



Real Estate Bulletin

Official Publication of the California Department of Real Estate

RONALD REAGAN, *Governor*

Spring 1969

BURTON E. SMITH, *Commissioner*

NEW NEVADA RULES EASE REQUIREMENTS ON NONRESIDENT BROKERS

The Nevada Real Estate Commission has adopted revised regulations, effective July 1, 1969, making it more feasible for California brokers to cooperate with Nevada brokers. The changed regulations were promulgated following a number of meetings between Nevada's Real Estate Commissioner, its commission members, the Nevada Association of Realtors, California's Commissioner Burton E. Smith and representatives of the California Real Estate Association.

Henceforth, a California broker working in cooperation with a Nevada broker on the sale or lease of Nevada property is required by the law of that state to have a cooperative certificate issued by the Nevada Real Estate Division, 222 N. Carson Street, Drawer "C," Carson City. He must furnish satisfactory proof that he has a current active real estate license and pay the prescribed \$40 fee.

The California broker, while cooperating with a Nevada broker, is governed by the provisions of the Nevada Real Estate Law. When he is acting in the capacity of a licensee in Nevada, he must work with and under the control of the cooperating Nevada broker.

Formerly California brokers were required to obtain a separate certificate and pay a separate \$40 fee for each Nevada broker with whom they wish to cooperate while in Nevada; also, to conduct every phase of the transaction in the physical presence of the Nevada broker.

The California license law provides for the licensing of nonresidents of the state and also specifies that a California broker may share a commission with a broker licensed elsewhere.

50th Anniversary

The *Bulletin's* summer edition will feature the 50th anniversary of California's Real Estate License Law, enacted July 27, 1919. Known officially as the Real Estate Law, it has undergone vast changes over the years, and has served as a model for similar legislation adopted in many other states, the District of Columbia and several provinces of Canada.

DRE Closes San Bernardino and Santa Ana Offices

In an economy move, DRE San Bernardino and Santa Ana branch offices were closed on April 1, 1969, and the areas affected will be served by the Los Angeles office.

The commissioner pointed out that earlier absorption of the Oakland office activities by the San Francisco office last year provided convincing evidence that the department can extend better service to licensees, subdividers and the general public by operating from larger offices where legal and other personnel are available to assist in licensing, subdivision and investigation functions.

Subdivision processing activities have been discontinued in the San Diego branch office and transferred to Los Angeles, where all southern California subdivision regulatory activities are now concentrated.

The thought of closing the Fresno office has been shelved, due to its isolation from other DRE offices. Ways, however, have been found to effect local economies.

Decisions in regard to closing offices were not made until an opportunity to study cost figures was given to all concerned and public hearings held in Fresno, San Bernardino and San Diego. The changes will mean an estimated annual \$45,000 saving.

Real Estate Bills Introduced In Legislature

At the time this edition of the *Bulletin* went to press, the only departmental bills (bills submitted at the instance of the commissioner) so far introduced at the 1969 Regular Session of the Legislature were the following:

SB 279 (Sherman). Would repeal existing exceptions to blind advertising presently set forth in Section 10140.6 of the Real Estate Law. Also would make optional the present requirement that the broker maintain a sign on his place of business and the requirement that the licenses of the real estate brokers and real estate salesmen be displayed in the office of the broker.

SB 298 (Cologne). Applies to planned development subdivisions, condominium, community apartment and stock cooperative projects. Would put three-year limit on the time during which the Real Estate Commissioner must be consulted prior to making changes in restrictions, bylaws, management contracts, etc. Three years begins to run when subdivider has sold two-thirds of the lots.

AB 418 (Schabarum). Would eliminate existing requirement that

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REAL ESTATE BULLETIN

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California Department of Real Estate

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The Real Estate Bulletin is a quarterly published by the State of California, Department of Real Estate, as an educational service to all real estate licensees in the state under the provisions of Section 10083 of the California Business and Professions Code.

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Disciplinary Action—December 1968—February 1969

REB—Real estate broker RES—Real estate salesman REO—Real estate officer
RREB—Restricted real estate broker RRES—Restricted real estate salesman REC—Real estate corporation

NOTE: A list of actions is not published in this Bulletin until the 30-day 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 From December 1968 Through February 1969

Name	Address	Effective date	Violation R.E. Law/Regulations
Briggs, George Wooster (RES)	320 Judah St., San Francisco	12/ 2/68	10177(a) (b)
(Right to RRES license on conditions)			
Cappa, Frederick Charles (RREB)	417 Lathrop St., Redwood City	12/ 3/68	10162, 10177(d) (k)
(Right to RREB license on terms and conditions)			
Rand, Neil Stanley (REB)	123 W. Padre St., Santa Barbara	12/ 3/68	10177(i) (j)
(RES)	394 Arroyo Rd., Santa Barbara		
Leach, Lawrance Loyd (REB)	233 W. Foothill, Rialto	12/ 4/68	10145, 10176(c) (i), 10177(d) (f), 11013.4(a); 2830, 2832
(Stayed for 2 years on terms and conditions)			
LeBrun, Wilbur John, Jr. (REB)	1623 N. D St., San Bernardino	12/ 4/68	10145, 10176(i), 10177(d) (f) (j); 2834
(RES)	26158 Lynwood, Highland		
Manning, Joseph William Ellis (RREB)	Hawaina Ct., off Hwaina Dr., Clear Lake Riveria, Lakeport	12/ 6/68	10177(k)
Cook, Herbert Lowell (REB)	254 E. Huntington Dr., Monrovia	12/ 9/68	10177(b) (f)
Thompson, Rudolph Everett (REB)	3333 Watt Ave., Sacramento	12/ 9/68	10176(c) (i), 10177(d); 2831, 2831.1
(Right to RREB license on terms and conditions)			
Gailus, Paul, Inc. (REC) (REO)	1871 Sutter St., Concord	12/10/68	10145, 10176(c) (i), 10177(d) (f); 2830, 2832
Pres., Paul Peter Gailus (Right to RREC and RREO license after 30 days on terms and conditions)			
Hamm, James Courtney (REB)	340 Kearny St., San Francisco	12/10/68	10177.5
(REO)	dba Pacific Motel Broker 322 C St., Clements		
Pres., Stanford Capital, Inc.	30 Beach Rd., Belvedere		
Wendt, Ronald Duane (REB)	8524 Gainford, Downey	12/11/68	10145, 10176(a) (e) (i), 10177(d) (f) (j), 10231
Ellenz, Fred Maurice (RES)	6342 Woodman Ave., Van Nuys	12/11/68	10177(b) (f)
(Right to RRES license on conditions)			
Bunyea, Richard Arthur (RES)	8550 Garden Grove Blvd., Garden Grove	12/17/68	10130, 10137, 10145, 10176(i), 10177(d) (f) (j)
Teresi, Joseph Anthony (REB)	9 Clearfield Dr., San Francisco	12/17/68	10177(b) (f)
Wong, Albert Roland, Sr. (RREB)	20 Marvin Ct., El Sobrante	12/17/68	10177(k)
Miller, Jack Thomas (REB)	13536 Ventura Blvd., Sherman Oaks	12/19/68	10177(b) (f)
dba Lamplighter Properties (RES)	12953 Moorpark St., Studio City		
(Stayed for 3 years on terms and conditions)			
Adams, John Quincy (RES)	1268 Lincoln Ave., San Jose	12/20/68	10177(b)
(Right to RRES on terms and conditions)			
Gillespie, Kenneth Gillis (REB)	807 J St., Sacramento	12/26/68	10177.5
(Right to RREB on terms and conditions)			
Needels, Fred, Jr. (RES)	2320 Bennington Dr., San Bruno	12/28/68	10177(b)
(Right to RRES license on terms and conditions)			
Dingman, Bonnie Delores (REB)	1868 Los Angeles Ave., Simi Valley	1/ 8/69	10176(a) (i), 10177(d) (f) (j)
dba A-1 Real Estate (Right to RREB license after 10 days on terms and conditions)			
Hassard, Franklyn Martin (RES)	674 Thousand Oaks Blvd., Thousand Oaks	1/ 8/69	10176(a) (i), 10177(d) (f) (j)
(Right to RRES license after 10 days on terms and conditions)			
Brown, Oswell Raymond (REB)	10045 S. Western Ave., Los Angeles	1/10/69	10145, 10176(c) (i), 10177(d) (f) (j); 2830, 2832
dba O. R. Brown, Co. Pres., E. L. Boehm Co., Inc.			
(REO)	8733 S. Western Ave., Los Angeles		
Koutnik, Len Roy Norbert (REB)	17337 Ventura Blvd., Encino	1/11/69	10177(f), 10177.5
Romike Properties (REC) (REO)	17337 Ventura Blvd., Encino	1/11/69	10177(f), 10177.5
dba R.F.D. Real Estate Co. Pres., Len Roy Norbert Koutnik			
Greene, Nathaniel (RES)	1659 W. Florence Ave., Los Angeles	1/14/69	10145, 10177(d) (f); 2831, 2831.1
(Stayed for 4 months on terms and conditions)			
Keller, Molly Kay (RREB)	1659 W. Florence Ave., Los Angeles	1/14/69	10145, 10177(d) (f) (h); 2831, 2831.1
dba Pyramid Estates			
Langley, Arlington Raymond	1228 Husted Ave., San Jose	1/18/69	10177(b) (k)
(RRES)			
Smith, John William (REB)	1323 N. Broadway, Santa Ana	1/18/69	10176(i), 10177(d) (f) (j)
dba Jack Smith Co. dba Investors Financial Service Co.			
(Right to RREB license after 30 days on terms and conditions)			
Morgan, Woodrow F. (RES)	2439 Birch St., Palo Alto	1/21/69	10177(b)
(Right to RRES license on terms and conditions)			
Ward, Frances Celeste (RES)	11 Linscheid Dr., Pittsburg	1/21/69	10177(b)
(Right to RRES license on terms and conditions)			
Miller, Robert Calvin (REB)	2243 Sly Park Rd., Placerville	1/23/69	10162, 10177(d)
Begley, Alvy Grant (RES)	3596 Riverside Ave., Anderson	2/ 6/69	10150, 10177(f) (j)
(Right to RRES license on conditions)			
Rich, Monty (REB)	1811 Pacific Coast Hwy., Lomita	2/ 6/69	10145, 10176(a) (i), 10177(d) (f) (j)
(Right to RRES license after 30 days on terms and conditions)			
Faby, James Louis (RES)	2013 Tulip Tree Ln., La Canada Flintridge	2/ 7/69	10130, 10137, 10176(a) (i), 10177(d) (f)
(Right to RRES license after 30 days on terms and conditions)			
McCaffrey, Peter Anthony (RES)	15952 Ventura Blvd., Encino	2/11/69	10177(a) (f)
Smith, H. Albert (Mike) (RES)	355 Chestnut Ave., Palo Alto	2/11/69	10177(b)
Gustavel, Joan Marie (RES)	5592 Copeland Ln., San Jose	2/12/69	10177(a) (b) (f)
(Right to RRES license on terms and conditions)			
O'Neill, John Thomas (RES)	4612 Boeing Ave., Yorba Linda	2/20/69	10130, 10137, 10176(i), 10177(d) (f) (j)
Gores, Riemer Richard (RES)	280 San Antonio Way, Walnut Creek	2/21/69	10177(a) (b) (f)
(Right to RRES license on conditions)			
Willingham, Rodney Forrest (REB)	16404 Hawthorne Blvd., Lawndale	2/25/69	10137, 10143, 10176(a) (i), 10177(d) (f) (j); 2731, 2852.1, 2853, 2854, 2856

Licenses Suspended From December 1968 Through February 1969

Name	Address	Effective date	Violation R.E. Law/Regulations
*Malta, Joseph Jerry (RES).....	2261 Market St., San Francisco....	4/11/68 30 days	10176(a), (i), 10177(f)
Adler, Lawrence Hendrick (REB).. dba Four Seasons Realty (Stayed for 2 years on conditions)	18045 Saticoy St., Reseda.....	12/ 3/68 60 days	10176(a) (e) (i), 10177(d) (f) (g); 2832.1
Behringer, Pe Clara (RES).....	9401 Reseda Blvd., Northridge....	12/ 3/68 4 months	10176(a), 10177(f)
J. Clare Hallack (REB) (REO).... Pres., J. Clare Hallack, Inc. (Stayed permanently)	9401 Reseda Blvd., Northridge....	12/ 3/68 1 day	10177(d); 2830, 2832
Wood, Addison Birdette (RES)....	1133 Maple St., Arroyo Grande....	12/ 4/68 180 days	10177(f) (i)
(Last 90 days stayed for 1 year on terms and conditions)			
Cloes, Gordon Roy (REB).....	3761 Herbert St., San Diego.....	12/ 5/68 60 days	10145, 10177(d) (f); 2832
(Last 40 days stayed for 1 year on terms and conditions)			
Stein, Morton Bernard (REB).....	11220 Moor Park St., North Holly- wood	12/ 9/68 30 days	10160, 10162, 10164, 10165
Torres, Armando Vicente (REB) ..	3041 24th St., San Francisco.....	12/10/68 30 days	10176(a) (b) (i)
Taege, Winston M. (REB).....	1354 Harper Ave., Los Angeles....	12/17/68 179 days	10160, 10162, 10164, 10165, 10177(d) (f)
(After 30 days from effective date of decision, remainder or any portion thereof, may be stayed on conditions)			
O'Rourke, Leone Webb (REB) (REO)	1475 Oak Rim Dr., Hillsborough..	12/17/68 1 year	10176(a) (b) (i), 10177(f) (i)
Pres., Rentals City Wide, Inc.	2150 Market St., San Francisco		
Hollomon, Jerry Ray (RES).....	3673 Torrance Blvd., Torrance....	12/24/68 60 days	10176(a) (d) (i), 10177(f) (i)
(Last 40 days stayed for 2 years on conditions)			
Hollomon, Roy Vaughn, Jr. (REB)..	1625 Crenshaw Blvd., Torrance....	12/24/68 60 days	10176(a) (d) (i), 10177(f) (i)
(Last 40 days stayed for 2 years on conditions)			
Butcher, Grant, Jr. (RREB).....	2026 Lombard St., San Francisco..	1/ 3/69 10 days	10177(k)
(Stayed permanently)			
Figueroa, Carlos Alejandro (REB)..	124 W. Portal Ave., San Francisco	1/16/69	10176(a) (i), 10177(f)
Figueroa, Charles Espana (RES)...	70 Terrace Dr., San Francisco	120 days	
Ward, Lem Fred (REB).....	450 N. Garey, Pomona.....	1/21/69 15 days	10085, 10177(d) (f); 2970
Silk, Brian Jack (REB).....	2601 Mission St., San Francisco....	1/21/69 90 days	10177(d), 10237.3, 10238.3
(Last 30 days stayed permanently)			
Silk, Ralph (RES).....	832 26th Ave., San Francisco....	1/21/69 60 days	10177(d), 10237.3, 10238.3
(Last 30 days stayed permanently)			
Stockton, Garnett Skaggs (REB)..	57614 Crestview Dr., Yucca Valley dba Garnett Realty	1/21/69 30 days	10085, 10146, 10176(e), 10177(d) (f); 2970
Boehm, Ernest Lewis (REB).....	718 E. Edna Pl., Covina.....	2/11/69 to 3/15/71	10160, 10162, 10164, 10165, 10177(f)
(After 30 days from effective date of decision, remainder or any portion thereof, may be stayed on conditions)			
Borges, Manuel Anthony (RES)....	104 Central Ave., Salinas.....	2/11/69 30 days	10177(b)
(Last 15 days of suspension permanently stayed)			
Liver, James Fredrick (RES)....	20136 Stag St., Canoga Park....	2/11/69 30 days	10177(b) (f)
(Stayed for 3 years on terms and conditions)			
Jarner, John Robert (REB).....	3320 Grand Ave., Oakland.....	2/18/69 1 day	10177(b)
(Permanently stayed)			

*Not previously reported.

Arguments Over Prospects Can Be Avoided by Use Of Employment Contract

As far as the California Real Estate Law is concerned, an active salesman is in the employ of a broker. A real estate salesman is defined as a "natural person who . . . is employed by a licensed real estate broker . . ." Other sections of the law refer to the supervision exercised over the salesman by the broker.

This leads to a problem sometimes arising when a salesman decides to transfer his license, and the employing broker requests that the salesman furnish him with a complete list of all prospects secured while in his employ.

This is where a written contract of employment proves its value. In its absence, equitable arguments can often be made on both sides. From the broker's standpoint the list of prospects obtained by the salesman may be traceable to the advertising efforts of the broker, his established business reputation in the community and the good will he has built over a period of years.

On the other hand, the salesman "employee" may have garnered a list of good prospects strictly by his own efforts and he balks at being deprived of some of the fruits of his conscientious work. Moreover, in all likelihood, the salesman will endeavor to maintain good relations with these prospects after he has made a new connection.

And so it goes, **unless a written contract of employment governs.** Rarely, if ever, do such disputes come before the courts, but they do result in bitterness and recriminations which could easily be avoided.

Do You Know the Differences Between Real Estate Law and Map Act?

The definitions of a subdivision in Section 11000 administered by the commissioner and Section 11535 of the Subdivision Map Act are, in general, similar, but each law contains important exceptions peculiar to it alone.

Licenses need to understand that the following exceptions under the Subdivision Map Act do *not* extend to the subdivision provisions of the real estate law: (1) the whole parcel before division contains less than five acres, each parcel created by the division abuts upon a public street or highway and no dedications or improvements are required by the governing body; (2) any parcel or parcels divided into lots or parcels, each of a gross area of 20 acres or more, and each of which has an approved access to a maintained public street or highway; (3) any parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for in-

dustrial development, and which has the approval of the governing body as to street alignment and widths; (4) any parcel or parcels of land divided into lots or parcels each of a gross area of 40 acres or more; and (5) any parcel or parcels of land which is divided into four or less parcels, e.g., community apartments and condominiums containing four or less units.

Cases have been investigated where the owner was in compliance with the Map Act, but had violated the Real Estate Law unknowingly. Knowingly or unknowingly, one who does this may subject himself to prosecution and penalty. If a licensee becomes involved in the violation of the subdivision provisions of the law, he may suffer the additional penalty of having his license revoked or suspended after a hearing.

Licenses confronted with a subdivision problem should clear with the proper local authorities and with the DRE.

DESIST AND REFRAIN ORDERS

Issued for the Period Between December 1, 1968, and February 28, 1969

Number of orders	Violations
3	IN-STATE Sale of real property securities without permit . . . and/or failure to comply with all applicable statutes and regulations.
4	Failure to comply with California subdivision requirements.
4	OUT-OF-STATE Failure to provide for subdivision public report, promised recreation facilities, proper permit or otherwise meet requirements of subdivision law.

Retail Sales Act May Apply to Home Construction

A recent Supreme Court decision, *Morgan v. Reasor Corp.* (69 AC 919), is of import to real estate licensees and builders, since it held in substance that the provisions of C.C. Sections 1801 et seq. (cited as the Unruh Act) regulating retail installment sales of personal property were applicable to a contract entered into by plaintiffs for construction of a dwelling on a lot they owned.

The details of the transaction are too complicated to relate here, but the court sustained judgment for the plaintiffs on the grounds that the act pertaining to retail installment sales of chattels was applicable to this particular transaction and to the contract and note involved. In effect, the defendants were found in violation.

The court said in part: "The Unruh Act . . . governing retail installment sales applied to the contract of sale of a house to plaintiffs . . . where, at the time the contract was executed the dwelling was not attached or affixed in any way to plaintiffs' land, but was built thereafter, necessarily involving, among defendants' other services, delivery of the building materials."

The court went on to say that the question as to whether the property acquired is real or personal must be fixed as of the date of execution, not the completion, of the contract.

Documents to Be Completed In Presence of Signator

In connection with certain loan transactions, investigations have revealed that borrowers are induced to sign notes and trust deeds which do not contain the name of a lender or the date of the first payment. Frequently the borrowers do not receive copies either of the completed or the partially completed documents.

Sections 2900 and 2901 of the *Commissioner's Regulations* prohibit the procuring of a signature to a document containing blank spaces to be filled in after signature is obtained, and alterations, deletions, or additions without proper initialing. Copies of documents must be given to the person signing them, according to Section 2902.

License Examination Questions

The interest shown in the license examination items or questions published in previous issues of the *Bulletin* has prompted this fourth set. As heretofore stated, the samples are taken from the DRE's "Item Bank." Answers are on page 869.

1. A person who is an innocent purchaser of a negotiable note for value without knowledge of any defects is customarily called:

- (a) a holder in due course.
- (b) an assignor.
- (c) a receiver in trust.
- (d) an endorser in blank.

2. Mr. Smith is qualified to act as a real estate broker. Mr. Jones is qualified to act as a real property securities dealer. Which of the following statements is correct?

- (a) Both may perform either of the functions mentioned above.
- (b) Smith may also act as a real property securities dealer.
- (c) Jones may also negotiate real property loans.
- (d) All of the above are correct.

3. Real property improved with a new office building costs \$122,500. The cost of the land is \$24,500. It was estimated the improvements would have an economic life of forty years. Using straight line depreciation, the

book value of this real property at the end of fourteen years would be:

- (a) \$42,875.
- (b) \$63,700.
- (c) \$79,625.
- (d) \$88,200.

4. When a business is being sold the term "successor's liability" may become important. Real estate brokers know that this term involves certain obligations to the:

- (a) Department of Alcoholic Beverage Control.
- (b) Secretary of State.
- (c) Department of Corporations.
- (d) Board of Equalization.

5. On August 1, 1968, Mr. Buyer entered into an agreement to purchase Mr. Seller's home. The agreement called for possession to be delivered on September 30, 1968, and the property taxes are to be prorated to that date. On November 1, 1967, Mr. Seller had paid the taxes in full for the fiscal year 1967-1968. The closing escrow statements will show that:

- (a) Mr. Buyer paid Mr. Seller for three months' taxes.
- (b) Mr. Seller paid Mr. Buyer for nine months' taxes.
- (c) Mr. Buyer paid Mr. Seller for nine months' taxes.
- (d) Mr. Seller paid Mr. Buyer for three months' taxes.

EDUCATION BILL BECOMES EFFECTIVE AT END OF YEAR

This is a reminder to prospective applicants for real estate broker license: *January 2, 1970, is not too far away.* On and after that date the candidate for real estate broker license, in addition to other qualifications such as two years' full-time experience as a licensed real estate salesman, must have completed three-unit college level courses in legal aspects of real estate and in real estate practice. Also, the applicant must have completed courses in real estate finance and real estate appraisal—again three-unit courses at college level—or be faced with special tests on these subjects.

On January 2, 1972, the second stage of the Education Bill, which was

passed in 1968, becomes effective. On and after that date, completion of all four of the courses named above will be prerequisite to qualification for real estate broker license examination. **So it is not too early for the prospective candidate to start preparing.**

"Points" Being Considered as Part of Selling Expense

The Internal Revenue Service has ruled that "points" paid by a seller of real property may not be deducted as interest costs, but they may be added to selling expenses. Thus, the amount in dollars represented by payment of "points" may be used to reduce the seller's capital gains.

Broker Can Not Profit to Principal's Loss

● A disciplinary decision by the Real Estate Commissioner will not be set aside by the courts if it was made on a factual basis and was not capricious or arbitrary. ● A broker cannot be allowed to profit at the expense of his principal, whether the result be reached by misrepresentation, concealment or other fraudulent device. ● He acts in strictest confidence in a fiduciary capacity, and is duty-bound to inform his principal of every fact material to the advantage of the principal. ● In effect, he contracts to protect his employer and cannot, through manipulation, gain a secret profit. These points were well illustrated in a case that arose from a situation here briefly related: Two of the broker's salesmen took an offer of \$9,850 on a property listed at \$8,950. However, the sellers were advised by one of the salesmen that the offer was for \$8,950 and that the buyers wished to finance the property in such a manner as to realize an additional \$300 to pay for certain improvements to the property. They were informed this could be accomplished by increasing the amounts shown on the trust deed notes. The sellers agreed to this arrangement.

Broker Enters Picture

The broker entered the picture purportedly acting in the capacity of a buyer and drew up a deposit receipt ostensibly offering \$9,850 for the property, showing a down payment of \$3,250 and subject to his obtaining a first trust deed and note for \$6,600 for the unpaid balance. On the strength of the deposit receipt the broker arranged for a \$6,600 loan from a savings and loan association. Following further maneuvers with the sellers being kept in the dark regarding details, the transaction was closed, the broker receiving a check for \$1,339.58 or \$802.58 more than the agreed-upon commission.

An accusation was filed by the DRE. After a hearing, the hearing officer found that the broker had taken title to the sellers' property without his knowledge and consent and realized a secret profit. He also found the respondent had made a substantial misrepresentation, failed to submit a closing statement to the seller (required under Section 10141, B. & P. Code), and recommended revocation of the broker's license.

Prior to the effective date of the order of revocation, the broker instituted a mandamus action to obtain judicial review of the administrative order. The trial court found that the administrative findings of fact were supported by the weight of the evidence and were true, but that the revocation was disproportionate to the offense and constituted an abuse of discretion. It entered judgment directing the Real Estate Commissioner to set aside the revocation and redetermine the penalty.

Division of Real Estate Appeals

The DRE appealed from that portion of the judgment setting aside the order of revocation and remanding the matter for redetermination of the penalty. The district court of appeal reversed the judgment of the lower court and held, in effect, that the trial court was in error in remanding the matter for redetermination of the penalty, particularly after sustaining findings of dishonest and fraudulent conduct. The court did not agree with any of the alleged mitigating factors in the broker's argument that his clients were not damaged in the transaction. It held that, "the argument misses the point that this agreement was induced by false representations and fraudulent concealment . . . the broker was pocketing an undisclosed profit of some \$800 over and above the agreed commission of \$537."

In so ruling, the court said: "Whether the public interest called for petitioner's permanent or temporary exclusion from the real estate business was a choice which the law delegated primarily to the licensing agency; and secondarily, to the court only if the licensing agency violated its own duties. . . . The possibility of disagreement (on degree of penalty) does not establish abuse of discretion. The latter exists only if the licensing agency acts arbitrarily, capriciously, fraudulently or without sufficient

Bay Area Simulation Study Model Is Tested

The BASS IV Open Space Study has just been completed, and it confirmed earlier expectations that the BASS model was well designed to test impact of varying public policy decisions upon probable future urban development patterns. The BASS model, the computer program developed during the six-year Bay Area Simulation Study by the Center for Real Estate and Urban Economics, UCB, was used, under contract, by Development Research Associates to perform a study sponsored by the People for Open Space organization (formerly Citizens for Regional Recreation and Parks) in the San Francisco Bay Area. The study was funded by a grant from the Ford Foundation.

ANSWERS TO EXAMINATION QUESTIONS

1 (a); 2 (c); 3 (d); 4 (d); 5 (d)

The model's projections estimated that the ABAG (Association of Bay Area Governments) open space plan would shift future residential development to the western counties of the Bay Area. The rates of development for the various subareas of the regional projections were used to plan acquisition strategy and estimated costs.

Timing of attainment of projected population densities of the various subareas was used to arrive at an estimate of savings made possible by anticipation of needs in public utilities and services, such as roads and sewers. Predicted savings would be sufficient to offset a significant portion of the acquisition costs involved in purchasing land for open space and compensation costs for restricting development rights.

Under the direction of Professor Paul Wendt, the study staff included: Doug Ford, Bob Miller, Duane Anderson, Dick Recht, and Robert Harmon, an associate of Development Research Associates.

factual basis. . . . In view of the findings of dishonest and fraudulent concealment—findings which were sustained by the trial court—the Real Estate Commissioner's decision was not arbitrary, not capricious, and not without factual basis."

Real Estate Bills Introduced In Legislature

(Continued from Col. 3, Page 865)

broker license applications contain recommendations of two property owners; include members of the Air Force in definition of military licensee and make small technical change in Section 10602 (mineral, oil and gas).

Other Bills

Some other legislative proposals of interest to real estate licensees are:

SB 287 (Coombs). Relates to "recovery" section of the law and would: (1) allow present stipulated raise in license renewal fees to occur in *any* fiscal year following a June 30 when the balance in the recovery fund is less than \$200,000 rather than on specified years.

AB 63 (Hayes). Would waive necessity of subdivision filing when proposed subdivision is zoned exclusively for industrial purposes or intended for commercial leases of parcels in a shopping center.

AB 1214 (Chappie). Relates to subdivisions of 50 lots or more intended for sale without structural improvements. Would: (1) allow the commissioner to withhold public report on subdivisions in which promised improvements are not financially feasible, (2) require each promotional subdivider to report names of all defaulting purchasers to the commissioner, and (3) allow purchasers two days, after receipt of subdivision public report, to withdraw from purchase contract.

SB 420 (Rodda). Would: (1) require subdivider to submit a report from a qualified geologist when filing subdivision with the Real Estate Commissioner, (2) require local jurisdictions to enact ordinances necessitating submission of geologic reports with subdivision maps, and (3) provide for waiver of report at local level (applies to Subdivision Map Act only).

AB 815 (Priolo). Seeks to bring Article 7 of the Real Estate Law (which deals with regulation of real property loan brokers) into conformity with the Federal Truth in Lending Act, which takes effect July 1,

SUBDIVISION FILING FEES

Subdivision filing fee increases became effective on June 24, 1968, and the standard questionnaire and the questionnaire used for planned developments, condominium and community apartment house projects have been revised. A party contemplating development of a subdivision of any kind would probably be well advised to pick up copies of revised questionnaires, available at all DRE offices.

Current Fees:

- For filing standard subdivisions..... \$50, plus \$3 per lot
- Application for preliminary, or amendment or renewal of, standard subdivision report..... \$50
- For filing condominium, community apartment, planned development or stock cooperative projects..... \$500, plus \$3 per lot, parcel, apartment or unit
- Application for preliminary, amendment or renewal of condominium, planned development, community apartment or stock cooperative report..... \$100
- Filing for an out-of-state subdivision report and permit... \$500, plus \$3 per lot
- Application for renewal of out-of-state permit..... \$100
- Application for amended out-of-state permit and report \$300
- If an application both renews and amends a standard subdivision filing \$50
- If an application both amends and renews an out-of-state permit and report..... \$300

1969. Its intent is to save the real property loan broker from the necessity of preparing two sets of reports on loans he has made—one for the federal government and one for the state. Bill provides for rescission rights for prospective borrowers and broadens the scope of information to be reflected in the mortgage loan broker statement. Bill will probably be amended as federal regulations relating to real property loans are promulgated.

Public Report Receipts

Section 2795.1 of the *Commissioner's Regulations* prescribes the exact form of the receipt for subdivision public report, which, when signed by the prospective purchaser, evidences he has been given an opportunity to read the report. The signed receipt is returned to the owner, subdivider, or agent who files it as confirmation of his compliance with the law in regard to public reports.

The approved form was amended in 1966 to include the following statement, "I understand the report is not a recommendation or endorsement of the subdivision but is informative only."

In spot checking subdivision sales activity, DRE auditors still find the old forms being used. **Anyone engaged in any phase of subdivision activity might check his receipt forms and, if they are of the now obsolete type, make sure that upon ordering or re-ordering forms the above phrase is included.**

A REMINDER

If a check is deposited directly into escrow, some brokers believe that a record of the handling of that check is not necessary. This is not the case.

Section 2831 of the Commissioner's Regulations requires that a columnar record be maintained to indicate the receipt and disposition of any check the broker handles for his principal.

Research Reports

The following research reports are available: *Institutional Mortgage Lending in the Los Angeles Metropolitan Area Between the Census Dates of 1950 and 1960*, John R. Cox, California State College at Los Angeles; *Economic Feasibility of a Real Estate Management Firm in Chico, California*, Fred Kunsemiller, Chico State College; *Patterns of Employment Change and Residential Housing, Burbank, California*, Coskun Samli, U.S.C.

Planned Unit Development in Orange County, Paul T. Kinney, California State College at Fullerton (now at Chico State College). This study concerns occupant characteristics and attitudes regarding residences in planned unit developments. From interviews with over 1,000 occupants in 26 developments of Orange County, data have been compiled to reflect occupant profiles and their ratings of housing characteristics of planned developments.

Although the scope of the study is limited to Orange County the findings may be pertinent to any rapidly growing urban area where population pressures are such that land usable for residential construction is increasingly scarce and where construction is economically feasible on a relatively large scale.

An Analytical Model of the Inter-Regional Flow of Funds, Young P. Joun, Sylvia Lane, California State College, Fullerton. In this project, a 12-equation econometric model has been developed to explain the mechanism of the interregional flow of mortgage funds and to indicate the structural relationships among the variables influencing such flows in the postwar period. The results of the analysis show that the more important variables affecting the interregional flow of mortgage funds appear to be the liquidity position of the financial institutions and the yields on corporate bonds and other long-term assets relative to mortgage yields rather than the differences in mortgage yields among regions. This indicates that any attempt to increase the yield difference between capital-

Two DRE Employees Retire After Long State Service

When Mrs. Ruth Diggles and Mrs. Blanche Van Gundy recently retired from the DRE, each had chalked up over 42 years in state service, which may be an unprecedented record among state employees on the distaff side.

Mrs. Diggles was first employed by Water Rights in 1926, transferring shortly thereafter to the department, where for years she supervised the clerical staff engaged in licensing transactions. As a travel enthusiast, ardent reader and gardener, she has outlined an active retirement for herself.

Mrs. Van Gundy spent her entire working career with the department, mostly in charge of the formal hearing records. Her enthusiasm for sports was and is unbounded; although she did give up motorcycling in favor of bowling and playing the organ.

These two loyal workers were the epitome of dependability and efficiency in their efforts to serve the public and licensees, and they will long be remembered by their associates for their unfailing courtesy and helpful spirit.

In Memoriam

Ray D. Westcott died on March 6 at the age of 71, and his passing is mourned by his myriad of friends in the real estate fraternity and the Department of Real Estate, who admired him as a gentleman and a man of many talents.

He joined the then Division of Real Estate in 1935 after serving as secretary of the Long Beach Board of Realtors. His outstanding administrative competence won him early promotion and by 1940 he headed the southern California activities of the DRE, while his writing skills were utilized on a statewide scale. Retiring in 1957, he and his wife, Louise, traveled extensively.

deficit and capital-surplus regions during periods of "tight money" in order to attract more out-of-state-mortgage funds may be futile unless the increases in the mortgage yield differentials between regions are greater than the increases in long-term cor-

PUBLIC REPORT

Switch of Forms Needs Approval Of Department of Real Estate

Subdividers and developers often have a title company or an expediter handle the procedure of filing a subdivision questionnaire and submission of required documents, including the forms to be used to transfer interest (deeds, trust deeds, contracts of sale, or leases, etc., completed as samples). These forms are carefully evaluated by the DRE in preparing its subdivision public report.

If the developer should decide to use a different form, he should first obtain the department's sanction of it, as changes or substitution could constitute material changes and possibly call for issuance of an amended public report.

Substitutions or changes without notice have led to court rulings that the sale is voidable at the option of the purchaser.

Answering Service

NO "HIP POCKET" OFFICES

Quite a number of brokers, particularly in metropolitan areas, maintain answering services and this, of course, is a legitimate and businesslike practice.

But Section 10162 of the Real Estate Law clearly states a broker must maintain a definite place of business suitable for consultation with clients.

An answering service does not qualify as a place of business for the broker and cannot be used by him merely to keep in touch with business clients and customers and thereupon operate "out of his hip pocket," or, as they used to say in the era of stovepipe headpieces, "out of his hat."

Ray is survived by his devoted wife, two sons, David and Roger, and several grandchildren.

porate bond yields. The model can also be useful in predicting the conditions in future mortgage markets.

Order directly from the Department of Real Estate, P.O. Box 2407, Sacramento 95811. Price: \$1.58 each (includes sales tax).

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**Interstate Land Sales
Full Disclosure Act**

Land developers, using a common marketing plan involving use of the mails or any means of mass communication or transportation, who offer for sale or lease over 50 unimproved lots must register with the Housing and Urban Development (HUD). There are some few exceptions to the federal registration requirement—for example, if all lots are at least five acres in size—but the great majority of large land developers will fall within the purview of the act.

The new law requires that full disclosure reports on the property be furnished to prospective lot buyers in advance of entering into any contract. These reports include some 19 items such as information on road conditions, sales contract provisions, recreation facilities, proposed utility services, charges, etc.

For more information write to:
 Office of Interstate Land Sales Registration
 Department of Housing and
 Urban Development
 Washington, D.C. 20411

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