

# REAL ESTATE BULLETIN

Official Publication of the California Division of Real Estate

GOODWIN J. KNIGHT, Governor

Sacramento, March, 1956

D. D. WATSON, Commissioner

## IMPORTANT MESSAGE

### THAT SECOND EXAMINATION

By D. D. Watson, Commissioner

Preparation is under way for the second or "final" examination which all new or original brokers and salesmen (licensed on or after October 1, 1955) must pass before they can obtain a "renewable" license. We will start these examinations July 1, 1956.

All prospective applicants for permanent, renewable licenses may be assured that the examinations will not be designed to prevent anyone from continuing in real estate, provided the applicant demonstrates by means of written and oral tests that he knows how to handle real estate transactions properly and otherwise assume the responsibility to the public that such license entails.

#### Provisions of New Law

Those who acquire an original broker or salesman license after October 1, 1955, the effective date of the new legislation, should understand that such license is good for only one year, and is not renewable. In order to receive a "renewable" license, one must pass a second or "final" examination toward the end of his original first license year. Procedures will be developed so that original licensees will know when and how to go about applying for the second or "final" examination.

**In the event the candidate for renewable license fails the second or "final" examination, he may apply for another original license, good for one additional year; but, if he fails at the end of the second year, he then will be obliged to retire from any business requiring such broker or salesman license for at least one year.** An exception is the original broker licensee who fails to pass the "final" test in two successive years. He is entitled to apply for and be issued a original salesman license immediately without having to take the original salesman examination.

#### Failures May Be Many

It may be expected that a substantial number of original licensees will fail to qualify for a "renewable" license, particularly those who do not make it their business to study all the basic real estate laws and practices during their first year in the business, or who are not sufficiently interested

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#### FIRST FORUMS SCHEDULED

As we go to press, arrangements have been completed for the presentation of first of the commissioner's forums. Times and places follow:

WHITTIER—Tuesday, March 13, 7.15 p.m.  
Women's Clubhouse, 148 N. Friends

PASADENA—Wednesday, March 14, 7.15 p.m.  
Eliot Junior High School, 2184 N. Lake

SAN GABRIEL—Thursday, March 15, 1.15 p.m.  
San Gabriel Mission Playhouse, 320 S. Mission Drive

SANTA ANA—Thursday, March 15, 7.15 p.m.  
Ebell Clubhouse, 625 French St.

## Commissioner's Meetings Planned Grass Roots Discussions of Real Estate Law Provisions

Due to state-wide requests from real estate groups for speakers to discuss recent legislation affecting the real estate business, the Real Estate Commissioner proposes to hold a series of regional conferences. Tentatively, these are planned to start about the middle of March in the southern part of the State.

Ever since the passage of the 1955 amendments to the license law which radically changed the procedure for obtaining a permanent license, requests have been received from all quarters of the State for speakers to discuss the provisions. Enactment of the Mortgage Loan Brokers Law limiting charges and imposing requirements upon brokers who handle mortgage loans also stimulated such requests.

The heavy volume of current work confronting the commissioner and his staff has made it virtually impossible to comply with the requests for group speakers. There are more than 140 real estate boards alone in the State, and numerous real estate groups of

other kinds. To fill speaking requests from all of these would require the commissioner and his top aides to be "on the road" a substantial part of the time. Considering the time loss in traveling and preparation of material, the commissioner felt that the work of the division would be adversely affected and it was necessary to deny the requests received. It should be borne in mind that the work load of the division at this time is the highest in history, because of the volume of license applications, examinations given, complaints received, hearings held, and subdivisions processed.

(Cont. on Page 227, Col. 1)

**REAL ESTATE BULLETIN**

Sacramento, March, 1956

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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**RETRACTION**

In the January *Bulletin* it was erroneously announced that the real estate broker license of MARION SANDS RICHARDS (dba RICHARDS REALTY CO.), 2988 National Ave., San Diego, had been suspended. The commissioner regrets this inadvertent notice.

**New Jersey to Expand Education**

The New Jersey Legislature has authorized the Real Estate Commission of that state to conduct educational and information programs. From \$13,000 to \$15,000 is earmarked for this purpose.

The original legislation was vetoed by the New Jersey Governor, but the Legislature overrode the veto.

**DISCIPLINARY ACTION—DECEMBER, 1955, AND JANUARY, 1956**

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 DECEMBER, 1955, AND JANUARY, 1956**

| Name                                                                                               | Address                                | Effective date                                    | Violation                                            |
|----------------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------------------------|------------------------------------------------------|
| Dillon, Dale Levaan<br>dba Town and Country Development Co.<br>Real Estate Broker                  | 591 E. San Madele, Fresno              | 12/ 1/55<br>(Granted right to restricted license) | Secs. 10137; 10176 (d), (g) & 10177 (f)              |
| Rasmussen, Floyd Dale<br>Real Estate Salesman                                                      | 591 E. San Madele, Fresno              | 12/ 1/55<br>(Granted right to restricted license) | Secs. 10137; 10176 (d), (g) & 10177 (f)              |
| Cohan, William Edward<br>dba Pacific Empire<br>Real Estate Broker<br>Business Opportunity Broker   | 369 W. Portal Ave., San Francisco      | 12/ 8/55                                          | Secs. 10176 (a), (b), (i); 10177 (f) & 10302 (c)     |
| deSilva, William Henry<br>Real Estate Salesman                                                     | 401 S. Burnside Ave., Los Angeles      | 12/16/55                                          | Sec. 10177 (b), (f)                                  |
| Blacknell, Samuel Louis Jr.<br>Real Estate Salesman                                                | 2333 Valley St., Berkeley              | 12/20/55 ✓                                        | Secs. 10176 (c), (i) & 10177 (f)                     |
| Lang, Gerard Leon<br>dba Mulholland Realty Co.<br>Real Estate Broker                               | 14200 Mulholland Hwy., Los Angeles     | 12/23/55                                          | Sec. 10177 (a), (b), (f)                             |
| Ivey, Jewett James<br>Real Estate Broker                                                           | 2460 W. Washington Blvd., Los Angeles  | 12/23/55                                          | Sec. 10177 (f)                                       |
| Steele, Harry Wesley<br>Real Estate Salesman<br>Business Opportunity Salesman                      | Park Hotel, 3359 Fifth Ave., San Diego | 1/ 4/56                                           | Secs. 10177 (b) & 10302 (b)                          |
| Myrick, Frederick<br>Real Estate Salesman                                                          | 4106 N. Azusa Ave., Covina             | 1/ 4/56                                           | Sec. 10177 (b), (f)                                  |
| Ellis, Michael<br>Real Estate Broker                                                               | 5248 Van Nuys Blvd., Van Nuys          | 1/ 6/56<br>(Granted right to restricted license)  | Secs. 10176 (c), (i) & 10177 (f)                     |
| Scheck, Mary Theresa<br>Real Estate Salesman                                                       | 1062 E. Vernon Ave., Los Angeles       | 1/10/56                                           | Sec. 10177 (b)                                       |
| Proctor, Raymond James<br>Real Estate Broker                                                       | 4946 Van Nuys Blvd., Van Nuys          | 1/10/56                                           | Sec. 10177 (d), (f)                                  |
| Petrow, George John<br>Real Estate Salesman                                                        | 203 W. 17th St., Santa Ana             | 1/17/56 ✓                                         | Secs. 10176 (c), (i) & 10177 (d), (f)                |
| Sneed, Lola Alice<br>dba Sneed Realty Company<br>Real Estate Broker                                | 3138 Market St., Oakland               | 1/23/56<br>(Granted right to restricted license)  | Secs. 10176 (a), (i) & 10177 (f)                     |
| Carter, Rosa Lee<br>dba Encore Realty Company<br>Real Estate Broker<br>Business Opportunity Broker | 3796 S. Western Ave., Los Angeles      | 1/24/56                                           | Secs. 10176 (a), (b), (i); 10177 (d) (f) & 10302 (c) |
| Monteverde, Lewis Michael<br>dba Monteverde Realty Loans<br>Real Estate Broker                     | 3101 W. Vernon Ave., Los Angeles       | 1/25/56<br>(Granted right to restricted license)  | Secs. 10176 (i) & 10177 (f)                          |
| Shaw, Mattie Earl<br>Real Estate Broker                                                            | 886 N. Oleander St., Fontana           | 1/25/56                                           | Sec. 10177 (b), (f)                                  |
| McKay, Donald James<br>Real Estate Broker                                                          | 234 Forum Bldg., Sacramento            | 1/30/56                                           | Sec. 10177 (b), (f)                                  |

**LICENSES SUSPENDED DURING DECEMBER, 1955, AND JANUARY, 1956**

| Name                                                                  | Address                             | Effective date and term                 | Violation                                       |
|-----------------------------------------------------------------------|-------------------------------------|-----------------------------------------|-------------------------------------------------|
| Cowan, Harry Lee<br>Real Estate Broker<br>Business Opportunity Broker | Rm. 204, Times Bldg., Long Beach    | 12/ 9/55<br>60 days<br>(50 days stayed) | Secs. 10176 (i); 10177 (f); 10177.5 & 10302 (c) |
| Ulan, Alex Paul<br>Real Estate Salesman                               | 848 Cole St., San Francisco         | 12/13/55<br>5 days                      | Secs. 10176 (a), (i) & 10177 (f)                |
| Wood, George Raymond<br>dba G. R. Wood Co.<br>Real Estate Broker      | 3321 W. Vernon Ave., Los Angeles    | 12/13/55<br>6 months                    | Secs. 10176 (a), (i) & 10177 (f)                |
| Needels, Fred Jr.<br>Real Estate Salesman                             | 6555 Mission St., Daly City         | 12/20/55<br>10 days                     | Sec. 10142                                      |
| Harris, Jerome<br>Real Estate Broker                                  | 1948 Huntington Dr., South Pasadena | 1/ 4/56<br>15 days                      | Secs. 10142; 10176 (i) & 10177 (d), (f)         |
| Burke, Robert Marshall<br>Real Estate Broker                          | 1721 W. Whittier Blvd., Whittier    | 1/ 4/56<br>120 days                     | Secs. 10176 (i) & 10177 (f)                     |
| Eichelberger, Harry Martin, Jr.<br>Real Estate Broker                 | 240 26th St., Santa Monica          | 1/11/56<br>30 days                      | Sec. 10177 (f)                                  |
| Kilcullen, Patrick Joseph<br>Real Estate Salesman                     | 1735 Pacific Ave., Long Beach       | 1/20/56<br>60 days                      | Secs. 10176 (a), (i) & 10177 (f)                |

## Licensees Invited to Forums Starting Soon

(Cont. from Page 225, Col. 3)

The commissioner is keenly aware of the need for making available all information concerning these new laws and regulations. Since their adoption by the Legislature, hundreds of requests have been received by letter and telephone from licensees wishing clarification.

It is recognized that the new procedure for securing licenses is more complex. The process of securing an original license, taking the original examination, applying for renewal license and qualifying therefor gives rise to various questions. The loan broker regulations, effected by amendments to the Civil Code, are also rather complex and affect a very substantial number of real estate brokers and salesmen. While much information on these matters has been printed in the *Bulletin*, many details and the application of the law to particular situations cannot be fully covered in this manner.

### Forum Idea Developed

The commissioner, therefore, considered ways and means of bringing the greatest amount of information to the greatest number of licensees with the least expenditure of time on the part of the division's staff.

This led to the idea of holding a series of conferences or forums throughout the State in strategic locations. They would be held not only around the heavy population centers, but would also reach out into the lesser populated areas. The exact number of conferences cannot yet be estimated until some experience with them has been gained; however, it probably will take 20 to 30 meetings to adequately cover the State.

### Panel Type Discussions Planned

Present plans call for the commissioner, commission members, and top staff members to form a panel for the purpose of discussing various subjects and answering questions from the floor. Audience participation will be encouraged. Questions will be gathered from the audience.

While stress will be laid upon discussion of the newer laws, the oppor-

tunity will be afforded to discuss various other subjects of interest to licensees.

### Tentative Program

It is planned that these district conferences will last about 3½ hours in an afternoon or evening session, depending upon the hall arrangements made. This should give ample time to discuss all activities of the division which may be of interest to its licensees. Such subjects as licenses, examinations, why licenses are revoked and suspended, investigations and prosecutions, hearings, importance of real estate education, subdivision regulations, loan broker legislation, and others will be considered.

### Meetings Open to All

All of the scheduled meetings will be open to every licensee, and it is planned to send timed announcements by mail to all brokers and salesmen in an area where a conference is to be held. Members of the public, for that matter, will be welcome.

While the meetings will be a Division of Real Estate function, cooperation of local real estate organizations will be welcomed in making the necessary arrangements, giving due publicity, and handling other details. Various real estate boards have already signified their willingness to give assistance if a forum meeting can be held in their district.

### Good Response Expected

The commissioner believes that the series of meetings will accomplish a valuable purpose and prove to be highly popular. They may be a forerunner of an annual program if they meet with sufficient response.

While this is the first time a statewide program of this kind has been planned, some experience was gained through two similar meetings held at Los Angeles and Santa Cruz in 1936 and 1937. Those meetings were well attended and resulted in much favorable comment. Based upon that experience, there is every reason to believe that the current series of meetings will be equally successful.

## Broker Almost Loses Earned Probate Sale Commission

It is well for a broker who has sold a property involved in probate proceedings to be in court at the time of the confirmation of sale, or otherwise make sure his interest is protected.

In a recent case, after a broker had sold the property belonging to an estate, the executor of the estate forgot to request payment of the broker's commission when he petitioned for the confirmation of the sale. When the broker learned of the omission, he petitioned the court to order the confirmation to be reopened so that he could apply for and secure an order which would allow his commission. The court granted the broker's petition.

The heirs, however, opposed the claim and appealed the court's order by an action in the appellate court.

The higher court held that the probate court has exclusive jurisdiction to adjust brokers' claims, and ruled in favor of the broker.

Although the broker was successful in obtaining the commission, it will be seen that it cost him time, trouble and expense because of an oversight. (Based on *Estate of Efrid*, 130 A. C. A. 271.)

## Board Places Large Order For Real Estate Laws

The Southwest Branch of the Los Angeles Realty Board ordered 1,000 copies of the current real estate law pamphlet upon announcement of its publication. This was by far the largest of the flood of orders received by the division.

Jay Sanders, chairman of the southwest branch, said the pamphlets were to be distributed to members and their salesmen during National Realtor Week. Intimate knowledge of the license law and the obligations to the public it entails "tends to raise the standards of our profession," he stated, "and it is our purpose to always give to our members any service which will benefit them and their profession."

## **THEFT OF REALTY**

### **Misrepresentations Lend Fictitious Value to Trust Deed**

Is real estate a subject of theft? Yes, according to a decision recently made by the Second District Court of Appeal in *People v. Pugh*, 137 A. C. A. 264.

While the case is rather involved, basically it concerns maneuvering whereby Elmer R. Pugh sold 302 acres of cheap desert land to an uninformed woman, representing that it was good alfalfa land and had a substantial value. In making the transaction he arranged to place a trust deed in the amount of \$15,000 on this desert land, which apparently was worth \$1,500 at the most. Then he arranged to buy city property from a former client by trading the trust deed toward the property. This city property was apparently worth in excess of \$15,000.

The sellers of the city property ended up with a trust deed with little or no value. Pugh was prosecuted criminally for "stealing real estate" and the trial court found him guilty. The appellate court upheld the trial court on appeal.

#### ***Interesting Points Raised***

There were many interesting points raised in this case. For instance, Pugh made some of the representations concerning the desert property to the son of the woman who owned the city property, apparently believing he would transmit the information to his mother. This he did, and she seemingly relied upon it.

To create the trust deed with its fictitious value, Pugh sold the 302 acres to an elderly woman, a Mrs. Baker, with whom he had previously done some business. She was a person of limited means. She was told the 302 acres was perfectly flat desert land worth \$200 per acre; that a vice president of an oil company owned the land next to it and paid \$200 per acre for it; that this land was producing alfalfa; that Pugh thought he could get the 302 acres for her for \$200 down plus the expense of escrow of about \$100; and that there was a deed of trust in the sum of \$15,000 that had to be cared for.

Mrs. Baker told Pugh she did not have any money and could not service the trust deed and note. Pugh then told her that he had two men in his office who wanted to lease the land and plant it to alfalfa; he assured her

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that these men would lease it as soon as she bought it, and that the rental of the land would more than pay off the trust deed.

#### ***Trust Deed Created***

Pugh then took Mrs. Baker to the escrow department of a bank where she signed a note to one Lulu Brockman for \$15,000, and paid \$300 in cash. Lulu Brockman turned out to be Pugh's mother-in-law. Later, this \$15,000 note was turned in toward the purchase of the city property previously discussed. Pugh was found guilty of grand theft. The testimony showed that his representations were false and that the desert land was actually not worth more than \$1,500.

This is an extreme example of the fallacy of accepting a first trust deed at face value. Some years ago we heard of a case where a recorded subdivision of very little value was purchased by some men who proceeded to put large trust deeds on each of the lots. They used these trust deeds as "trading stock" and defrauded many persons.

A trust deed note is no better than its security in most cases. Make sure that you know the value of the property supposedly securing the note.

### **Legal Prohibitions Against False Advertising**

Some real estate people may not be familiar with provisions in the law outside of the Real Estate License Law relative to false advertising.

Sections 17500, 17501, 17530 and related sections of the Business and Professions Code make it unlawful for any person, firm, corporation, or any employee, to disseminate untrue or misleading statements intended to influence directly or indirectly the dis-

### **Delivery of Loan Statement At Office of Broker**

Since the issuance of the last *Bulletin*, a number of real estate brokers and salesmen have written and telephoned to the offices of the division, and to the commissioner personally, regarding a provision of Section 3081.1 of the so-called mortgage loan brokerage law.

The oft-repeated question is whether the statement of estimated costs and expenses to be furnished to the borrower who pays the broker's compensation must in all cases be delivered *at the licensed place of business* of the broker negotiating the loan. In the January *Bulletin* it was pointed out that the law as written makes no exceptions; the statement must be delivered at the broker's licensed office.

There appears to be general criticism of this provision in the law, and the commissioner has referred the problem to the Real Estate Commission (Board) and to the industry for study and recommendation. If it should be generally agreed that this is an unwarranted restrictive provision, no doubt some interested group will undertake to correct it.

**To our readers we wish to point out that the commissioner is not responsible for writing the law, but must administer it as written without authority to change any provision.** We understand the provision in question was added to the bill which became the mortgage loan brokerage law at the time the original bill was being considered by the Legislature. The addition was at the recommendation of a group representing the mortgage loan brokerage business.

The commissioner welcomes comments from the industry concerning the law, and will be pleased to cooperate with any group when it seems apparent that an unreasonable or unrealistic condition exists.

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posal of real or personal property or to perform services in relation thereto.

The law provides that a violation of the sections referred to is a misdemeanor, and also provides that an injunction may be secured against a violation of those statutes.

## The Term "Realtor"

### What Happens When Board Membership Is Dropped

We read recently in one of the real estate board bulletins that, for nonpayment of dues, a number of brokers had been dropped from membership by resolution of the board of directors. Suspension and loss of membership for failure to pay required dues has from time immemorial been provided for in the constitutions and by-laws of organizations.

In the case mentioned, the Real Estate Commissioner would have had only passing interest, except for the fact that the enforcement of one provision of the license law is directly involved. That is Section 10177(e) which makes use of the insignia or trade name of any organization, without the legal right to do so, cause for suspension or revocation of license. More particularly, we refer to the use of the term "realtor" which is claimed as the property of the National Association of Real Estate Boards.

#### Commissioner's Position

The question arises as to the commissioner's position in event one or more of these "dropped" members continues wilfully to use the term "realtor." Very likely that board will be unhappy and demand that the commissioner apply this section of the law. This has happened a number of times.

Then what happens? Will the commissioner call a hearing? If he does, the respondent's attorney may raise the question as to whether the member was properly and legally dropped from the board membership. He may urge that his client is still legally a member of the board and entitled to use the term "realtor," possibly maintaining that democratic processes were not used, that his client did not receive proper notice of default and notice of hearing, and was not given the right to defend himself before being deprived of a valuable property right. We are not merely guessing at this. It has actually happened.

#### A Case in Point

In a recent case, a member was dropped by mere resolution of the board of directors. This broker continued to use the term "realtor." The commissioner called a hearing and, as a result thereof, a suspension of license

was imposed. The respondent appealed to the courts, which ordered the license restored on the grounds that the broker had not been properly dropped from membership and was therefore entitled to use the term.

This court said, in effect, "Membership in an unincorporated professional society or trade or business association is a valuable right which may not be terminated except by adherence to the fundamental requirements of the law."

The court further stated, "A member of an unincorporated association may not be suspended or expelled without charges, notice of hearing, although rules of the association make no provision therefor. Although members expelled from associations are required generally to exhaust the internal remedies provided by the association before appealing to the courts, this is not the rule where the attempted action is void for absence of notice and hearing required by due process." (Case reported in 116 CA 2d 677)

Another earlier case (1944 *Ellis v. American Federation of Labor*, 48 CA 2d 440), involved members of a labor union who were dropped from membership without being afforded the opportunity for a hearing.

#### Indicated Procedure

The law appears to make it quite definite that, before a member of a real estate board can be legally dropped from membership, he must be properly served with a notice of charges, a notice of hearing, and a hearing must be held, even though the board by-laws make no provision for it. It is in keeping with the old adage, "Every man is entitled to his day in court."

Therefore, it would seem that all real estate board by-laws must pro-

## Loses Move to Set Aside Sale Under Trust Deed

In a recent interesting case, a trustor in default attempted to have the sale under the trust deed set aside on three separate grounds.

First, he objected because the trustee conducting the sale orally postponed it. The debtor was not present. The court pointed out that the trustee under terms of a deed of trust in common use has the right to postpone the sale orally, and the point is covered in the Code of Civil Procedure.

Secondly, the debtor alleged that the trustee was guilty of bad faith because he refused a further continuance of the sale after the debtor had assured him that he would be able to pay the debt within a day or two. The court ruled that the debtor's request for another continuance at the time of the sale, which continuance was refused, did not make the sale invalid.

Finally, the debtor claimed the sale should be set aside because the property sold for a "grossly inadequate price." The fact that the price was inadequate, standing alone, would not justify setting aside the sale, the court ruled. It was pointed out that there must be additional proof of some element of fraud, unfairness or oppression which would account for the inadequacy of the price. (*Oller v. Sonoma County Land Title Company*, 137 ACA 709.)

### DIRECTORY

No orders for the 1955-56 Directory can be accepted now as the printing was limited. The Directory will be distributed to those who had reserved copies in response to the earlier *Bulletin* notice.

vide for proper procedures before expulsion or suspension of a member. Otherwise the commissioner cannot take effective action for the protection of the term "realtor" as provided for in the license law.

## Qualifying For Renewable License

(Cont. from Page 225, Col. 2)

in the business to qualify themselves for the "final tests."

### Caution to Brokers

It is particularly important that all those receiving a broker license for the first time should thoroughly understand their situation. If upon receiving an original real estate broker license—a "nonrenewable" license—they buy furniture, office supplies, signs and obligate themselves to a lease and other capital outlays, and then fail to qualify for a permanent broker license, the venture could be expensive.

To play safe, the answer seems to be not to assume such obligations until obtaining a "renewable" license, or to work for some other established broker as a "broker-salesman" until the "renewable" license is obtained. This "first-year" license provides the opportunity to acquire the practical knowledge by actual experience before taking the "final test" for a permanent license.

### Note to Salesmen

A note of caution should be addressed to those who are surrendering renewable real estate salesman licenses—that is, licenses issued before October 1, 1955—to engage in business under an original real estate broker license.

Under the law it is conceivable that a person who had a renewable real estate salesman license might find himself without a license of any kind after two years as an original real estate broker and one year as an original real estate salesman. This would be possible if such a person fails to pass the final "examination" for renewable real estate broker license two years in a row; then, taking out an original real estate salesman license, fails to pass the final test for a renewable license in that category.

Thus it might be wise for a person who becomes licensed as an original real estate broker to retain his renewable salesman license status, if he has one, by keeping that license inactive

and renewing it from year to year until he is assured of having a renewable real estate broker license.

Speaking of inactivation, it is possible to cancel, or "inactivate" an original real estate broker or salesman license, but the inactive time is charged against the year the license is valid.

The applicant for any original license should not apply for that license until he is well prepared for the entrance examination. He has but two chances to pass it and if he fails both times he must wait a full year. Formerly any number of qualifying examinations could be taken with short waiting periods in between.

Finally, any salesman who goes to work for a broker who is operating with an original license good for only one year must take the chance that the broker will qualify for a permanent, renewable license. If not, the salesman can, of course, transfer to another broker.

### All-Day Examination

It is contemplated that these final examinations to qualify for "renewable" licenses will be most extensive, although every effort will be made to keep them practical and pertinent to the proper handling of a real estate transaction. The examination, as planned, will be an all-day affair, providing for morning and afternoon sessions, with an opportunity for an oral test where there is any doubt as to the applicant's qualifications.

**Every effort will be made to give the applicant an opportunity to demonstrate, through the medium of written and oral tests, that he can handle all phases of real estate transactions properly, without endangering the interests of the public he is duty-bound to serve and is otherwise qualified to assume the responsibilities which the license entails.**

The commissioner wishes to emphasize that his examination policy will not be geared to keep people out of the real estate business, but rather to make sure they are qualified. Such policy appears to be the intent of the legislature.

## Sign Request Personally When Asking License Change

If a broker writes to the division requesting a change in license status—for example, a change in address, a new fictitious business name, or something else directly affecting that license, he must make the request himself. Otherwise an individual's rights might be taken away from him without his knowledge or consent.

Many unnecessary delays can be avoided by adherence to this rule. A short time ago we had this example: A husband and wife both maintained individual real estate broker licenses in the same office. The husband wrote in and requested a change in license address, the change to be made on both his license and that of his wife.

The division could not comply completely with this request. The wife was required to sign her own request for the change, and delay resulted.

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### Why One-Year Licenses?

This question is being asked: "Why wasn't the law written to provide for this 'stiffer examination' in the first place, instead of at the end of the first year?" This point of view certainly has some merit. On the other hand, the proponents of the law apparently felt that this might be discriminatory and tend to keep deserving people from obtaining a license.

Making it possible for those seriously interested to engage in the business for one year, gives such persons an opportunity to acquire the necessary knowledge, through actual experience during a year's trial period. During that time they should be able, if interested, to qualify themselves to pass the "final" examination for a "renewable" or so-called permanent license.

While this new law was sponsored by the industry, and not the commissioner, it appears to be a good law if administered with the intent to give an opportunity to engage in the real estate business, and not to "narrow down" the number of licensees. The public is entitled to the protection the new legislation affords.

## Private Homes for Aged License to Conduct Not Transferable

Two 1955 legislative enactments affecting homes and institutions for aged persons are of particular interest to the real estate profession. The first, an amendment to Section 2306 of the Welfare and Institutions Code, strengthens a long existing prohibition against transfer of a license to conduct a home for aged by adding: "*No license issued under this chapter shall be deemed to have value for sale or exchange as property, and it shall be a misdemeanor for any person, whether acting as principal, agent, broker, or otherwise, to sell or attempt to sell or otherwise trade or deal with any license for commercial purposes.*"

Licenses to conduct boarding homes or institutions for aged persons are issued by the State Department of Social Welfare to a particular person or organization at a particular location. Specific standards relating to buildings, personnel, services, etc., must be met. A number of changes in building regulations have been made which currently licensed institutions must meet within three years and which new institutions must comply with before licensing.

Since under the law a license may not be transferred, sale of the building to another potential operator gives the purchaser the status of a new applicant. Therefore, a person purchasing an existing currently licensed institution *cannot* expect to be granted a license automatically, nor, if licensed, to have the same capacity and conditions approved. While sale of "good will" is not prohibited, purchasers should be made aware of the fact that the license cannot be sold and that the value of the good will is somewhat dependent upon the granting of the license.

The second law change was the addition to the Health and Safety Code of a section requiring a heat-activated fire alarm system in all facilities caring for more than six aged persons, unless the building is of type I or type II construction or is equipped with an automatic sprinkler system. Existing institutions are given

## Oklahoma Commission Wins Round in "Advance Fee" Case

So-called advertising agencies, which collect a fee in advance for advertising in a special catalog or referring the information to a list of brokers, have met a setback in the State of Oklahoma.

The National Business and Property Exchange, Inc., which was engaged in this type of business, brought suit against the Oklahoma Real Estate Commission to restrain the commission from interfering with their operations in that state. The suit was brought in the United States District Court.

The Oklahoma Commission appealed to the United States Circuit Court of Appeals, claiming that the matter was one for determination of the state courts, and not the federal courts.

The circuit court stated: "*The state court, not a federal court, is the proper forum in which to settle a controversy concerning the application of the provisions of the act in the absence of an allegation to the effect that the act itself is unconstitutional or that the commission is acting arbitrarily and capriciously.*"

The commission took the position that the State of Oklahoma is the real party defendant, and the federal court does not have jurisdiction, and any constitutional question should be held

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a period of time (to January 1, 1957) to comply. New facilities must comply before license will be issued.

The importance of clearance with the State Department of Social Welfare as well as with local authorities administering ordinances on zoning, building safety, and fire safety before sale or purchase of a building for use as a home for the aged cannot be overemphasized.

Complete information on regulations applying to private homes for the aged can be obtained at area offices of the State Department of Social Welfare located in Los Angeles at 108 West Sixth Street; in San Francisco at 821 Market Street; and in Sacramento at 1530 Capitol Avenue. (*Courtesy of Bureau of Boarding Homes and Institutions, California Department of Social Welfare.*)

in abeyance until after the state courts have decided the commission's case against the firm.

Most license law states are concerned over the growing number of "advance fee" operators who, they contend, are bilking real estate owners and business operators in many instances. These people are induced to pay large fees, usually 1 percent of the value of the property involved, for an advertising service of questionable value.

## Nevada Legislature Strengthens License Law

At the 1955 session of the Nevada State Legislature, the definition of a real estate broker was expanded to include any person, who, for another and for a compensation, "*aids, assists, solicits or negotiates the procurement of a small tract lease on public lands, as defined by the Bureau of Land Management or United States Forest Service.*" Apparently Nevada, like California, has been plagued by this operation whereby persons charge a large fee for "filing" on small tracts of public lands.

**Numerous complaints have been received from Californians that they have paid large fees to these operators who claim to be "in the know." If the application is turned down, the fee is not returned.**

License fees have been increased in Nevada. Brokers pay \$40 annually, and \$20 for examination. Salesmen pay \$20 annually, and \$15 for examination. Branch office licenses cost \$25 per year, as compared to \$1 in California. Transfer of a salesman license from one broker to another, or the change of name or address on a license costs \$3.

Also, a real estate fund has been created in Nevada, with full use of the fund given to the commission. The employment of a full-time executive secretary is authorized. Applicants for real estate license must be 21 years of age or over. Conviction of any felony or crime involving moral turpitude is grounds for revocation of license.

## Use of Up-to-date Application Forms Speeds Processing

Brokers—when you are sponsoring an applicant for salesman license, be sure the application is made on the type of form now in use. And anyone applying for broker license should also make sure he is using the current form.

Apparently there are a great many old application forms from “away back when,” reposing in real estate offices throughout the State. The use of these now outmoded forms results in delay in processing the application and time-consuming correspondence, as they do not provide for all the information now required.

### Destroy Old Forms

The latest license application forms are easily distinguished. Look on the second page and, if it contains an item calling for “Residence Addresses During Past Five Years,” you have an up-to-date form. This item appears in all applications except those for limited salesman license. If you have supplies of earlier forms, they should be destroyed; new ones will be furnished by the division upon request.

Again applicants for license are reminded that a recent passport type photograph about two inches square must be furnished with all applications. An application should be accompanied by a three-fold examination card and the center card has a designated space for the photo. Supplies of old cards not providing this space should be destroyed.

## Connecticut's Supreme Court Upholds Its New License Law

Connecticut, one of the latest states to adopt a real estate license law, was successful in a recent court test of the law.

The Supreme Court of that state has held that the licensing of real estate brokers and salesmen is within the legitimate exercise of the police power when done in a reasonable manner.

A particular section of the law was challenged, namely the requirement of a surety bond in connection with the license. The claim was that the exclusion of sureties other than corporate was discriminatory and illegal.

### The Court's Statement

The Supreme Court said: “*Nearly the precise question which we have to answer was decided under the Kentucky statute. That statute permitted the applicant to deposit either cash in the amount of the bond or a corporate surety bond. The claim was that the exclusion of sureties other than corporate was discriminatory and illegal. The court of appeals of that state said: ‘The argument is that there is no reasonable basis for the requirement. A bond with corporate surety is in the nature of an insurance contract, and the liability of the compensated surety on such a bond is controlled by some different considerations than in the case of a gratuitous or voluntary individual surety. . . . We think the legislature was justified in requiring the kind of surety that would furnish the greatest protection to the public.’*”

## 'Aesthetic' Ordinance Upheld

The U. S. Supreme Court has refused to review a far-reaching decision of the Wisconsin Supreme Court upholding the validity of a restrictive “aesthetic” ordinance. This prohibits houses so at variance with the exterior architectural appeal and functional plan of other structures in the immediate vicinity “*as to cause a substantial depreciation in property values in the neighborhood.*”

The case involved disapproval of a colonial brick two-story home in a neighborhood of ranch houses. Coupled with a similar recent District of Columbia decision this could pave the way for local governments to exercise wide veto power over housing design and architectural development. (From Washington Letter, NAHB.)

## Court Sustains Brokers' Right to Complete Forms

The Michigan Supreme Court has decreed to the effect that real estate brokers may, without extra compensation therefor, fill in or complete with names of parties, description of property, terms of contract and provisions of similar import, standard forms of agreements of purchase and sale, deeds, land contracts, leases, options, mortgages, assignments of mortgages and land contracts, notices to quit, and other instruments of a similar nature.

The court specified, however, that such contracts must be appropriate and incident to transactions handled as licensed brokers, and that no extra compensation is involved.