one license for every 155 residents. This seems like fairly heavy saturation but, as the table below reveals, real estate and business opportunity licenses are even more heavily concentrated in the southern part of the state.

The Los Angeles Metropolitan area, now the second most heavily populated in the nation, shows a ratio of 1 license for every 100 people. All of Southern California has one license for every 102 persons compared to Northern California's somewhat more balanced showing of 1 license to every 150 residents for a statewide composite of 1 license to every 118 people.

Due consideration can be given to the qualifying factors noted under the comparison table below (non-resident, inactive, and multiple licenses are included in the license total), but the population figure could also be adjusted by subtracting the young, the old, the incapacitated, in order to get a final ratio of operative licensees to effective property handling adults.

COMPARISON OF LICENSES * AND POPULATION BY AREA IN 1959 AND 1960
Real Estate, Business Opportunity, and Mineral, Oil and Gas Licenses
Issued and in Effect at Fiscal Year's End

Regulatory District	Population		Licenses		License to Population Ratio	
	June 30, 1959	June 30, 1960	June 30, 1959	June 30, 1960	June 30, 1959	June 30, 1960
Sacramento.....	1,423,200	1,518,630	7,659	8,397	1 to 186	1 to 181
Fresno.....	801,566	938,480	3,573	3,934	1 to 250	1 to 239
Oakland.....	1,446,300	1,478,780	9,523	10,248	1 to 152	1 to 144
San Francisco.....	2,581,300	2,602,170	19,337	20,865	1 to 155	1 to 125
Northern Area Totals.....	6,342,366	6,538,060	40,092	43,444	1 to 158	1 to 150
Los Angeles.....	7,859,434	8,171,640	75,761	81,512	1 to 104	1 to 100
San Diego.....	1,078,200	1,120,300	8,377	9,527	1 to 128	1 to 118
Southern Area Totals.....	8,937,634	9,291,940	84,138	91,039	1 to 106	1 to 102
Statewide Totals.....	15,280,000	15,830,000	124,230	134,483	1 to 123	1 to 118

* NOTE: a. Ratios shown must be qualified by three factors: (1) 1,158 out-of-state licenses distributed among area totals; (2) 30,617 licenses, or approximately 22.7 percent of the total, are inactive; (3) the ratio is of licenses and not licensees to population (some licensees have more than one license).
b. Population source: Dept. of Finance, Budget Division, Financial Research Section, 1960 Estimate.

When the required information is obtained from the subdivider, unless it appears that sales in the proposed subdivision would amount to a fraud on the public, the Subdivision Public Report reciting all pertinent information in detail will be issued. The prospective purchaser will then have the facts in hand on which to base his decision as to whether to buy or not to buy.

Exception

When land is divided into parcels, each of which is five acres or more in size, all to be sold exclusively for recreational purposes, these additional requirements do not apply. **But such land cannot be advertised inferen-**

A DILL(Y) OF A SITUATION

It seems this California pickle factory got into a pickle for making pickles in an agricultural zone which was okeh for growing pickles but not for pickling pickles. Now they and their agent are boning up on zoning, so pickling pickles won't mean legal pickles.

tially as residential—for example: as "a place to retire and live." The advertising must square with the facts.

Full Text of New Loan Broker Regulations

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lic. (Exempt from this requirement are sales of a series of notes which are sold as securities under permit from the Corporations Commissioner.)

● Defining certain actions on the part of the real property loan broker which are treated as "dishonest dealing." These actions include misrepresentation of market value of property involved; failure to disclose subordination clause and amount of prior lien; failure to disclose existence of blanket encumbrance and amount thereof; offering trust deeds on proposed subdivision parcels prior to recordation of subdivision.

● Prescribing conditions for handling collected payments of interest and principal, when these moneys are to be reinvested in trust deeds.

● Requiring discount brokers to file quarterly transaction report with the Commissioner.

● Stipulating that subdividers may be called upon to furnish further information relating to manner and method of financing the purchase of the property to be subdivided, the method of financing improvements and the methods proposed for financing sales of the parcels.

The full text of the amended and added regulations follows:

(Adopted) 2847. Proposed Advertising Copy and Scripts Must Be Filed. No person shall use any advertisement, display, brochure, radio broadcast or telecast concerning the use, terms, rate, conditions or the amount of any loan or security, solvency or stability of any person, firm or association engaged in negotiating loans on real property or engaged in the business of buying, selling or exchanging promissory notes secured directly or indirectly by deeds of trust or mortgages on real property unless a true copy of such advertisement, display, brochure, radio broadcast or television script has been filed with the Real Estate Commissioner at least ten (10) days prior to use.

No person shall use any advertisement, display, brochure, radio broadcast or telecast concerning the use, terms, rates, conditions or amount of any loan or the security, solvency or stability of any person, firm or association engaged in negotiating loans on real property or engaged in the buying, selling, or exchanging promissory notes secured by deeds of trust or mortgages on real property if, within five (5) days after receipt thereof, the Real Estate Commissioner gives notice in writing that in his opinion the advertisement, display, brochure, radio broadcast or television script contains any statement that is false or misleading or omits

to state material information that is necessary to make the statement therein complete and accurate.

(Amended) 2848. Real Property Loan Brokerage Advertising Criteria. The following acts or practices in connection with real property loan brokerage advertising are considered to constitute false, misleading or deceptive advertising:

(a) The use of the terms "lowest", "highest", "oldest", "strongest", "largest", "unlimited" and other terms of superlative degree unless the matters to which such terms apply exceed in that respect those obtainable through, or applicable to, every other real property loan broker in California, or unless it is fully explained in what respect such superlative applies.

(b) The use in regard to rates, terms and conditions of the terms "lower", "higher", and other terms of comparative degree unless the matters to which such terms apply exceed in that respect the customary rates, terms and conditions obtainable through, or applicable to, other real property loan brokers in California, or unless it is fully explained in what respect such comparative term applies.

(c) The use of the terms "guaranteed", "assured", "secured" and other similar terms relating to the security of funds or earnings of investors or lenders without fully explaining in what respect, by whom and to what extent such funds or earnings are given security.

(d) The use in relation to the security of funds or earnings of investors or lenders of the terms "sure", "positive" or other terms indicating there is no possibility of loss.

(e) The use of the terms "bonded" or "insured" or other similar terms relating to the real property loan broker without fully explaining in what respect, by whom and to what extent such bond or insurance exists.

(f) Any statement relating to a history or record of absence of losses by clients of the broker without explaining the period of time and the volume of business for which such statement is made.

(g) The stating of any specific interest rate without stating clearly whether the rate applies to first loans or to junior loans, or stating any specific yield or rate of earnings when such yield or rate of earnings is different from the rate set out in the note, unless the method of such computation is set forth and fully explained.

(h) The stating of any specific interest rate regarding an amortized loan when interest is to be charged on other than the declining balance of the loan without stating fully the manner in which it is to be charged.

(i) The stating of any specific monthly or installment payment without stating the amount of the loan and any balloon payment required, and without stating that it does not include principal and interest if it does not.

(j) The stating of any specific interest rate, amount of installment payments, the number of visits to obtain a loan, the time within which a loan may be secured, examples of amortization schedules, or that loans are available up to a specific percentage of value unless a material number of loans have been negotiated by the broker within a reasonable time preceding the ad-

vertisement under such terms and conditions and such terms and conditions are then readily available through such broker.

(k) Stating that no commissions or fees are charged, unless the broker never makes such charges, without fully explaining when such charges are not made.

(l) Listing the number of any telephone that is not located at the address at which he actually does business without also stating the nature of the service available at such number, such as "answering service only."

(m) Any statement or inference that the broker is lending his own funds in any advertisement referring to his activities as a broker without clearly distinguishing the positions in which he is acting.

(n) Any statement or inference that the broker is a representative of any financial institution unless he is a duly authorized representative and he has obtained all necessary licenses to act in such capacity.

(o) Any statement that the licensee is licensed, regulated or supervised by the Division of Real Estate.

(p) The use of terms "investment plan", "growth earnings", "savings", "savings plan" or similar terms unless the company is operating pursuant to the applicable regulations of the Commissioner of Corporations.

(q) The use of terms "earnings or interest or any percentage to be paid on funds placed or deposited with the real property loan broker" or any other statement which directly or indirectly implies that the licensee is in the investment, banking or savings and loan business or compares their operations to such institutions.

Explanation of any statement or terms as required by the above rules shall be in the same type size as the statements or terms explained.

In addition to a literal compliance with the above rules, the form, make-up, text, color, art, and all features of a presentation shall not be so combined as to circumvent the requirements of these rules or the law.

Records supporting claims of compliance with the above rules shall be maintained for a period of three years subject to inspection by the commissioner, his deputies, or authorized representatives.

(Amended) 2849.2. Recording Trust Deeds or Assignments. Every real property loan broker who negotiates a loan secured by a mortgage or trust deed on real property shall file or cause such trust deed to be filed for record with the county recorder in the county in which said property is located prior to the time that any funds are disbursed on behalf of the lender, except when the lender has given written authorization for release of such funds.

When funds are released on written authorization, the trust deed or mortgage shall be recorded within ten (10) working days of release of funds.

The real property loan broker who sells or exchanges or negotiates the sale or exchange of a note secured by a mortgage or trust deed on real property shall cause a proper assignment of such mortgage or trust deed to be filed with the county recorder in the county in which said real property is located within ten (10) working days after said transaction is consummated. A sale shall not be considered to have been consummated until the broker receives the written approval of the buyer on the form pre-

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Loan Broker Regulations

(Cont. from preceding page)

scribed by the commissioner and has made a valid assignment of the note together with a recordable assignment of the trust deed securing said note.

(Amended) 2849.3. **Withdrawing Funds from Escrow.** The word "purchase" as used in Section 3081.09 of the Civil Code shall mean a completed transaction including a valid assignment of the note to be sold and a recordable assignment of the trust deed securing said note, both in the name of the purchasers.

When selling as a principal, the broker, at the time of withdrawing funds to be applied to the purchase of such note and deed of trust, must have title to said note and deed endorsed by assignment to him or by other indicia of ownership and possession of the said note and deed of trust.

No person registered as a real property loan broker and engaged in the business of buying and selling or exchanging promissory notes secured by deeds of trust or mortgages on real property shall at any time cause, induce or direct any person to authorize the withdrawal of funds from escrow or accept authorization from any person for the withdrawal of funds from escrow until such person has approved in writing the purchase of a specific promissory note secured by a deed of trust or mortgage.

(Adopted) 2849.4. **Notification of Escrow Companies.** A real property loan broker shall notify the Real Estate Commissioner in advance of the name and address of any independent licensed escrow company he uses under provisions of Section 3081.09(b) of the Civil Code of the State of California.

In depositing funds pursuant to the said section the broker shall state in written escrow instructions that the funds are deposited and are to be disbursed in accordance with the provisions of said section and the regulations of the Real Estate Commissioner issued thereunder.

(Adopted) 2849.5. **Records of Discount Broker Transactions.** All records of discount broker transactions involving the purchase and sale as a principal or as an agent of notes secured by deeds of trust on real property, including but not limited to appraisals, credit reports, and a copy of the discount broker's statement, shall be maintained in the office of the discount broker and shall be subject to and available for review and investigation by the commissioner or his deputies for a period of at least three years.

(Adopted) 2849.6. **Notice of Intention.** A note on a single parcel of real property which is one of a series of notes and which is issued for eventual sale to the public is a security subject to the Corporate Securities Act and requires a permit from the Corporations Commissioner. The sale of such a note by a real property loan broker without such a permit is unlawful. (As handled by real property loan brokers such notes generally will involve tract operations.)

Prior to the time such note or notes are offered to the public, the real property loan broker must file a notice of intention to sell such notes with the Real Estate Com-

missioner, unless the real property loan broker has a permit from the Corporations Commissioner to sell a specific series of notes. The notice of intention shall include but not be limited to:

(a) A statement as to whether a map of the subdivision has been filed for record.

(b) The extent of off-site improvements, if any.

(c) The location of the subdivision.

(d) The name or names of the maker of the notes.

(e) The name or names of the beneficiary of the notes.

(f) A statement as to whether to the knowledge of the real property loan broker there is any relationship between the maker and the beneficiary.

(g) The number of notes offered.

(Adopted) 2849.7. **Dishonest Dealing.** With respect to any real property loan broker, whether acting as principal or agent, dishonest dealing within the meaning of Section 10176(i) and Section 10177(l) of the Business and Professions Code shall include but not be limited to:

(a) The representation of the value of real property securing a note as being in excess of the fair and reasonable appraised market value of said property at the time of the offering to sell or exchange of said note.

(b) The offering to sell or exchange of any note or interest therein secured by real property which contains a subordination clause without a full disclosure to the purchaser of said note of the amount of the first note to which said note is to be subordinate.

(c) The offering to sell or exchange of any note or interest therein secured by real property which is junior to a note containing a blanket encumbrance on the property and other properties without a full disclosure to the purchaser of said note of the amount of the blanket encumbrance.

(d) The offering to sell or exchange of any note or interest therein secured by parcels of real property in a proposed subdivision for which a subdivision map has not been recorded.

(Adopted) 2849.31. **Funds to Be Reinvested.** All principal and interest payments received by a real property loan broker on notes previously sold by him and which notes he is servicing shall be deposited and maintained in an independent licensed escrow company as provided for in Section 3081.09(b) of the Civil Code of the State of California. When said funds are collected for the purpose of reinvesting in the purchase of other and additional notes to be secured by a deed of trust, said funds may not be withdrawn from escrow except under the conditions specified in Section 2849.3 of this code.

(Adopted) 2849.8. **Reports of Transactions.** A report of all transactions by a discount broker, as defined in Section 2849 of this code, shall be filed with the Real Estate Commissioner by each real property loan broker acting as a discount broker by the 15th of the month following each calendar quarter of the year. The commissioner may require the filing of additional reports at specified times or intervals. Said required report shall include, but not be limited to:

Real Estate Prof Flies to Class

R. Dean Stahr, Napa real estate broker and appraiser, will make 15 weekly flights in his private plane between that city and Ukiah, where he is teaching the University of California certificate course, "Principles of Real Estate Appraisal."

William J. Waddell, Assistant Field Coordinator for the program, calls this education by airplane project a demonstration of the University's acceptance of its "traditional responsibility . . . to extend to ever-increasing numbers of Californians the opportunities of continuing education." But, he adds, "the statewide Real Estate Certificate Program has additional charges to do so from the California State Division of Real Estate and the real estate industry."

(a) A listing of all notes sold together with sales price of each note.

(b) The names and addresses of the purchasers.

(c) A copy of the appraisal of the property securing the note.

(d) A statement of the maximum amount of money held in a trust fund and/or licensed escrow company for the benefit of purchasers or owners of notes during the quarter.

(e) A statement of amount of funds held as a growth or reinvestment fund for investors.

(f) A statement of the amount of bond maintained with the Real Estate Commissioner during said quarter.

(g) A list of defaulted notes and their status.

(h) A statement of the amount of advances made by discount broker on behalf of investors in the purchase of notes and the amount of advances made to investors as interest on other payments on the notes purchased by them.

(Adopted) 2790.6. **Subdivision Questionnaire.** An owner, his agent, or subdivider may be required to file a statement with the Division of Real Estate disclosing, but not limited to, the following information:

(a) The manner and method of financing used in the purchase of the land to be subdivided.

(b) The manner and method of financing to be used for the off-site improvements.

(c) The manner and method of financing to be used for the on-site improvements.

(d) The manner and method of financing to be used or proposed for use in the purchase of parcels offered for sale.

Legal-Ethical Implications of Appraisals

Generally, persons who represent themselves as qualified members of a profession have been held by the courts to be liable for losses suffered because of their negligence. Insurance companies recognize this possibility as a legitimate risk to practitioners in such traditional professions as law, medicine, dentistry, accounting, and offer standard policies of coverage.

Appraisers (who more often than not are licensed in real estate) may represent themselves as professionals having superior standards and levy fees consistent with this claim. The question then arises: Does this imply a similar liability on their part for inaccurate evaluations and reports based on negligence?

Some Pertinent Case Histories

Some clues to possible answers to this question are offered by Julian H. Levi, J.D., in a challenging article, "The Impact of Law and Code Enforcement on Value" in the January issues of the *Appraisal Journal*.^{*} The author cites seven case histories of properties where effective enforcement of zoning or other code requirements resulted in appreciable loss of value compared to previous high appraisals, which had allowed full credit for illegally obtained gross income. The author concluded that significant moral and ethical implications certainly exist in these cases and that possible legal liability might devolve upon the ones making the prior appraisals.

Closer To The Core

A more direct commentary on the matter is found in the ruling of a U.S. Court of Appeals (*U.S. v. Neustadt*, 1A-4, 8/19/60, No. 8071) which held FHA liable for a defective appraisal and affirmed judgment of \$8,000 in favor of a homebuyer. The plaintiff had purchased a home covered by FHA insurance and subsequently found a faulty foundation and other flaws which resulted in his suit for redress.

The court reasoned that the law requires a seller to give to the buyer a statement of FHA's appraised value of the property. Its purpose, therefore, is to protect the buyer and help him measure the fairness of the price he is paying for the property. The facts as set forth proved the appraiser

(and hence FHA) had been careless and consequently liable to the buyer.

It is true that insurance companies have not yet recognized the potential liability for negligence by offering standard coverage for appraisers, as they have for the more definitely established professions. It is also true that appraisers do protect themselves by using built-in escapes in their report forms, such as "opinion of value" and other qualifying statements.

Nevertheless, it has become recognized that appraisers may be sued because of specific faults in appraisals and/or reports, i.e., for financial loss incurred through typographical error in figures, failure to mention known adverse conditions affecting value, error in legal description, inclusion of non-existent facilities, error in mathematical computations, etc.

From these foregoing, the conclusion may be drawn that carelessness is never a justifiable aspect of professional behavior; that, while specific facts would determine legal liability in a specific case, moral and ethical imperatives are always present!

^{*} In addition to cited articles, see P-H Real Estate Report, Vol. XV—No. 4, p. 5; *Ibid* Para. 19654.

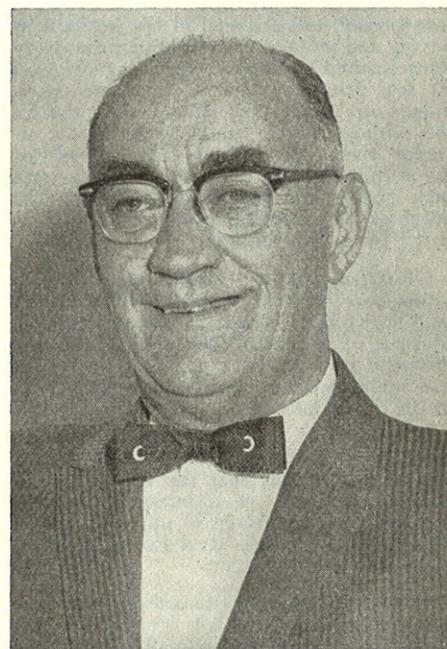
REAL ESTATE LEGISLATION

At press time a number of bills designed to protect the public and improve certain aspects of real estate had been placed in the legislative hopper, and others were being prepared for introduction covering various phases of licensing and practice. Bills being considered or to be considered will touch upon discount mortgage brokerage, educational prerequisites to licensing and advance fee brokerage. A report will be given in the next Bulletin.

New Commission Member Appointed By Governor

Governor Edmund G. Brown has announced the appointment of Leonard Seeley, a prominent Hayward Realtor, to a four-year term on the State Real Estate Commission. Mr. Seeley succeeds Maurice G. Read of Berkeley who gave 16 years of constructive service to the Commission.

Seeley, a contractor until World War II, served with the Seabees in that conflict, then moved to San Leandro where he entered the real estate business a year later. His active participation in civic affairs was marked



LEONARD SEELEY
Real Estate Commission Member

in 1948 by election to the San Leandro City Council and in 1950 by elevation to the office of Mayor. He is a past president of the San Leandro Lions Club and past commander of San Leandro Post No. 117, American Legion.

Mr. Seeley moved to Hayward in 1953, where his capabilities were recognized in 1955 by appointment to the City Planning Commission. At the present time he is vice president of the Southern Alameda County Board of Realtors and a member of the Arbitration Committee of the California Real Estate Association.

U.C. Publishes Household Formation Study

The professional business statistician and his alter ego, the predictor of things to come, are followed with keen interest by every wide awake real estate professional, but what are the relative values to be given to various techniques and measures in this field?

This question, as it is applied to the area of new household formation, is the subject of an informative article in the *Journal of the American Statistical Association*, reprints of which are being issued by the Institute of Business and Economic Research of the University of California.

Dr. Sherman J. Maisel, participating in the University of California (Berkeley) Real Estate Research Program, directed the study and discussed the results in his article entitled "Changes in the Rate and Components of Household Formation." The research project is one of the many financed in whole or in part by allocations from the Real Estate Education and Research Fund.

Two Major Findings

Basic concepts running through the study are: (1) the current practice of rushing into print with boom or bust predictions based upon single factors of causation or upon annual statistical reports alone is fallacious, and (2) the process of obtaining proper data for intelligent evaluation "requires a detailed search for logical assumptions, constant revisions, and a great deal of cross-checking and vigilance."

In other words, don't sell your business at the first negative headline; or, conversely, don't expand your facilities and enlarge your staff upon the single motivation of an enthusiastic economic prediction. Look first at both the facts gathered and the method of the analyst before you decide upon positive or negative action.

In answer to the question, "What is the shape of the long-run trends of household formation", Maisel cites the following statistics: From a rate of 378,000 per year in 1890-1910, formation of household units increased to 504,000 for 1930-40; between 1947 and 1950 the average rate shot up to 1,500,000 and then declined by nearly half. Projections of these trends, he concludes, show that the period of decline is nearly over and that a growth rate of over 100,000 per year is probable between 1970 and 1975.

Long Range Picture Hopeful

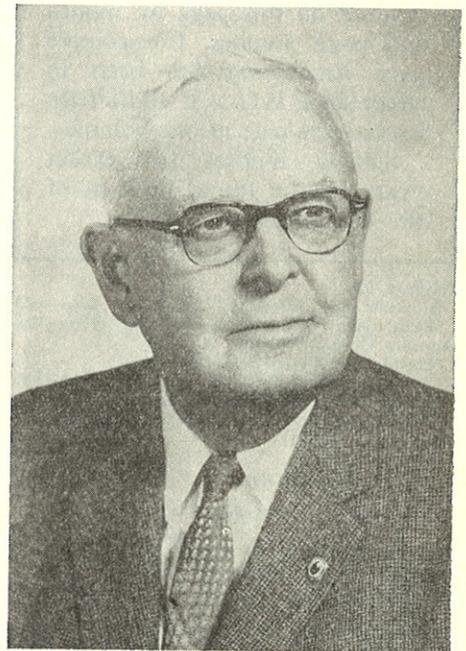
With respect to the confusion of varying high and low predictions as to increase of household units, Mr. Maisel says, "The main reasons for selecting stability rather than a decrease as the most pessimistic limit are the facts that the rate has gone up at least slightly in every decade including that of the 1930's, and that the probabilities of an extended and deep a depression as that of the 1930's are believed to be slight."

This should be tonic indeed to those who read reports of slowdowns in housing starts, and weep!

CREA Headed By Smitten in 1961

Kenneth H. Smitten of San Francisco was installed January 14, as 1961 president of the California Real Estate Association, succeeding Edward L. Callahan of Los Angeles, who headed the 167-board and 33,000-member organization in 1960.

President Smitten became interested in real estate in 1905 when he started work as an after-school office boy for a San Francisco firm, staying on as salesman and broker until 1929. Since then he has directed his own successful firms.



KENNETH H. SMITTEN

Smitten's contributions to the field of real estate, to his community and nation have been notable and continuous since he first joined the San Francisco Real Estate Board over 40 years ago. Active in CREA and NAREB since 1917, he has served in many important capacities.

In 1961, in addition to his CREA presidency, he will also act as director for NAREB and for the International Real Estate Federation, and as Governor of the American Society of Real Estate Counselors.

How Long Is Two Years?

"I've had my original salesman's license for two years," says an applicant, "is it okeh now to apply for my broker's license?"

The answer: Length of time one had a salesman license is not the point here. The law requires, among other things, a minimum of two years *active* experience as a licensed real estate salesman, or *equivalent* experience in the general field of real estate, or graduation from a four-year university or

college with specialization in real estate subjects.

Active experience is defined as a minimum of forty hours per week of actual working time devoted to real estate and this must be attested to and substantiated.

Equivalent experience must equate to this irreducible minimum, and must likewise be substantiated to the satisfaction of the State Real Estate Commission.

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ANNUAL SUBJECT INDEX

Subjects covered in *Bulletin* articles during the past year are indexed on this page by month and page number. Consecutive page numbering has been in effect since 1951 as if all *Bulletin* issues were part of one volume. Subject indexes for earlier years can be found in most of the January issues.

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MEMOS WE LIKE TO GET

It might interest you to know that during the past ten years the Right of Way Department of the State Division of Highways has used the *Reference Book* of the Division of Real Estate as text material in many of the in-training courses given to Right of Way Agents employed by the California Division of Highways. We now have 518 Right of Way Agents, all of whom are familiar with this *Reference Book*.

We selected this book particularly because of the excellent material it contains with reference to California land titles and also because of the outstanding chapter on contracts.

We have multilithed most of chapter 6, using it as required reading and as part of the text material for our indoctrination course.

(s) E. M. MACDONALD, *Chairman*
 Standing Committee on Education

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