



# Real Estate Bulletin

Official Publication of the California Department of Real Estate

RONALD REAGAN, *Governor*

Spring 1970

BURTON E. SMITH, *Commissioner*

## Furnishing of a Preliminary Title Report Without Charge Now Prohibited by the California Insurance Code

Richard D. Barger, Insurance Commissioner

**EDITOR'S NOTE:** The commissioner has received information from time to time evidencing that a large number of licensees do not realize that title companies are prohibited by law from furnishing preliminary title reports without charge. After reading the following article in which Mr. Barger explains the ramifications of the present law, it can readily be seen that any licensee who requests a title company to furnish a title report at no charge or at a reduced charge or requests to cancel such a charge after it has been billed, is in fact requesting the company to violate the law, thereby placing its license to do business in California in jeopardy unless the requested action is permitted by this section of the law.

\* \* \* \* \*

A bill was introduced in the 1967 legislative session which added Section 12404.1 to the California Insurance Code. Briefly stated, it requires all title insurers, controlled escrow companies and underwritten title companies to charge for a title report. It provides that the charge for a title report must bear a reasonable relationship to the cost of its production but in no event shall it be less than the rate for a standard owner's policy providing minimum liability, as set forth in the company's rate schedule filed with the Insurance Commissioner.

The charge may be waived or canceled (a) if after the issuance of the title report the sale, exchange, or loan is not consummated or (b) when the title report furnished contains a title defect which the issuing company has refused to eliminate from its policy of title insurance and another title insurance company has eliminated such title defect. If the company elects to waive or cancel the charge, it must apply this practice uniformly to all customers under like circumstances.

**The furnishing of the name of the owner of record and the record description of any parcel of real property without charge is not prohibited by the section.**

In substance, Section 12404.1 provides that the practice of furnishing preliminary title reports without making a reasonable charge for such report is considered to be an unlawful rebate by the company furnishing such report. The practice of making unlawful rebates is a violation of California law and could subject the

### Real Estate Law

The 1970 edition of the Real Estate Law is available at any DRE office, or will be sent from the Sacramento office on receipt of order and remittance. The price for this revised edition is \$2. Add sales tax if ordered in California.

This volume contains the current text of the Real Estate Law, including recent amendments to the Subdivided Lands Act and the new Real Estate Syndicate Act as well as the commissioner's regulations and pertinent excerpts from other codes.

company making such unlawful rebate to the possible revocation or suspension of its certificate of authority or license to transact business in California. **Once a charge has been made and a person has been billed for a title report, the company must make a good faith attempt to collect, i.e., the company must use the same means to collect a charge for a preliminary title report that the company would use in collecting any other debt owed to it.**

## Commissioner Announces Pilot Intern Program

Recent studies have reaffirmed that college students are not enthusiastic about the real estate business. On more than one occasion students have expressed concern about the image and insecurities of real estate brokerage. The dynamic lure of large corporate enterprises presented by campus recruiters includes visions of security, prestigious titles, and challenging opportunities. The real estate industry, with only a few exceptions, has failed to compete for graduates.

The commissioner is convinced, however, that more college students would choose real estate as their career if given the opportunity to participate in on-the-job experience.

To further this concept, he will coordinate a pilot intern program for the summer of 1970 which will sample the interest of career-oriented college students entering the real estate business.

While serving their internship under the tutelage of successful real estate practitioners, they will find that the real estate business, conducted on a professional level, is far more dynamic, challenging and potentially remunerative than most professions.

The intern program envisions college students with business majors working full time during the months of July and August under the direct supervision of a real estate broker. The Department of Real Estate will furnish the broker with guidelines to assist him in determining what meaningful, nonlicensed activities the intern will be able to undertake. In addition to the compensation the intern

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**Disciplinary Action—December 16, 1969—February 1970**

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 on the disciplinary action stayed, until the stay is dissolved. Names of persons to whom licenses are denied upon application are not published.

**Licenses Revoked From December 16, 1969 Through February 1970**

Name	Address	Effective date	Violation R.E. Law/Regulations
*Loring, Clyde James, Jr. (RREB)	1253 Winton Way, Atwater	11/18/69	10176(e) (i), 10177(d); 2830, 2831
Dandridge, Frank Gordon (RREB)	1119 S. Highland Ave., Los Angeles	12/16/69	10176, 10177(d) (i); 2830
Larson, Alvin Eugene (REB)	1852 Sweetwood Dr., Colma	12/16/69	10177(b)
(Right to Renew RES)			
Hughes, Joseph Richard (RES)	P.O. Box 297, French Camp	12/24/69	10177(b)
Hannion, John Bernard (RES)	2311 Carlmont Dr., Belmont	1/ 6/70	10177(b)
Biggs, John Robert (RES)	301 Oakdale St., Folsom	1/ 8/70	10177(d) (g)
Kawada, Clifford Tokunari (REB)	1757 W. Silver Lake Dr., L. A.	1/13/70	10177(f) (i)
Cohee, William Lee (RREB)	9332 Granada Ave., Oakland	1/15/70	10145, 10176(e) (i), 10177(d) (i) (k)
(Right to a RRES license on terms and conditions)			
Simpson, Romus Ray (REB)	11103 S. Haas, Los Angeles	1/27/70	10177(b) (f)
Long, William Charles (RES)	2326 W. 180th Pl., Torrance	1/27/70	10177(b) (f)
Hogg, Richard Henry (REB)	1508 Ocean Ave., San Francisco	1/31/70	10176(e) (i), 10177(d) (f)
Milder, Howard (REB)(REO)	297 E. Bay Blvd., Port Hueneme	2/10/70	10177(b) (f)
Pres. Hueneme Realty Co., Inc.			
(Right to RREB and RREO licenses on terms and conditions)			
Kelly, Bernard Patrick (REB)	1651 Church St., San Francisco	2/12/70	10176(a) (g) (i), 10177(f)
(Right to renew RES) (Right to RREB license on terms and conditions)			
Gatti, Louis Anthony (REB)	2798 San Bruno Ave., San Francisco	2/17/70	10145, 10176(e), 10177(d) (f); 2831, 2831.1
(Right to RREB license on terms and conditions)			
Simon, Harold Maxwell (REB)	2272 Market St., San Francisco	2/17/70	10177(b)
Dbc Central Investment Co.			
(Right to RREB license on terms and conditions)			
Taskey, Ronald Joel (RES)	2072 Tapp St., Santa Susana	2/17/70	10177(b) (f)
(Right to RRES license on terms and conditions)			
Wasserman, Donald Ray (REB)	1127 Irving St., San Francisco	2/17/70	10176(a) (g) (i), 10177(f)
Dbc Golden Gate Realty			
(Right to RREB license after 30 days on terms and conditions)			
Cate, Jeff Bankston (REB)	752 S. Wilton Pl., Los Angeles	2/19/70	10130, 10145, 10176(i), 10177(d) (f) (i); 2830
Pardini, Adam J. (REB)	709 N. Center St., Stockton	2/19/70	10177(f)
(Right to RREB license on terms and conditions)			
Baker, Thomas Frederick (RES)	4007 Magna Carta Rd., Woodland Hills	2/24/70	10177(b) (f)
Cochran, Frank Moyer (RES)	664 Ridge Dr., Glendale	2/24/70	10177(b) (f)
(Right to RRES license on terms and conditions)			
Cooper, Lemuel (RES)	P.O. Box 484, Los Angeles	2/24/70	10177(b) (f)
Hartney, John Francis (RES)	9040 Harratt St., Los Angeles	2/24/70	10177(b) (f)
(Right to RRES license on terms and conditions)			
Sartori, Paul Joseph (REB)	624 Rimbhurst St., Covina	2/24/70	10145, 10159.5, 10176(i), 10177(d) (i); 2830
Ornold, Raymond Elwood (RES)	1833 Spring Rd., Vallejo	2/25/70	10177(b)
Haynes, James Edward (RES)	24261 Mission Blvd., Hayward	2/28/70	10176(a) (b) (i), 10177(f) (i)
(Right to RRES license after 60 days on terms and conditions)			
Martin, Robert William, Jr. (RES)	1376 Johnson Ave., San Jose	2/28/70	10177(f) (i)

\* Not previously reported.

**Licenses Suspended From December 16, 1969 Through February 1970**

Name	Address	Effective date	Violation R.E. Law/Regulations
Lewis, Norwood Lyman (REB)	1641 Leimert Blvd., Los Angeles	12/16/69	10161.8, 10165, 10177(f); 2754
(After 30 days, remainder or any portion thereof may be stayed on conditions)		11/19/72	
Richey, Eunis Claud (REB)	19239 E. Casad Ave., Covina	12/19/69	10177(d) (f) (h)
(All but the first 45 days stayed on condition)		6 months	
Maki, Georgia Ethel (REB)	68 Bates Blvd., Orinda	1/ 6/70	10137, 10162, 10164, 10165, 10176(a), 10177(h)
for 5, 5, 15, 15, 60 & 90 days concurrently			
Wingate, Jean S. (RES)	P.O. Box 5103, Oxnard Annex, Oxnard	1/13/70	10177(b) (f)
90 days			
Robinson, Virgil Eugene (RRES)	35930 Vinewood St., Newark	1/14/70	10156.7
Indefinitely			
LeMay, Cloyd Leonard (Right to apply for RRES Suspended)	P.O. Box 206, Middletown	1/29/70	10177(a) (f)
(All but first 15 days stayed on conditions)		60 days	
Branco, Charlie (REB)	2982 N. G St., Merced	2/ 2/70	10176(i), 10177(f)
(Stayed for 2 yrs. on terms and conditions)		60 days	
Turner, James Charles (RES)	713 Wasatch Dr., Fremont	2/ 4/70	10137, 10139, 10162, 10165, 10177(d)
for 30, 60, 60, & 90 days concurrently			
Ellesin, Alex John (REB)	13455 Ventura Blvd., Sherman Oaks	2/ 5/70	10137, 10176(a) (i), 10177(j)
(All but first 30 days stayed for one yr. on conditions)		90 days	
Joseph, Adrian (RES)	1840 W. Imperial Hwy., Los Angeles	2/ 9/70	10176(a) (b) (i)
(Stayed for one yr. on conditions)		30 days	
Nayone, George Anthony (RES)	583 Market St., San Francisco	2/ 9/70	10176(a) (b) (i)
(Stayed for one yr. on conditions)		30 days	
Romaine, William John (RREB)	2367 Carquinez Ave., El Cerrito	2/10/70	10177(b) (k)
90 days			
Gonis, Pericles (RREB)	2 Laguna St., San Francisco	2/10/70	10177(d) (k); 2831
10 days			
Gairaud, Irene Marian (REB)	1445 The Alameda, San Jose	2/17/70	10176(e), 10177(d)
Dbc L. Louis Gairaud		90 days	
(Last 75 days stayed for 2 years on terms and conditions)			
Kelly, John Joseph (REB)	3129 Glendale Blvd., Los Angeles	2/17/70	10145, 10176(e) (i), 10177(d) (f) (i)
(Stayed for 2 years on conditions)		30 days	
Temple, Robert Eugene (RES)	15327 S. Crenshaw Blvd., Gardena	2/17/70	10177(b) (f)
90 days			

## Airports in Subdivisions May Require Permits From Department of Aeronautics

The California Department of Aeronautics works diligently to encourage and assist in the development of aeronautics throughout the state. Operating under the California laws relating to aeronautics, it is obliged to effect compliance with Public Utilities Code Section 21663, which provides: "It is unlawful for any political subdivision, any of its officers or employees, or any person to operate an airport without an appropriate permit as may be required by rule of the department pursuant to this article."

It is becoming more common for land developers to provide landing facilities—particularly in recreation area planned developments. This facility may be construed as a private airport, but under certain conditions be exempt from permit requirements; however, developers and real estate practitioners should be aware that all airports open to the public in the state must meet certain minimum standards set by the Department of Aeronautics, including design standards.

Prior to filing for a subdivision public report for subdivision offerings containing aeronautic features, the Real Estate Commissioner suggests that these air-minded developers contact the Department of Aeronautics, particularly while the aeronautic facilities are still on the drawing board. This may result in saving a lot of time and money, and avoiding establishment of needlessly marginal facilities resulting from lack of expert advice.

Such foresight could also avoid delay in issuance of the final public report, particularly if there is a question concerning the safety or legality of the facilities.

The California Department of Aeronautics is based at Sacramento Executive Airport, Sacramento, California 95822, telephone 445-2582, and will, upon request, send all types of pertinent information regarding airports, their construction and development, and permit requirements. It maintains an operations field staff of

### Industrial Subdivisions

As amended by the 1969 Legislature, Section 11018.2 of the Subdivided Lands Act requires the commissioner to waive the subdivision public report for expressly zoned industrial subdivisions which are limited in use to industrial purposes, as well as commercial leases of parcels in a shopping center. "Shopping center" is defined as a group of commercial establishments, planned, developed, owned, or managed as a unit, with off-street parking provided on the property of the shopping center.

### Subdivided Lands Act Defines "Land Projects"

The Legislature found that sales of lots in some subdivisions located in sparsely populated areas of the state had been made on the basis of intensive promotional efforts which tended to obscure the highly speculative nature of the offering. These subdivisions are referred to as "land projects," and characteristically contain 50 or more parcels.

To protect the public, in 1969 a new law was enacted which provides additional authority to the Real Estate Commissioner to require that reasonable arrangements be made to assure completion and maintenance of improvements in the subdivision offerings, and to determine that the probable continuing financial burden with respect to the financing of completion and maintenance of such improvements within the subdivision bears a reasonable relationship to the value of the lots therein.

There is further public protection by provisions either requiring advance delivery of the public report to lot purchasers or affording purchasers a right to rescind the purchase agreement within a limited time period.

Sections 2819.5, 2819.6, 2819.7, 2819.8, 2819.9, 2819.95 and 2819.96 were added to the commission's regulations to implement this law.

aviation consultants who are able to be promptly dispatched for examination of the site and consultation.

## Walt Miller Retires From California State Service

Walter J. Miller, Assistant Commissioner of Education and Publications, retired from the Department of Real Estate on March 26, 1970, after 24 years of state service. He joined the



WALTER J. MILLER

department in 1946 as a deputy real estate commissioner shortly after being discharged from the army, where he served with the Inspector General's Office during World War II.

A native of Illinois, Miller graduated from St. Johns University, Minnesota, where he earned a B.A. degree with an English major. He was editor in chief of the university's yearbook for one year as well as sports editor for three years. At the same time, he was sports editor and columnist for the biweekly school paper.

With his demonstrated writing ability, he soon became responsible for the department's publications. He completed numerous other assignments, including a special study of subdivision problems.

In 1955, he was promoted to supervising deputy in charge of examinations and publications.

In 1958, when the department initiated a program for the advancement of real estate education and research at the college level, he was selected to inaugurate the program and charged with administering it in addition to his continuing responsibility for publications. As chief deputy, he headed the new Education and Publications Section established at that time.

He organized the Commissioner's Real Estate Education and Research Advisory Committee (CREERAC).

In 1961, he was appointed Assistant Commissioner, Education and Publications. Under his guidance, the *Real Estate Bulletin* and the *Reference Book* have gained nationwide recognition.

He has become widely known during his many years of association with educators throughout the state.

### GOVERNOR NAMES FOUR MEMBERS TO REAL ESTATE COMMISSION

Governor Ronald Reagan recently appointed three new members to the State Real Estate Commission and reappointed Harlan S. Geldermann of Danville to a second term.



HARLAN GELDERMANN



WILLIAM P. BEACHEM



GRANT B. POTTER



PHIL SAENZ

Mr. Geldermann graduated from Stanford University in 1947, and entered the real estate business in partnership with his father in Danville. He has served as president of the Contra Costa Real Estate Board, CREA regional vice president, as well as chairman of the association's land development committee. As president and managing director of Geldermann, Inc., a diversified real estate firm, he has been responsible for developing a substantial number of bay area subdivisions.

William P. Beachem of Los Angeles succeeds Ralph H. Miller of Upland, whose term expired. He first entered the real estate business in 1962. He is a member of the Los Angeles Realty Board, the National Association of Real Estate Boards and the Educational Committee of the Consolidated Realty Board.

Grant B. Potter was appointed to act as a public member of the commission. He is a graduate of the University of Idaho, was a member of the Idaho State Legislature and Assistant State Forester of Idaho before coming to California. Since 1959, he has served as president and general manager of Sequoia Forest Industries in Dinuba and is also a member of the Regional Forestry Advisory Committee.

Phil Saenz serves as the other public member on the commission. He has been active in the civic affairs of San Diego, serving as chairman or director of leading organizations and committees, many in the field of the disadvantaged and unemployed. He is a past director of the Economic Opportunity Commission of San Diego, and a past chairman of the San Diego County Advisory Committee of the Fair Employment Practice Commission. He serves as director of job opportunities for Electronics, Inc., in San Diego.

The Real Estate Commission consists of the commissioner and eight other members. Seven members (including the commissioner, who serves as chairman) must have been engaged actively in the real estate business as a real estate broker for at least five years. Two members are selected from the general public.

There is a residential requirement to assure balance: four members are appointed from northern California and four from southern California—no more than three may reside in any single county.

Meetings of the commission are scheduled at least quarterly. If additional meetings are required, they may be convened upon five days' written notice of the time and place of the meeting, signed by the commissioner or a majority of the members of the commission.

The next quarterly meeting is scheduled to be held in Anaheim at the Disneyland Hotel (room assigned for the meeting will be on the hotel bulletin board) on Friday, June 19, at 10:00 a.m.

### Jack Pontius Named NAREB's Executive Vice President

Melvin L. Mould, CREA president, announced recently that H. Jackson Pontius, executive vice president of the California Real Estate Association, has accepted a position as executive vice president of the National Association of Real Estate Boards, succeeding Eugene P. Conser, who is retiring. Mr. Pontius leaves August 1, 1970, to take over his new responsibilities.

He was first appointed educational director for CREA in 1948 and succeeded to the position of executive vice president in 1955.

### COMMISSIONER AMENDS LAW AFFECTING RENTAL AGENCIES

The law related to advance fee rental agencies was designed to curb the activities of the unprincipled operator ostensibly offering a service which he can not or will not provide.

Licenses presently contemplating entering this field should familiarize themselves with the law and regulations regulating advance fee rental operations (Business and Professions Code Section 10143 and Commissioner's Regulations 2852-2856).

Newly amended Regulation 2852, effective in 1970, requires an advance fee rental agent to enter into a written agreement with a prospective tenant which shall clearly reflect: "(1) all of the terms and conditions of the contract upon which the service is to be furnished; (2) the type of rental in regard to number of bedrooms, terms, and nearest major intersection; (3) the approximate date or dates the rental is to be available; (4) a definite date the service is to terminate; (5) receipt for payment of fee; (6) date of execution; (7) signatures of the prospective tenant, the broker, and, if negotiated by a salesman, the salesman; and (8) the license numbers of the broker and salesman..."

Another amended section (2856) reads in part: "Advance fee rental agent shall not refer a prospective tenant to a rental listing unless the availability of the listing has been verified within three business days of the referral."

## Procedures for Inactivating and Reinstating License

Several sections of the Real Estate Law relating to inactive real estate licenses and license fees adjustments were substantially amended and will become operative on July 1, 1970.

Under Section 10161.7, the license of a broker or salesman may be inactivated within the period for which the license was issued by notifying the commissioner in writing of the inactivation and paying the prescribed fee; however, the licensee retains the license. He marks out all but his name on the face of the license, and types or prints in ink on the reverse side the words "Inactive license" and his current address, then dates and initials the inscription.

### Fee Effective July 1, 1970

The fee for an active original or renewal real estate broker license is \$85.

The fee for an active original or renewal real estate salesman license is \$60.

A license may be renewed on an inactive basis for one half the regular fee (\$30 for sales and \$42.50 for broker) *provided the license is renewed on time*. If the license is renewed on a late basis, the full late renewal fee is required whether the license is to be renewed on an active or inactive basis (\$90 for sales \$127.50 for brokers).

### Reinstatement

An inactive license, which is not suspended or revoked, may be reinstated at any time during the period for which the license was issued. When a broker wishes to reinstate his license, he notifies the commissioner in writing with the appropriate fee. The fee for reinstatement of a license within a license period is \$4 plus the difference, if any, between the fee previously paid for issuance of the license and the fee for an active license. **On the reverse side of his license, he strikes out "Inactive license" and types or prints in ink his name, date and business address and initials it.**

The same procedure is followed when a salesman reinstates his inactive license except he must also complete &E Form 214 (application for transfer or reinstatement for salesman license), have it signed by his new em-

ploying broker and send it to the department with the fee.

After January 1, 1971, if the license has been inactive for more than six months, it can be reactivated only after a 30-day waiting period.

As a prerequisite to reinstatement, on or after July 1, 1980, any licensee whose license has been inactive for a continuous period of 10 years must take an examination.

## DIGEST OF RESEARCH REPORTS

The DRE has prepared a revised *Summary of Real Estate Research Reports*, systematizing and classifying the real estate research projects which have been completed by universities and colleges in California with the assistance of funds allocated from the Real Estate Education, Research and Recovery Fund administered by the Real Estate Commissioner.

In the *Summary*, reports are first classified in six principal categories, according to subject matter. Then a very brief digest of each report is given, plus alphabetical lists of titles and authors. Generally, no attempt was made to include the authors' recommendations and conclusions—the digests confine themselves to the general nature of the studies and resulting reports.

Few people are aware of the magnitude of the real estate research program which has provided a vast reservoir of information which in turn has been filtered into the real estate offerings now abundant in every section of the state. A good many reports are no longer in print and are not available except in libraries. But the effect of good, productive research does not die with the years, although data and fixed presumptions often become obsolete; it forms a basis for new approaches and more sophisticated methods of inquiry in this complex and many faceted field.

The *Summary of Real Estate Research Reports* can be ordered from the Sacramento office of the Department of Real Estate, 714 P Street, Sacramento 95814. Its price: \$1.50, plus 8 cents sales tax if ordered in California. Please accompany order with check or money order.

## PROMOTIONAL OFFERS

To promote sales, some subdividers or their agents offer free trips or other accommodations to prospective buyers. Frequently they require the prospect to make a deposit, often referred to as a "good faith deposit" before they furnish the prospect a free trip.

In these circumstances, the DRE requires the developer to furnish the prospect with a copy of the public report on the subdivision before a "good faith deposit" is solicited; to impound the deposit until it has been returned, or until a determination has been made that the prospect has failed to meet his commitment.

## Interest in Exchanging Grows in Money Shortage

Real estate brokers and the home-buying and home-selling public have felt the pinch of tight money, as have home builders. Yet tight money has unquestionably helped the market for "in place" apartment and single family rentals as many who would normally be in the market for their own homes become renters because they cannot meet the larger down payment requirements now common.

Another result of the lull in the sale of housing is the attraction of more and more brokers into the "trading arena." The trading or exchange process can overcome a lack of financing in many transactions, particularly where the properties are clear or when large equities exist.

A comparatively small number of real estate brokers have specialized in trading or exchanges for years and, as a result of their efforts, more owners have been acquainted with the concept of exchanging and have a better understanding of its advantages.

Exchanging is especially attractive to those owners who purchased property 20 or 30 years ago when prices were so much lower than they are today. Selling now, they often face a substantial capital gains tax, whereas by participating in an exchange, they may be able to transfer the "cost basis" of the property traded to the newly acquired property.

## Commissioner Revokes Licenses for Unlawful Subdividing

Real estate practitioners are expected to be reasonably conversant with the fundamentals of the Subdivided Lands Act which is the commissioner's responsibility to enforce. They should understand it is not enough for a broker or salesman engaging in sales of parcels in a new subdivision to furnish a true copy of the commissioner's public report on the tract to each buyer before he commits himself in any way to a purchase. The agent must also give the prospective buyer an opportunity to read the report, obtaining from him a signed receipt testifying this has been done.

But here is a case where a broker and his salesman attempted to circumvent the Subdivided Lands Act, knowingly taking an unlawful course of action. It wound up with the commissioner revoking their licenses after a hearing in which they were found to have subdivided and conspired to subdivide real property.

The evidence presented at the hearing established that the broker (B) and the salesman (S) entered upon a joint venture to acquire a 130-acre parcel and to divide and resell it as 11 parcels. To accomplish this end, B and S induced the owner to sell his holding as three separate parcels, with B purporting to purchase the two outside parcels and S taking title to the center parcel.

The owner was also persuaded to grant a total of 11 partial releases from his blanket deed of trust. B and S then embarked upon a selling campaign with B negotiating sales of parcels nominally owned by S and vice versa. Moreover proceeds from sales of parcels to which B had title were utilized to finance S's purchase from the original owner. Finally, it was proved that all of the net proceeds from resales were deposited in a joint bank account maintained by B and S and subsequently divided equally between them.

At the hearing, B testified that neither he nor S sought the advice of an attorney nor of any state or county official concerning legal requirements before proceeding with their scheme.

Not only did they subject themselves to disciplinary action against their licenses, but they opened the way to possible felony charges and rescissions of contracts.

### SALES TAX LIABILITY OF SUCCESSORS

A successor to or purchaser of a business or stock of goods can be liable for the sales tax liability of any prior owner unless a certificate is obtained from the California State Board of Equalization stating that no taxes, interest or penalties are due from a predecessor.

A request for the certificate of release must be in writing. The purchaser will also be released if he does not receive a certificate from the board within 60 days following submission of his request, or within 60 days from the date the former owner's records are made available for audit, whichever period expires later. In any event, he will receive within 90 days a certificate or a notice of the amount due.

The successor is well advised to withhold from the purchase price consideration a sufficient amount to cover the tax liability of the seller until he has received the certificate of release from the board.

## Broker Applicants Survey Reflect Impact of Education Program

Although only 196 persons sat for the real estate broker license examination in February, a surface analysis of some of their characteristics revealed interesting sidelights and reflects in no small degree the growing impact of the real estate education program. Of the 62 candidates who were taking the broker license examination for the first time, approximately 50 percent were qualified on the basis of equivalent experience and/or education. About 80 percent of this group had completed all four required or optional real estate courses. Forty-nine of the 62 had completed a three-unit college-level course in real estate finance and thus avoided the need to take a special supplemental test in that

## MONEY HANDLING—REBATES

### Failure to Apply Properly Improvement Construction Money

Stiff penalties are provided for the person who receives money intended to obtain or pay for services, labor, materials, or equipment incident to construction, and who willfully fails to apply the funds to complete the work or pay costs involved. (Penal Code, Sec. 4846.)

#### *Fine or Imprisonment—or May Receive Both Fine and Prison Term*

Conviction for such an offense can result in a fine not to exceed \$5,000 or imprisonment. If the amount willfully diverted is more than \$10,000, the violator may suffer both fine and prison term. If the amount is less than \$10,000, the violator is guilty of a misdemeanor. Included in the section is this clause: "To constitute a diversion within the meaning of this section, the diversion must result in a reduction of the value of the owner's equity in his property or a reduction in the value of the security for the loan which provided such construction funds."

Under Section 532(e), any person who receives money for the purpose of obtaining or paying for services and materials incident to the construction of improvements on real property and willfully rebates a portion of this money to someone with whom he contracts for services or materials for the job is guilty of a misdemeanor. Normal trade discounts for prompt payment are not considered a violation.

subject; the same was true with 54 individuals in real estate appraisal.

Most of the 134 persons who took reexaminations of one type or other during the month had previously passed the supplemental tests in practice and legal aspects of real estate and were taking the basic examination and the newly added supplemental tests in appraisal and finance.

In a broader sense, this analysis may indicate that real estate practitioners are awakening to the need to attain an increasing level of accomplishment better to meet future competition.

## Veteran Applicants for GI Loans Must Occupy Homes

No loan for the purchase or construction of residential property is made or guaranteed by the VA unless the veteran applicant, at the time he applies for the loan and also at the time the loan is closed, certifies he intends to occupy the property as his home. Most real estate licensees realize that violations by the veteran are referred to the U.S. Department of Justice for appropriate action.

The case described below illustrates what can occur when a licensee becomes involved. A real estate salesman, in effect, induced a person to sell him his veteran's entitlement for \$500, and to act as a dummy buyer for a residence the salesman had listed for \$28,000. The salesman wanted to buy the property for his own home, but with the advantages of a GI loan. He rationalized his conduct on the basis that the veteran needed money for medical bills, and the property owners were involved in divorce proceedings and settlement.

He submitted an offer to the sellers in the name of the fictitious buyers to purchase their property for \$25,200, subject to the buyers qualifying for the GI loan in the total amount of the offered price. The offer was accepted.

The veteran made application for the loan on the salesman's assurance there was nothing improper or illegal about his actions. The application was approved. Presumably the fictitious buyer had deposited \$663.16 into escrow. The day before the escrow closed, his broker assigned all of the commission in the amount of \$1,260 to the salesman. Thus, the salesman obtained possession of the property with money in his pocket to boot. Three months later, title to the property was transferred from the fictitious buyers to the salesman and his wife without any further consideration.

The DRE investigated the transaction, which led to disciplinary action after a formal hearing. The salesman's license was revoked; in this case, after 90 days he could apply for a restricted salesman license. Shortly afterwards, he was indicted by the U.S. District Court for the same action.

## NEW LAWS STRIKE AT ILLEGAL USE OF PROPERTIES

AB 1702 was passed and signed by the Governor in 1969. As enabling legislation, it authorizes cities to enact ordinances requiring sellers of residences to obtain a report from the city showing authorized use, occupancy and zoning classifications of the building and property. The owner or his agent must deliver the report to the prospective buyer prior to sale or exchange. Exempt are the first sales of dwellings located in a subdivision with final map recorded not more than two years prior to the first sale.

This is designed to provide protection to the buyer of residential property against undisclosed restrictions and illegalities. In the past, these undisclosed items have caused severe financial hardship to the unwary buyer.

The City of Manhattan Beach, long a forerunner for this type of legislation, was the first city to adopt an ordinance, although prior to passage of AB 1702 the Cities of San Francisco and Oakland adopted ordinances with a similar thrust.

Copies of a model ordinance, approved by the Southwest Area Planning Council, are available to interested cities by writing to the city manager's office, City Hall, 1400 Highland Avenue, Manhattan Beach, California 90266.

## Pilot Intern Program

*(Continued from col. 3, page 897)*

will receive from his employing broker, he may also receive college credit. Special recognition will be given the participants who complete the program.

The commissioner feels that brokers participating in this program will make a substantial contribution towards insuring the future vitality of the real estate industry by encouraging college students to enter into this field. By helping an intern to take pride in his job and giving him reason to be proud of going to work for him, he will have a potential salesman employee when the student completes his education. As this is a pilot program, only a limited number of brokers and interns will be accepted.

## Quarter Units Compared To Semester Units

Successful completion at an accredited institution of higher learning of three-semester unit courses or the quarter equivalent thereof in real estate practice and in legal aspects of real estate as part of the preexamination qualifications is required of the applicant for real estate broker license as of January 2, 1970. And the question is raised: What constitutes a "quarter equivalent" of three-semester units? **The DRE will accept four-quarter units as equivalent to three-semester units.**

## BROKER USES DUMMY BUYER

One more seemingly successful real estate broker is out of the industry because of a violation of law which involved the use of concurrent escrows and a dummy buyer in seeking a secret profit.

In this case, Broker B submitted to Broker A a signed offer from Buyer X to purchase for \$10,000 a property listed by the latter broker. This offer was accepted by Broker A's sellers and an escrow opened accordingly.

But prior to the presentation of Buyer X's offer to purchase the property for \$10,000, Broker B without informing either the listing broker or the sellers, had obtained a signed offer of \$12,900 for the property from Buyer Y and had accepted a deposit of \$1,400. This in hand, he proceeded to open a second, concurrent escrow with the same escrow firm to carry out the sale of the same property by Buyer X to Buyer Y.

Investigation revealed the rather obvious fact that Buyer X was not a bona fide purchaser at all but rather a "dummy" used by Broker B for the specific purpose of deriving a secret profit.

For this and other acts of a like nature by Broker B, cause for disciplinary action was established under applicable sections of the Real Estate Law and his license was revoked.

Additional information on this program may be obtained by writing to: Real Estate Intern Program—1970, Department of Real Estate, 714 P Street, Sacramento 95814.

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RESEARCH REPORTS

The following research reports, among others, are obtainable from the DRE's principal office, 714 P Street, Sacramento 95814, at \$1.50 per copy, plus state sales tax if ordered in California.

- *An Analysis of Growth Potential in the Chico Area*, by Hameed Jumali and Cleve E. Willis—Chico State College.

Analyzes the growth potential of the Chico area, taking into account the favorable and unfavorable economic and other characteristics attracting small business to the area.

- *Real Estate Price Trends in Eureka, California, 1960-1968*, by Dennis J. McKenzie and Russell R. Connett—Humboldt State College.

Examines price trends of single-family dwellings in Eureka between the years 1960 and 1968 in an attempt to determine what effect tight money, high interest rates and the depressed state of the lumber market have had on the prices of homes in Humboldt County.

- *San Francisco Housing Markets: A Study of Price Movements in 1958-1967 with Projections to 1975*, by Leonard P. Vidger—San Francisco State College.

This is an in-depth examination of single-family dwellings in the City and County of San Francisco for the 10-year period 1958-67. The story includes a profile of housing values and delineates five major private dwelling markets within the city.