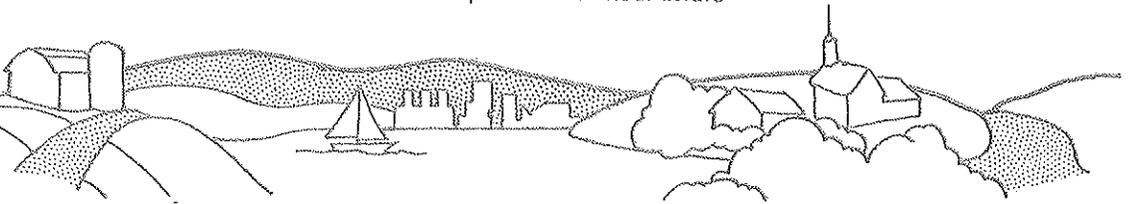


# REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate



EDMUND G. BROWN JR., Governor

Spring 1978

DAVID H. FOX, Commissioner

## NEW REGULATIONS BY DRE

### INCLUDE CONTINUING EDUCATION REQUIREMENTS

Following a public hearing in Los Angeles on November 21, 1977, Commissioner Fox adopted new regulations and regulation changes which became effective on December 30, 1977.

The new regulations, among other things, add Article 25 (Sections 3605-3613, inclusive) to the Regulations of the Real Estate Commissioner.

Article 25 sets forth the continuing education standards and requirements pursuant to Article 2.5 of the Business and Professions Code.

The complete text of the new or amended regulations follows.

#### AMENDS SECTION 2760 OF ARTICLE 1 TO READ:

2760. Offices. Offices of the Department of Real Estate are located as follows:

Principal Office

Sacramento 95814

714 P St., Room 1550

#### Branch Offices

Pasadena 93721

Room 3034, State Office Bldg.

2550 Mariposa Street

Sacramento 95823

Suite 300

4433 Florin Road

San Francisco 94102

Second Floor

One Hallidie Plaza

Los Angeles 90012

Room 8107, State Office Bldg.

167 So. Broadway

San Diego 92101

Room 5008, State Bldg.

1350 Front Street

Santa Ana 92701

Room 324

28 Civic Center Plaza

#### REPEALS SECTION 2725 OF ARTICLE 4.

Adopts a new Section 2725 in Article 4 to read:

##### 2725. Review of Instruments.

(a) Every instrument prepared or signed by a real estate salesperson in connection with any transaction for which a real estate license is required, which may have a material effect upon the rights or obligations of a party to the transaction shall be reviewed, initialed and dated by the broker of the salesperson within five working days after preparation or signing by the salesperson or before the close of escrow, whichever occurs first.

(b) A broker may delegate his responsibility and authority under subdivision (a) hereof as follows so long as the broker does not relinquish his overall responsibility for supervision of the acts of salespersons licensed to him:

(1) To any licensed real estate broker who has entered into a written agreement relating thereto with the broker;

(2) To a real estate salesperson licensed to the broker if the salesperson has accumulated at least two years full-time experience as a salesperson licensee during the immediately preceding five-year period and has entered into a written agreement with the broker with respect to the delegation of responsibility.

(c) In the case of any real property or business opportunity transaction in which the escrow is conducted by a real estate broker under the exemption of Section 17006(d) of the Financial Code, the broker's responsibility hereunder shall extend to escrow instructions, or to closing statements if rendered to the parties to a transaction prior to close of escrow, which were prepared or signed by a salesperson licensed to the broker or by an associate or employee of the broker.

(Continued on Page 4)

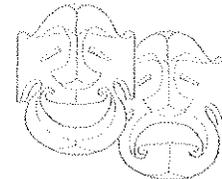
## LICENSEES CAN HELP TO END REDLINING

New legislation prohibiting financial institutions from engaging in the practice known as redlining became effective January 1, 1978. Known as the Housing Financial Discrimination Act of 1977, the law (Senate Bill 7—Holden) provides a unique opportunity for real estate licensees to aid in stamping out redlining, a practice which is discriminatory and which, by restricting the free flow of mortgage capital, makes it more difficult for real estate licensees to put bona fide transactions together.

The Act prohibits financial institutions (e.g., federal or state licensed savings and loans, state or national banks or credit unions, thrift companies) from engaging in discriminatory loan practices due, in whole or in part, to the consideration of conditions, characteristics, or trends in the neighborhood or geographic area surrounding the housing accommodations. The only exception is if the financial institution can demonstrate that such consideration in the particular case is required to avoid an unsafe and unsound business practice. Consideration of race, color, religion, sex, marital status, national origin, or ancestry is also prohibited in regard to the composition of the neighborhood, the geographic area surrounding a housing accommodation, trends in the area, or in appraising a housing accommodation.

(Continued on Page 7)

Some do—some don't—like the Bulletin's new format.



Why not write us a brief constructive letter telling us what's right and what's wrong with the Bulletin and how we can improve it.

Help us help you more. Please mark envelopes "ATTENTION: RUTH FENNELLS, EDITOR."

**REAL ESTATE BULLETIN**

Official Publication of the  
California Department of Real Estate  
Member, National Association of Real Estate  
License Law Officials

Vol. 38, No. 1 Spring 1978

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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.

From the license renewal fee, \$1 is allocated to cover subscription to the Bulletin. Second Class Postage Paid at Sacramento, California.

**Disciplinary Action—October-December 1977**

REB—Real estate broker  
RREB—Restricted real estate broker  
RES—Real estate salesman  
RRES—Restricted real estate salesman  
REO—Real estate officer  
RECO—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.  
\* Not previously published

**FOR YOUR INFORMATION**

The following are brief summaries of the numerical code sections listed after each licensee's name. The full context of the various sections is found in the Business and Professions Code and the Regulations of the Real Estate Commissioner, both of which are printed in the Real Estate Law book available for purchase from the Department of Real Estate at \$2.50 plus tax. Code sections summarized will vary from issue to issue as they will correspond with the particular disciplinary listings.

<i>Business and Professions Code</i>				
	10177(f)	conduct that would have warranted denial of a license	11018.1	failure to give public report
			11018.2	illegal subdivision sales (sale of subdivision lots without public report)
490	10177(g)	negligence or incompetence as licensee		<i>Regulations</i>
10145	10177(h)	failure to supervise salesmen	2800	failure to notify Commissioner of change affecting value of utility of subdivision
10176(a)	10177(j)	fraud or dishonest dealing in licensed capacity		
10176(c)	10177(k)	violation of restricted license condition	2830	failure to maintain trust fund account
10176(i)	10177.5	civil fraud judgment based on licensed acts	2831	failure to maintain proper trust fund records
10177(a)	10231	accepting loan funds for pooling	2832	failure to timely deposit trust funds
	10177(b)	conviction of crime		
10177(d)	10244.1	balloon payment violation		
	11012	material change in subdivision without notice		

**LICENSES REVOKED**

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
*Akopoff, Virginia Dolores (REB)	651 S. Soto St., Los Angeles	8/26/76	10177.5
Dba—Virginia's Realty			
Belew, George Elbert (RES)	8951 Chapman Ave., Garden Grove	10/5/77	490, 10177(b)
Da Silva, Reinaldo Manuel (RES)	52 Dubost Ct., San Ramon	10/5/77	10177(d) (j)
Eriksen, Roy (RES)	1995 Murguia St., Santa Cruz	10/5/77	490, 10177(b)
Fufis, George Allen (RES)	6015 W. 137th St., #111, Hawthorne	10/5/77	490, 10177(b)
Vrabel, Anton John (RES)	2789 S. Azusa Ave., W. Covina	10/5/77	490, 10177(b)
Buttan, Penelope Sue (RES)	340 S. Harper, Santa Ana	10/5/77	490, 10177(b)
Brown, Ronald Carey (RES)	4411 Market St., Oakland	10/5/77	490, 10177(b)
Frietsch, Henry Arthur (RES)	201 12th St., Huntington Beach	10/5/77	490, 10177(b)
Jones, Mary Louise (RES)	2129 Saticoy, Pomona	10/5/77	490, 10177(b)
Jurado, Manuel Jr. (RRES)	4411 S. Deland Ave., Pico Rivera	10/5/77	490, 10177(b) (f) (h)
Plager, Michael Robert (RES)	1996 E. Eucalyptus, Brea	10/5/77	490, 10177(b) (f) (h)
Halderson, John Byron (REB) (REG)	P.O. Box 367, 4672 Phumosa Dr., Yorba Linda	10/11/77	490, 10177(b)
Dba—O'Rourke Realty			
Fraust, Leola Jones (RES)	256 More Ave., Los Gatos	10/12/77	10177.5
Goulding, Sandy Mae (RES)	4495 Diamond St. #4, Capitola	10/12/77	490, 10177(b)
Link, Kurt Helmut (RES)	976 Melrose Ave., Chula Vista	11/2/77	490, 10177(b)
Johnson, Roland S. (RES)	560 Via Mirabel, San Lorenzo	11/2/77	10176(a) (i), 10177(d) (j)
Norman, Alfred Louis (RES)	157 El Pinar, Los Gatos	11/25/77	10176(a) (i)
Levens, Kenneth Roy (RES)	739 Rancheria Dr., #6, Chico	11/29/77	490, 10177(b)
Thomson, Daniel Ernest (RES)	3428 Madrid Dr., San Jose	11/29/77	490, 10177(b)
Boyle, Malcolm Joseph (REB)	3145 Geary Blvd., San Francisco	12/5/77	10145, 10176(a) (c) (i), 10177(d) (g), 2830, 2831, 2832
Dehrer, Carol Virginia (RES)	20 Topeka Ave., San Jose	12/5/77	490, 10177(b)
McKee, David Fleming (RES)	1220 Marionola Way, Pinole	12/5/77	490, 10177(b)
Pattan, Sant Ram (RES)	10200 Parkwood Dr., Apt. 2, Cupertino	12/5/77	490, 10177(b)
Ribeira, John Patrick (RES)	40777 Grammer Blvd., Fremont	12/5/77	490, 10177(a) (f)
Riechie, Sanford Lee (RES)	1730 Gates St., Eureka	12/5/77	490, 10177(b)
Rueter, Clifford Lewis (RRES)	261 Omira Ave., San Jose	12/5/77	490, 10177(b)
Christen, Ernest David (REB)	P.O. Box 7692, 10669D Bonner St., Riverside	12/16/77	490, 10177(b)
Dawson, Dave Leon Sr. (RRES)	2071 San Joaquin Hills Rd., Newport Beach	12/16/77	490, 10177(b) (k)
Fagot, John Louis (RES)	9451 Moody St., Cypress	12/16/77	490, 10177(b)
Smith, Alice F. (REB)	18400 Birch St., Fountain Valley	12/16/77	10177(j)
Smith, Jack Clair (REB) (REG)	18400 Birch St., Fountain Valley	12/16/77	10177(j)
Dba—Pacific Western Properties			
Bowles, Lewis Junior (RES)	9766 Campo Rd., Spring Valley	12/17/77	490, 10177(b)
Dillard, Theatrice (RRES)	3754 Montclair Dr., Los Angeles	12/17/77	490, 10177(b) (f) (h)
Walters, Gerald Warren (REB)	750 E. Green St., Ste. 209, Pasadena	12/17/77	490, 10177(b)
Dba—Leisure Way Realty Company			
Chabot, John Bernard (REB) (REG)	19241 Nashville St., Northridge	12/8/77	490, 10177(b)
Dba—Recreation & Ranch Properties			

**LICENSES REVOKED WITH THE RIGHT TO A RESTRICTED LICENSE**

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Bond, Theodore Walter (RES) (Right to RRES license on terms and conditions)	798 Hazel, S. Lake Tahoe	10/4/77	490, 10177(a) (j)
Cox, Yvonne (RES) (Right to RRES license after 20 days on terms and conditions)	464 W. Compton Blvd., Compton	10/11/77	490, 10177(b)
McGillo, Richard Albert (RES) (Right to RRES license on terms and conditions)	545 E. Clark, Santa Maria	11/1/77	490, 10177(b)
Singleton, Edwin Hunter (RES) (Right to RRES license after 30 days on terms and conditions)	14630 White Ave., Compton	11/22/77	490, 10177(b)
Wegenur, Ronald Steven (RES) (Right to RRES license after 30 days on terms and conditions)	173 Leisure Way, Vacaville	11/29/77	490, 10177(b)
Arnold, Evelyn (RFB) (RES) Dba - Century 21 Murphy Realty Dba - Century 21 Arnold Realty Officers - Century 21 Arnold Realty, Inc., 464 W. Compton Blvd., Compton (Right to RRES license after 30 days on terms and conditions)	21941 Avalon Blvd., Carson	12/1/77	490, 10177(b)
DelRos, Fidel Verdel (RES) (Right to RRES license on terms and conditions)	2229 Alamo Rock Ave., San Jose	12/5/77	490, 10177(b)
Cramer, Janet Lee (RES) (Right to RRES license on terms and conditions)	331 Fanice Circle, La Habra	12/6/77	490, 10177(b)
Suenrich, Gaylen Frank (RFB) (Right to RRES license on terms and conditions)	21915 S. Fingerton, Carson	12/6/77	10145, 10176(d), 10177(d), 2832
Broccolo, Leo George (RES) (Right to RRES license after 60 days on terms and conditions)	3745 Military Ave., Los Angeles	12/7/77	490, 10177(b)
Cluff, Doreyin Lucde (RES) (Right to RRES license after 30 days on terms and conditions)	284 Redonda Ave., Long Beach	12/7/77	490, 10177(b)
Howey, Fred Burling III (RES) (Right to RRES license on terms and conditions)	12443 Deerbrook Ln., Los Angeles	12/7/77	490, 10177(b)
White, Clarence Lester (RFB) Dba - C. L. White & Company (Right to RRES license after 120 days on terms and conditions)	3415 West 43rd Pl., Los Angeles	12/13/77	490, 10177(b)

**LICENSES SUSPENDED**

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Knapp, Charles Henry (RFB) Dba - Golden State Home Loans Dba - Investors Exchange Dba - Mission Mortgage & Loan Dba - Mutual Mortgage and Loan	20973 Foothill Blvd., Hayward	10/5/77 6 months	10177.5
Schutt, Peter (RFB)	1046 Irving, San Francisco	11/7/77 10 days	10176(a) (i), 10177(d)
Grandy, Felton Lafayette Jr. (RRES) (Right to RRES license after 220 days)	3589 Sentinel Ct., Hayward	11/16/77 220 days	10176(a) (i)
McBride, Arthur Andrew (RES) Dba - Rapid Realty	P. O. Box 907, 1035 Detroit Ave. South, Concord	from 8/15/77 to & incl 11/20/77 12/5/77 10 days	10145, 10177(d), 2832
Davis, Emily (RFB)	927 Broadway, Oakland	12/22/77 10 days	10177(i)

**LICENSES SUSPENDED WITH STAYS**

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Misquardt, Barbara (RFB) (All but 15 days stayed for 1 year on condition)	4184 MarArthur Blvd., Oakland	11/7/77 30 days	10177(g) (h)
Breen, Joseph Francis (RFB) (All but 30 days stayed for 1 year on terms and conditions)	499 Port Royal, Foster City	11/23/77 90 days	10145, 10177(d), 2832
Coburn, Jolin Anthony (RFB) (RFO) (Stayed for 1 year on condition)	72 Aquinas Dr., San Rafael	11/25/77 3 mos.	10177(d), 10231
Norman, Robert Steven (RES) (Stayed for 1 year on condition)	227-B Kelly Blvd., Santa Clara	11/25/77 3 mos.	10176(a)(i)
Spases, Eric H. (RFB) (Stayed for 1 year on condition)	218 Market St., Galt	12/7/77 30 days	10176(a), 10177(d) (h)
Gerlach, David Sharde (RFB) (RFO) Dba - North American Mortgage & Inv Off - Ron Monroe Realtors Inc (Stayed for 1 year on condition)	1448 South Main St., Walnut Creek	12/12/77 30 days	10177(d), 10244.1
Ron Monroe Realtors, Inc. (REC) (Stayed for 1 year on condition)	1448 South Main St., Walnut Creek	12/12/77 30 days	10177(d), 10244.1
Zellmer, Richard Gregory (RES) (All but 15 days stayed for 1 year on condition)	1072 Kelly Blvd., Santa Clara	12/15/77 30 days	10177(d), 11018.2

**INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS**

Name	Address	Date
*Hendricks, William G. (RFB) (RFO)	14300 Newport #63, Tustin	9/20/77
*Integrated Financial Advisors, Inc. (REC)	1200 E. Fairhaven Ave., #76, Santa Ana	9/20/77
*Walker, Marvin (RFB)	4050 30th St., San Diego	9/20/77
*Smith, Warren N. (RES)	1200 E. Fairhaven Ave., #76, Santa Ana	9/20/77
Auderson, Gordon (RFB)	Veteran Home Station, P.O. Box 717, Yonkersville	10/5/77
Washington, Bert H. (RES)	4080 W. Washington Blvd., Los Angeles	10/27/77
Seacoast Financial Corp. (REC)	1521 Hotel Circle W., San Diego	11/8/77
Johnson, J. T. (RFB)	1 Ashton Ave., San Francisco	12/1/77
Schiller, Kurt (RFB)	141 Okoboji Dr., Arcadia	12/22/77

**DRE Assistant Commissioner George Dunn Retires**

After 27 years working for the DRE and with a total of 40 years in state service, George Dunn, Assistant Commissioner Licensing, retired on December 30, 1977.

Dunn was responsible for numerous significant improvements in examinations and licensing procedures. He initiated the first mechanized licensing system in the nation providing speedy and accurate processing of applications and license requests to keep pace with the increasing number of licensees, currently exceeding 315,000 in California.



It was through Dunn's efforts that the Department developed sophisticated examinations which applicants must pass prior to receiving a license as a real estate salesperson or broker. According to Dunn, "the exam is so thorough it has also been adopted by 10 other states."

He reflected that during his career with the DRE there have been significant changes in the procedures and directions of the Department. He sees the recent focus on consumer awareness, education, and protection as a major move forward. Dunn cautioned that the Department's role is to provide consumer protection while simultaneously being fair to the real estate industry. "We all work together," he stated.

Dunn is now enjoying his retirement with his wife, Shirley, and their five children and three grandchildren. (See Fall 1977 Bulletin, page 6, for Dunn Spotlight.)

**EXPECTING REPEAT BUSINESS?**

How about the enthusiastic real estate salesperson who ignored the owner's instructions and staked a "for sale" sign right through the homeowner's plastic underground sprinkler pipes? Oh, yes, during Open House, he used the bathroom and left the water running in the basin. Sure, those are his cigarette butts in the ashtrays. Yes, indeed, he turned on all the downstairs lights and forgot to turn them off when he left.

Humorous? The homeowner is not smiling. The broker will not be either, watching referral business wither away because of salespersons who do not practice simple thoughtfulness.

**DRE**

# "Security"



## A NEW NAME GIVEN

By Paul Pope  
Chief Deputy, Course Approvals—Continuing Education

The 1977 Legislature made a straight-forward attempt to resolve some of the confusion surrounding such terms in the landlord/tenant vocabulary as "cleaning deposit, rent guarantee, and trust funds" by including these terms under one new label in order to regulate all of them. This new label is "Security."

Assembly Bill 94, Chapter 971, effective January 1, 1978, uses the single term "security" and defines it to mean any payment, fee, deposit or charge, including, but not limited to, an advance payment of rent, used or to be used for any purpose.

According to the new law a security may not be greater than the equivalent of two months' rent for unfurnished residential property (three months' rent for furnished residential property) in addition to any rent paid in *advance* for the first month's rent. When the term of the lease is six months or longer, larger initial deposits are permitted.

The new law provides, among other things, that the landlord may use the security to:

- ◊ compensate for a tenant's failure to pay rent
- ◊ repair damages (other than ordinary wear and tear) to the property caused by the tenant
- ◊ clean the property upon termination of the tenancy.

The landlord holds the security *for the tenant*. After the tenancy is terminated and the tenant has moved out, the landlord has two weeks in which to return any unused security and to explain in writing how the remainder was used.

If a landlord unjustifiably claims any portion of a security, landlord may be liable to pay the tenant \$200 in punitive damages, in addition to any actual damages. The landlord has the burden of proving the reasonableness of the amounts of the security not refunded to the former tenant.

Landlord may not attempt to avoid the provisions of this law by referring to the security furnished by the tenant as "nonrefundable." The law prohibits such characterization of a security and such action might be construed as a bad faith claim, subjecting the landlord to payment of damages.

If a landlord conveys rental real property to another person, landlord can do one of two things with the security landlord is holding for tenants (a real estate broker negotiating the sale or exchange should inform the seller of seller's obligation and if so instructed by the seller, broker may act on behalf of the seller in fulfilling these obligations):

- ◊ Transfer the security to the new owner/landlord and notify the tenant by personal delivery or certified mail of such transfer, setting forth any claims made against the security. The notice must include the new security holder's name, address and telephone number. If personal delivery is made, the tenant must acknowledge receipt on the landlord's copy by signing his name.
- ◊ Alternatively, the landlord may return the security to the tenant after making any lawful deductions and furnishing a written itemized accounting to the tenant.

Real estate licensees, landlords and tenants should carefully proceed in any landlord/tenant relationship, bearing in mind that statutory requirements affect those relationships.

The following corrections should be made by Bulletin readers on licensing chart, page 5, Winter Bulletin, 1977 column:

County	Per Capita License Representation	
	Active	Total
Colusa	425	319
Del Norte	245	189
Lake	67	51
Sierra	331	271

Apologies to Colusa, Del Norte, Lake, and Sierra counties. Dropping a digit definitely makes a difference.

(d) As used herein "working days" does not include Saturdays or those holidays enumerated in Section 6700 of the Government Code.

### AMENDS SECTION 2727 OF ARTICLE 4 TO READ:

2727. Disclosure of Principal Transactions. A real estate salesperson, or a real estate broker acting in the capacity of a salesperson, who, as a principal, enters into an agreement for the purchase or sale of real property, a business opportunity or a mobilehome as described in Section 10131.6 of the Code shall make a written disclosure of the fact of purchase or sale of the real property, business opportunity or mobilehome to the supervising broker within five working days from the execution of the agreement or before the consummation of the transaction, whichever occurs first.

### REPEALS SECTION 2791.3 OF ARTICLE 12.

Adopts a new Section 2791.3 in Article 12 to read:

2791.3. Waiver of Preliminary Soils Report. The Commissioner will not ordinarily require the submission of a preliminary soils report as a condition to the issuance of a public report for a subdivision if the preparation of a preliminary soils report has been waived pursuant to ordinance by the local agency having jurisdiction under the Subdivision Map Act.

### ADOPTS SECTION 2791.4 IN ARTICLE 12 TO READ:

2791.4. Estimate of Cost of Soil Preparation. If the local agency has not waived preparation of a preliminary soils report for a subdivision in which the subdivider intends to sell lots without on-site structural improvements, the subdivider shall submit to the Commissioner as part of the application for a subdivision public report, a statement, prepared or verified by a registered civil engineer, setting forth the estimated costs of preparing the soil to avert damage to any structural improvement permissible under current zoning and use restrictions applicable to the property.

### AMENDS SECTION 2792.24 OF ARTICLE 12 TO READ:

2792.24. Reasonable Arrangements—Governing Instruments Amendments.

(a) In a single-class voting structure, amendments of the CC&Rs may be enacted by requiring the vote or written assent of members representing both:

(1) A majority of the total voting power of the Association which is at least a bare majority and not more than 75%; and

(2) At least a bare majority of the votes of members other than the subdivider.

(Continued on Next Page)

## REGULATIONS *(Continued from Page 4)*

The percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. For example, if the CC&Rs expressly state that 75% of the voting power must agree to an increase in the maximum annual assessment, then 75% of the voting power is necessary to amend this provision regardless of the percentage prescribed in the general provision pertaining to amendments of the CC&Rs.

(b) Amendments of the Articles or Bylaws shall require the vote or written assent of members as follows:

(1) Articles

(A) At least a bare majority of the voting power of the Association; and

(B) At least a bare majority of the votes of members other than the subdivider.

(2) Bylaws

(A) At least a bare majority of a quorum, but not more than a bare majority of the voting power of the Association; and

(B) At least a bare majority of the votes of members other than the subdivider.

Notwithstanding the above, the percentage of a quorum or of the voting power of the Association or of members other than the subdivider necessary to amend a specific clause or provision in the Articles or Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) If a two-class voting structure is provided and is still in effect in the Association, none of the governing instruments may be amended without the vote or written assent of a prescribed percentage of the voting power of each class of membership or a prescribed percentage of a quorum of members of each class.

(d) If a two-class voting structure was originally provided in the governing instruments, but is no longer in effect because of the conversion of one class to the other, the provisions for amending the governing instruments set forth in subdivisions (a) and (b) above shall be applicable.

### AMENDS SECTION 2900 OF ARTICLE 18 TO READ:

#### 2900. Blank Spaces in Instruments.

(a) No real estate licensee shall execute or solicit the execution or initialing of an instrument by a party in any transaction in which the licensee is performing acts for which a license is required, or in any escrow in connection with such a transaction, if the instrument contains a blank space to be filled in after the signing or initialing by a party to the transaction.

(b) A licensee is not precluded by subdivision (a) hereof from leaving blank spaces in an instrument at the time of signing or initialing by a party to the transaction in those instances in which the data necessary to fill in the blank spaces is not then available to

the licensee provided that the licensee obtains a signed authorization from the party who has signed or initialed the instrument specifically designating each blank space to be filled in by the licensee or escrow holder.

(c) As soon as practicable, the licensee shall furnish or cause to be furnished to the party giving the authorization referred to in subsection (b) a transmittal enumerating the information that has been inserted in the spaces previously left blank in the instrument.

### AMENDS SECTION 2904 OF ARTICLE 18 TO READ:

2904. Disclosure of Compensation for Obtaining Financing. It shall constitute a substantial misrepresentation under Section 10176(a) of the Code for a real estate licensee who acts as the agent for either party in a transaction for the sale, lease or exchange of real property, a business opportunity or a mobilehome as described in Section 10131.6 of the Code, and who receives compensation, or who anticipates receiving compensation, from a lender in connection with the securing of financing for the transaction, to fail to disclose to both parties, prior to the closing of the transaction, the form, amount and source of compensation received or expected.

### ADDS NEW ARTICLE 25 (SECTIONS 3005-3013, INCLUSIVE), TO READ AS FOLLOWS:

#### ARTICLE 25. CONTINUING EDUCATION REQUIREMENTS

3005. General. Pursuant to Article 2.5 commencing with Section 10170 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, the Real Estate Commissioner adopts these standards in order to assure that all real estate licensees are prepared in the public interest to further consumer protection and consumer service by keeping abreast of current real estate data, information or procedure(s) to safeguard the public when making real estate decisions.

The Commissioner will:

(a) Approve, under criteria stated elsewhere in this Article, any appropriate course, seminar, conference, correspondence course, or equivalent, hereinafter called offering(s), provided by a public or private school, firm, association, organization, person, corporation, society, or similar arrangement, hereinafter called entity.

(b) Grant a license renewal applicant credit for attendance at and/or completion of an offering if properly certified by an approved offering entity.

(c) Extend an otherwise expired license of an applicant who in good faith believes the requirements of Article 2.5 have been met and who has furnished satisfactory evidence thereof from an approved entity, or from some entity deemed to be equivalent by the Commissioner.

3006. CRITERIA FOR COURSE APPROVALS. The Real Estate Commissioner when acting on an application for approval of an offering will consider but not be limited to the following criteria:

(a) Time limits. Offerings will normally not be approved by the Commissioner in segments of less than three clock hours and only if the entity agrees to certify each attendee's enrollment in a manner prescribed for crediting toward the total 45 clock hour continuing education requirement.

(b) Attendance

(1) No approved entity shall certify to attendance of a person who was not physically present during at least 90% of the offering time. The Commissioner may accept certification of not less than 80% attendance provided the attendee has successfully passed a written final course examination, which examination was previously approved by the Commissioner. All offerings must be successfully completed.

(2) Continuing education requirement offering entity shall maintain for five (5) years a record of attendance of each person attending an offering disclosing the following information:

(A) Department of Real Estate Approval Certificate Number.

(B) Name and business address of attendee.

(C) Offering, title and description.

(D) Clock hours of attendance.

(E) Date(s) of offering.

(F) Name and address and signature of verifier in employ of entity.

(G) Record of pass or fail, if applicable.

The offering entity shall certify the items enumerated above on 8½ x 11 inch paper and furnish a copy to the attendee within a reasonable time after completion of the offering.

(c) Instructor Qualification. Instructors, seminar and conference leaders, lecturers, and others who present a continuing education requirement offering must meet at least one of the following qualifications approved by the Commissioner:

(1) Possession of a bachelor's degree in a related field to that in which the person is to teach, from a school listed as an institution of higher learning by the Office of Education, U.S. Department of Health, Education and Welfare, or from a comparable school of a foreign country.

(2) Possession of a valid teaching credential or certificate from California or another state authorizing the holder to teach in the field of instruction in which the person is to teach at the entity.

(3) Five years full-time experience in a profession, trade, or technical occupation in the applicable field.

(4) Any combination of at least five years of full-time experience relevant to the applicable field and college level education.

(d) Offering Challenge. Any offering entity may accept, in lieu of meeting attendance criteria, offering challenges for

*(Continued on Page 9)*

## REVOCATIONS

LICENSEE—LESSOR LOUSES

A licensed California real estate broker owned commercial property valued at approximately \$1,500,000. As a principal, he sought out an institutional lender who would lend him \$1,080,000 on the property provided the broker-lessor held a ten-year lease guaranteeing \$160,000 per year rental income (loan payments per year were \$102,000).

Broker negotiated a lease with a chain department store. Monthly rental was \$30,000 plus a contingent percentage of the lessee's gross, ample to pay the loan installment payments. Although the lease as executed did not reflect the guarantee arrangement required by lender, broker altered two pages of the lease and obtained the loan on the basis of the document he forged.

The department store failed. Broker could not make loan payments and defaulted. In a subsequent Superior Court action, broker entered a guilty plea to and was convicted of the crime of violating Penal Code Section 470 (Forgery), a crime involving moral turpitude, which is substantially related to the functions, qualifications and duties of a real estate licensee.

Cause for disciplinary action against the broker's license existed under Sections 490 (relationship of conviction to licensed activity) and 10177 (b) (conviction of a crime) of the Business and Professions Code. License was revoked.

### BROKER VIOLATES FRIEND'S TRUST

A restricted real estate broker licensee managed a small apartment building for the owner. The owner placed implicit trust in the broker, both as a friend and as a real estate broker. Following an accident in which he became disabled, owner became more and more dependent upon the broker.

Through fraudulent schemes, the broker encumbered owner's real property with trust deeds. To obtain the loans secured by the trust deeds, broker forged owner's signature to a loan application and then consummated the transactions by use of a general power of attorney which broker caused the owner to sign, although owner did not understand either the meaning or nature of the document.

The unnecessary trust deed encumbrances were made by the broker without the knowledge and consent of the owner and to his economic detriment. Broker converted the proceeds from these loans to broker's own use and benefit.

Following a successful civil action against broker by owner, grounds for suspension or revocation of broker's real estate license existed pursuant to Section 10177.5 of the Business and Professions Code by reason of the final judgment against broker upon grounds of fraud with reference to a transaction for which a real estate license is required. The restricted license of the broker was revoked by the Commissioner following broker's appeals through the courts.

(Continued on Page 9)

## —What Happens?

What happens with various aspects of an on-going real estate brokerage business when the license of the broker is suspended? According to an Attorney General of California opinion (25 Ops. Gen. 43), various business relationships of the broker-licensee with broker's principals are affected as explained below. The rights and obligations of the principals who are parties to a contract negotiated by broker before the suspension will not ordinarily be affected by the suspension of the agent's license.

\* **EXECUTORY CONTRACTS**—These are contracts which have not been completed, i.e., where certain acts remain to be performed by one or the other of the parties. The exclusive listing contract between the owner of real property and a broker is a prime example of an executory contract. In the exclusive listing contract, the owner employs the broker to procure a purchaser for the property and agrees to pay compensation to the broker if broker is successful in doing so while the broker promises to use due diligence in procuring a purchaser.

Because the broker cannot perform licensed activities during the suspension of the license, broker is unable to carry out the contractual obligation to the owner. Thus the principal may terminate the relationship between principal and the broker. In short, the exclusive listing contract and any other executory contract which calls for the performance of acts for which a license is required on the part of the broker is voidable at the option of the principal for failure of consideration.

\* **PENDING TRANSACTIONS**—Involving salespersons licensed to the broker—Transactions brought into a broker's office by a salesperson licensed to the broker in effect become the contracts and transactions of the broker. *When the license*

*of the employing broker is suspended, the salesperson must also cease licensed activities or obtain employment with another broker.* Pending transactions in which a salesperson is involved are no different from the executory contracts discussed above inasmuch as the salesperson may not operate independently of the broker.

\* **COMMISSIONS**—If a commission has been earned prior to the time that the suspension is placed into effect, the actual payment of the commission may be made to the broker and the salesperson during the period of suspension. A commission is deemed earned when the licensee has produced a buyer who is ready, willing, and able to purchase real property on the terms agreed to by the seller. If this has been accomplished and only ministerial acts need to be performed to close a transaction, it is not a violation of the Real Estate Law if the payment of the commission is made while the license of the broker is suspended.

\* **COLLECTION OF RENT**—During a period of license suspension, neither the broker nor salespersons licensed to broker may collect rents. Rents which have already been collected at the time that the suspension commences may be transmitted during the period of suspension to the owner for whose account the collections were made.



DRE attendees at public hearing on Continuing Education. Los Angeles, November 21, 1977.

Seated at tables, from left to right: Paul Pope, Chief Deputy, Course Approvals & Continuing Education; Raymond L. Royce, Assistant Commissioner, Southern Regulatory Area; John A. DiBetto, Assistant Commissioner, Transactions Activities Division; W. J. Thomas, Chief Legal Officer; John E. Hempel, Assistant Commissioner, Policy and Planning Division; Commissioner David H. Fox; Martin Dingman, Staff Counsel; and Linda Hidley, Special Assistant, Consumer Relations.

# Continuing Education



In recent years real estate licensees have shown an increased interest in continuing education beyond the license entrance requirements. In large part this interest is reflected by Senate Bill 332 and regulations now adopted requiring Continuing Education in Real Estate (CERE).

All active real estate licensees after January 1, 1981, as a condition for license renewal each four years, are required to evidence completion of 45 clock hours of instruction in educational courses, seminars or conferences in current real estate related fields. Under provisions of SB 332, which was signed into law by the Governor in 1976, such continuing education is mandatory.

## PRIMARY PURPOSE

The continuing education measure has the primary purpose of assuring the public that real estate brokers and salespersons, who negotiate well over a million real estate transactions each year, have current knowledge and up-to-date information in land use, financing, consumer awareness programs, taxation, anti-discrimination, conveyancing, practice and other subject areas in the constantly changing business of real estate.

The fundamental reason for CERE is to increase competence in order to provide accurate and complete service to clients and customers.

## AVAILABILITY OF PROGRAMS

The new law is consistent with the availability of real estate educational seminars and programs presently offered throughout the State.

Continuing education legislation mandated the Real Estate Commissioner to adopt regulations appearing elsewhere in this Bulletin. The regulations specify the criteria for equal qualifying educational offerings for continuing education credit.

Interested offering sponsors may file a CERE application with the required fee if they desire their offering to qualify for continuing education credit. Application forms are available from the Sacramento office of the Department, Room 1550, 714 P Street, Sacramento, CA 95814.

## REGULATION HIGHLIGHTS

Following are highlights of the Commissioner's continuing education regulations elsewhere reported:

- General training or education to obtain a license or examination preparation offerings will not be considered for continuing education credit.

- Offerings must qualify for continuing education credit purposes through application to and approval by the Real Estate Commissioner.
- Approved offering entities are required to issue a uniform certificate of attendance to each person successfully completing an approved offering.
- License renewals after January 1, 1981, must be supported by certificates of attendance or certified copies thereof furnished by the renewal license applicant showing a total of no less than 45 clock hours of approved continuing education during the immediately preceding four years.



## REGULATIONS AND LAW FLEXIBLE

The Commissioner has purposely refrained from defining specific offering titles, leaving innovation and creativity up to offering sponsors. The Real Estate Law itself sets the requirements that all approved offerings must measure REASONABLE CURRENCY OF KNOWLEDGE AS A BASIS FOR A LEVEL OF REAL ESTATE PRACTICE WHICH WILL PROVIDE A HIGH LEVEL OF CONSUMER PROTECTION AND SERVICE.

BRE

## REDLINING (Continued from Page 1)

The Act applies to any application for financial assistance to purchase, construct, rehabilitate, improve, or refinance a one-to-four-unit owner-occupied residence. In addition, the new law applies to those investors who seek secured home improvement loans or mortgage financing in combination with rehabilitation financing on one-to-four-unit dwellings.

The Act establishes a special three-step complaint resolution procedure available to any such applicant. First, an applicant may file a complaint with the Secretary for Business and Transportation who has 30 days in which to resolve the complaint. If the Secretary finds a violation of this statute, he is empowered to order either (a) the making of the loan or improving the terms of the loan, or (b) the payment of actual damages to the complainant of up to \$1,000. The second step allows for an appeal of the Secretary's decision to the Office of Administrative Hearings. This is available to either the complainant or the financial institution. Finally, judicial review of the decision of the Office of Administrative Hearings may be obtained by either party filing a petition for Writ of Mandate.

The new law also requires the financial institution to notify all such applicants at the time of written application for financial assistance of the prohibitions and right of review provided in the law. Such notice must also include the address of the Secretary and where complaints may be filed and questions asked.

The Act provides a rational means of increasing the availability of housing accommodations to creditworthy persons and thus ensure the supply of decent, safe housing. In addition, the new law is expected to help reverse the process of abandonment and decay of certain neighborhoods, particularly in the urban centers of this state.

The Department of Real Estate urges all real estate licensees to utilize their knowledge, resources, and proven creative capabilities to encourage increased lending in which financing has been unavailable or difficult to obtain in the past. Any licensee with information regarding a possible violation of the Act should immediately report it by writing to the Office of Fair Lending, Business and Transportation Agency, 1120 N Street, Sacramento, CA 95814, or by calling collect (916) 322-9851.

*Editor's Note: Around the country self-start rehabilitation of neighborhoods in inner cities is on the rise, the result of joint efforts by national and city governments, lenders, appraisers, contractors and trade groups, private individuals, and investors. Newspapers, magazines, and industry spokesmen are reporting these significant events.*

*Lenders and appraisers are detecting bargains in neighborhoods of faded property values, signaling their increased interest in the inner-cities. Accepted appraisal techniques now include methodology in recognition of these changes and those dictated by commitments to non-discriminatory conduct. The DRE Reference Book revision, to be completed by the Fall of 1978, will reflect these constructive changes.*

## Blind Ads Are Deceitful

It has been said that "One deceit needs many others, and so the whole house is built in the air and must soon come to the ground."

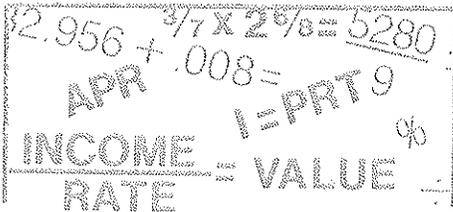
Echoing this 17th Century quotation, the real estate broker who attempts to lure a prospect through deception by failure to disclose broker's true identity in an ad sets the pattern for further deception.

Quite frequently DRE deputies are confronted with a phone call from an irate citizen telling of an unpleasant experience while responding to a blind ad. "Phone that number and it turns out to be another real estate agent!" the exasperated caller declares. Advertisers who are real estate licensees acting as an agent and who thus fail to identify themselves to the prospect have violated the real estate law.

It does not usually take long for a recipient of such a telephone call to recognize that an agent is at the other end of the telephone. This practice casts doubt on the integrity of the entire real estate business. Furthermore, it is certainly doubtful that such technique is economically beneficial to the ad writer.

Blind ads might be called a form of "ripoff" and the frontrunner for deceit. No matter what we call it, it is illegal. It is a "bait and switch" operation which has no place in the shelter business.

For those who do not like to describe themselves as broker or agent, the law, in its leniency, allows them to abbreviate the designation. (B & P Code, Sec. 10140.6; Reg. 2770.1)



As this issue of the Bulletin goes to press, Commissioner Fox has announced plans to allow use of slide rules and certain types of calculators at real estate license exams starting May 1, 1978. This change will be proposed at the Commissioner's regulation hearings in March.

The proposed regulation, if adopted, would permit examinees to use slide rules and pocket-size, silent, hand held, battery operated electronic calculators without a print-out or program storage capability.

It is contemplated that all calculators will be checked by proctors when the examinee enters and leaves the exam site, to insure compliance with the regulation specifications.

Of course, any examinee using a calculator will be solely responsible for its proper operation. Malfunction of the device will not be considered grounds for a reexamination without payment of the regular re-scheduling fee.

## NEW INVESTIGATIVE SERVICES UNIT FORMED

Headquartered at Sacramento's Principal Office, the DRE's new Investigative Services Unit (ISU) has commenced operations to assist in enforcement efforts. John A. DiBetta, Assistant Commissioner, Transaction Activities Division, has overall responsibility for the ISU.

The primary function of this unit will be to investigate cases of statewide importance and/or cases that overlap in jurisdictional boundaries, i.e., subdivision violations. Other duties will be to:

- Conduct investigative hearings
- Handle cases which are overly time consuming
- Assist in any other way in which the Area Assistant Commissioners request assistance.

The unit is headed by Larry Alamao, Staff Counsel-in-Charge. Team members are shown in photographs.



John DiBetta

Larry Alamao



Blair Stewart,  
Senior Deputy



Vanessa Popoito,  
Senior Steno



Ralph Rowe,  
Gen. Auditor, III

Photos by  
Phil Lynch

## QUARTERLY EXAM RESULTS

1977

	SALES		BROKERS	
	Took	Passed	Took	Passed
October	8,649	3,676	987	448
November	6,342	2,699	1,212	597
December	7,588	3,221	1,294	525
TOTAL	22,579	9,596	3,493	1,570

**REGULATIONS** (Continued from Page 5)

those having expertise in the applicable subject area, providing the challenge is in the form of passing a written examination on the subject matter to be administered by the offering entity. An offering entity may not accept a challenge from an applicant for the purpose of meeting the requirements of this Article unless the applicant has affirmed in writing that the same or similar subject matter has not been previously used to satisfy a requirement of the Real Estate Law. Any such examination must be approved in advance by the Real Estate Commissioner.

**3007. APPLICATION FOR COURSE APPROVALS.** An entity shall apply for approval in a form prescribed by the Commissioner with a specified, non-refundable processing fee. The application form shall include, but not be limited to, the following information:

- (a) Name, address and telephone number of entity.
- (b) Name and address(es) of owner(s) of entity if entity is privately owned.
- (c) Policy regarding attendance and procedure for recordkeeping of attendance.
- (d) Summary of offering including minimally:
  - (1) Title of offering
  - (2) Maximum number of participants
  - (3) Type of training: seminar, conference, course, other
  - (4) Proposed initial date(s) of offering
  - (5) Prerequisite for admission and/or participation, if any
  - (6) Duration in time offering
  - (7) Form of attendance certificate
  - (8) Method of record maintenance
  - (9) Textbook(s) and student materials prescribed
  - (10) Sample of proposed advertising, if any
  - (11) Outline or syllabus
  - (12) Test requirement, if any (i.e. correspondence course)
  - (13) Attendance or participation fees
  - (14) Location of offering or method of participation (e.g. by correspondence)
- (e) Personal data indicating names and qualifications of teachers and instructor(s).
- (f) Any other relevant information useful in determining that the entity proposes an offering which will contribute to desired current knowledge for the purpose of protecting the consumer and improving service by real estate licensees.

**3007.1. FILING DEADLINE FOR COURSE APPROVALS.** Application for course approvals must be filed ninety (90) days preceding the proposed public offering.

**3007.2. MATERIAL CHANGE IN COURSE OFFERING.** Whenever there is a material change in an approved offering (e.g.

curriculum, course length, instructor) the entity shall promptly notify the Commissioner in writing.

**3008. EXCLUDED OFFERINGS.** The following offerings will not be considered by the Commissioner to meet continuing education requirements:

- (a) General training or education to obtain a license or examination preparation offerings.
- (b) Offerings in mechanical office and business skills such as typing, speed reading, memory improvement, language report writing, advertising, salesmanship psychology.
- (c) Sales promotion or other meetings held in conjunction with the general business of the attendees or his/her employer.
- (d) Meetings which are a normal part of in-house staff or employee training.
- (e) That portion of any offering devoted to breakfast, luncheon, and dinner or other refreshment.

The listing of the above offerings does not limit the Commissioner's authority to disapprove any application which fails to meet the standards of this Article.

**3009. PROGRAM OFFERING FEES.** An entity which proposes to offer continuing education credit to license renewal applicants shall remit annual fees in accordance with the following schedule:

- (a) For each application for approval of continuing education offering . . . . \$150.00
- (b) For each continuing education offering renewal . . . . . \$100.00

**3010. DENIAL OF COURSE APPROVAL.** The Commissioner may deny approval of the application for any proposed real estate continuing education offering if the offering

does not meet prescribed standards, or if the offering does not adequately reflect and present current real estate knowledge as a basis for a level of real estate practice which should provide a high level of consumer protection and service.

Anyone who objects to a denial of approval by the Commissioner may file a written request for hearing. A hearing will be held within 90 days thereafter unless the party requesting the hearing shall have requested or consented to a postponement. If the hearing is not held within 90 days after a request for hearing is received plus the period of any such postponement, or if a decision is not rendered within 30 days after the hearing, the order of denial shall be rescinded and a certificate of approval issued on request.

If the Commissioner determines the offering(s) previously approved no longer meets prescribed standards set forth in this Article, a written notice of withdrawal of approval will be given stating the reasons therefor. Such withdrawal of approval will be effective 10 days from the date of the notice of withdrawal unless the party served with the withdrawal notice files a written request for hearing before the effective date.

If a request for hearing is filed, the withdrawal of approval will not be effective until ordered by the Commissioner upon findings made from said hearing within 90 days thereafter. The hearing shall be held within 90 days after receipt of the request therefor unless postponed by mutual consent.

**3011. EQUIVALENT ACTIVITIES.** In exercising authority over equivalent education activities during the preceding four years by applicants for renewal license under Article 2.5, the Commissioner will consider, but is not limited to, the following kinds of activities of applicants:

- (a) Instruction in approved continuing education real estate programs.

(Continued on Page 12)

(Continued from Page 6)

**REVOCATIONS**

**USE OF UNSPECIFIED FUNDS**

A licensed mortgage loan corporation, through its designated broker officer and other licensed real estate agents in its employ, formulated and executed a policy of accepting investors funds for use other than in the making of specific loans.

Following receipt by the corporation of investment funds from its various investors (lenders), the corporation's agents then caused one of its affiliated corporations to issue and deliver to each individual investor an unsecured demand note for the amount of money accepted from each investor until the loan company located an investment which was available or suitable for the investor. The loan corporation thereafter converted the demand notes to loans secured by deeds of trust on real property.

These funds were accepted (pooled) for other than specified loans, a violation of Business and Professions Code Section 10231, constituting grounds for disciplinary action pursuant to Section 10177(d) of said code. As a result:

- the corporate broker license issued to the corporation was revoked
- the broker license of one of the corporate employees was suspended for three months upon terms and conditions
- the salesperson licenses of two licensees were also disciplined under Code Sections 10231 and 10176(a) (i), one license being revoked and the other suspended for three months with stay on conditions.

DRE

# 100% COMMISSION

(Editor's Note: The Editor of the Real Estate Bulletin interviewed John Di Betta, DRE Transaction Activities Division Chief, on 100% Commission Programs. Part of the interview follows.)

*R. E. Bulletin:* There seem to be more and more real estate brokers offering their salespersons 100% commissions. Has the Department of Real Estate made any inquiry into 100% commission arrangements?

*Di Betta:* The Department, through its newly created Investigative Services Unit, recently surveyed a number of 100% commission offices to determine how those offices function and to determine whether or not there were any violations of the Real Estate Law.

*R. E. Bulletin:* What is a 100% commission arrangement?

*Di Betta:* 100% commission refers to any commission payment arrangement between a real estate salesperson and the employing broker in which the salesperson handling a real estate transaction receives all (or nearly all) of the commission earned by the office for that transaction. Usually the salesperson pays the broker a monthly desk fee and a proportionate share of the office expenses (advertising, clerical, etc.).

*R. E. Bulletin:* Are 100% commission arrangements illegal?

*Di Betta:* No. Of course, a real estate broker may not use a 100% commission arrangement to evade broker's responsibility under the Real Estate Law to supervise broker's salespersons. Nor may the salesperson use a 100% commission arrangement to control the employing broker in a real estate transaction or to act independently of the broker.

*R. E. Bulletin:* Has the Department of Real Estate taken a position on 100% commission arrangements?

*Di Betta:* Our position regarding 100% commission arrangements is the same as with any real estate activity. The Department is charged with enforcing the laws in a manner which achieves the maximum protection for those persons dealing with real estate licensees. 100% commission offices must meet

the same requirements as other real estate offices. We have no special enforcement plans for 100% commission offices.

*R. E. Bulletin:* Even though the Department has no special enforcement plans, do you foresee any violations more likely to occur in 100% commission arrangements?

*Di Betta:* There is always a danger that the employing broker in a 100% commission arrangement will not provide adequate training and supervision of broker's salespersons. For purposes of the Real Estate Law a salesperson can never act independently of the employing broker, regardless of whatever financial or employment arrangements the broker and salesperson adopt. The Real Estate Law describes a salesperson as one who acts through the employing broker. In addition, both the Real Estate Law and the civil law hold the employing broker responsible for most of the acts of the broker's salespersons. A real estate broker has a duty to train and supervise broker's salespersons and to review documents prepared by them. It appears, however, that the 100% commission offices surveyed have employed only salespersons known to them as being experienced and well-trained.

*R. E. Bulletin:* Do you have any advice for offices considering a 100% commission arrangement?

*Di Betta:* The office should look at the economic considerations and consequences. For example, it may be necessary to have a certain number of salespersons or a certain volume of business before a 100% commission arrangement is economically feasible. If an office has decided to operate under a 100% commission arrangement, the employing broker for that office should understand that he or she retains the responsibility for the supervision and training of salespersons. The employing broker should plan on taking an active role in supervising the activities of salespersons, including review of sales transactions and documents.

DRE

## RENTING FOR OTHERS REQUIRES A LICENSE

A real estate broker, among other things, is a person who, for a compensation or in expectation of a compensation, does or negotiates to do one or more of the following acts for another or others: leases or rents or offers to lease or rent, or places for rent, or solicits listings of places for rent, or solicits for prospective tenants, or negotiates the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collects rents from real property, or improvements thereon, or from business opportunities.

The real estate law exempts the manager of a hotel, motel, auto and trailer park, the resident manager of an apartment building apartment complex, court, or employees of such manager. Sometimes an unlicensed resident manager of an apartment building will undertake to manage real property some distance from his or her residence (apartment). The exemption from the license requirement only applies to the apartment building, condominium or complex in which the manager resides. The exemption does not give unlicensed resident managers the right to engage in other property management.

It is illegal for the unlicensed resident apartment manager to engage in additional real estate management.

### A Citizen's Guide To The California Coastal Act of 1976

A limited number of free copies of the above booklet are available by request on a single copy basis from the Department of Real Estate, 714 P Street, Sacramento, CA 95814. ATTENTION: CITIZENS GUIDE.

Multiple copies are available at \$2.00 each plus sales tax for individuals and \$3.00 each plus sales tax for corporations and institutions. Order direct from PACE, 13 Columbus Avenue, San Francisco, CA 94111.

Forty page supplement to 1977 Real Estate Law Book is now available at no charge. Contains pertinent real estate law and regulation changes for 1977. Available from any office of the DRE, or by mailing a self-addressed, stamped, return envelope size 6" x 9", bearing \$3.35 postage (or \$2.4 third class), to Department of Real Estate, 714 P St., Sacramento, CA 95814. ATTENTION: LAW SUPPLEMENT.

## STATE-FEDERAL AFFIRMATIVE FAIR HOUSING AGREEMENT ADOPTED

On November 9, 1977, California became the first state in the nation to adopt a state-federal Affirmative Fair Housing Agreement, promoting equal housing opportunities for all Californians.

The voluntary agreement, signed by the California Department of Real Estate and the federal Department of Housing and Urban Development, provides that every reasonable effort shall be made to guarantee equal opportunities for every individual by:

- insuring that all real estate brokers and salespersons have a good working knowledge of all fair housing rules and regulations;
- encouraging all licensees to fully inform buyers, sellers and tenants about their rights to non-discriminatory housing opportunities;
- testing all license applicants on fair housing requirements.

The provisions of the newly adopted state-federal agreement will be applied to all of the state's more than 312,000 real estate licensees.

The agreement was drafted jointly by the National Association of Real Estate License Law Officials (NARELLO) and the Department of Housing and Urban Development (HUD) in mutual recognition

of the desirability of promoting equality of opportunity in housing through the regulatory functioning of real estate license law officials.

NARELLO and HUD believe that implementation of the Affirmative Fair Housing Agreement by individual members of NARELLO will have a salutary effect on the housing market in the members' respective jurisdictions. Accordingly, NARELLO and HUD pledge to strive to obtain execution of the Agreement by each member of NARELLO within the United States and agree that, if the law or administrative practices in a member's jurisdiction would prevent full implementation of any provision of the Agreement, that provision may be modified by the member and HUD to the extent necessary to accomplish the purposes of the Agreement. NARELLO and HUD further pledge to render all possible assistance to the individual members in carrying out the Agreement's provisions.

## Notes from Licensing



by Senior Deputy  
Larry Smith

### LICENSE CHANGES

Sometimes we are asked why the processing of license changes takes so long. The answer is twofold: (1) there simply is a vast amount of mail received monthly from licensees requesting license changes and (2) hundreds of these requests are incomplete when received.

Probably 90% of the incomplete requests involve incorrect fees (even though the correct fee to be sent with the change request is clearly shown on the form submitted) and the failure to fully and properly complete forms. Many times the forms are not signed by the salesperson and/or broker. Even the name of the new employing broker (on a salesperson transfer) is often completely omitted. The DRE must then spend time contacting these licensees to obtain needed information or proper fees. Often we receive no reply to our initial letters. Hundreds of additional letters from the DRE must then go out regarding these failures to reply—time consuming processing steps.

A brief rereading of the license change forms or requests by the salespersons and/or broker involved prior to mailing to DRE should eliminate most incomplete transactions, need for additional correspondence, and costly delays.

### LICENSING AND EXAMINATIONS SYSTEMS UNDER STUDY

The Department of Real Estate is presently undergoing a study to implement a new processing system for the Licensing and Examinations sections.

The new system is being designed to increase and maintain the capability of responding to projected growth of the real estate licensee population in California.

It is expected that the new system will involve some changes in license identification numbers, corporation licensing procedures, simplified internal document processing, forms and license certificate redesign, and a number of other internal changes, all of which are aimed toward a more accurate, simplified, and speedy handling of Licensing and Examination processes.

As the new systems result in visible changes, they will be discussed in the Real Estate Bulletin so licensees will be aware of them.

DRE



Photo by Ted Lim.

Commissioner David H. Fox receives Education Award from 1977 NARELLO President, Donald M. Tallman. This National recognition is given annually to the state or Canadian Province with the most outstanding real estate educational program. Tallman is also Chief Deputy Commissioner, Education and Research for Department of Real Estate. Looking on is John E. Hempel, Assistant Commissioner for Policy and Planning.

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**REGULATIONS** (Continued from Page 9)

(b) Authorship of published professional articles, periodicals, or books on current real estate practices or procedures.

(c) Any other offering or activity, including employment with the Department of Real Estate, which in the judgment of the Commissioner furthers consumer protection and assures reasonable currency of appropriate real estate knowledge.

The petitioner shall furnish appropriate evidence in written form under penalty of perjury which corroborate any claim of equivalency.

**3012. EXEMPTION CONDITIONS.** An exemption from the continuing education requirements may be obtained by submitting with the regular renewal application evidence showing that applicant was unable to comply with the continuing education requirements. Such evidence may be (1) bona fide hardship preventing completion of the reinstatement requirements of an inactive license, (2) health reasons preventing attendance, (3) active duty in the military service with assignment to a

permanent duty stationed outside of the state during the last 18 months of a license period, or (4) other compelling cause beyond the control of the applicant while engaged in the real estate business.

The Commissioner may extend an otherwise expired license while investigating such evidence for not to exceed 90 days if he finds applicant can reasonably be expected to be found to meet minimum requirements for renewal under this Article.

**3013. LICENSE RENEWAL PROCEDURE.**

(a) License renewal application on a form prescribed by the Real Estate Commissioner shall be filed not earlier than 60 days preceding license expiration date. Applicants must itemize all courses meeting continuing education requirements taken in compliance with Article 2.5 and the hours of attendance at each. Itemizations are to be supported by certificates of attendance or certified copies thereof furnished by the applicant at the time of renewal showing a total of no less than 45 clock hours.

(b) Under the provisions of Section 10156.2 of the Real Estate Law, the Commissioner will not extend any license beyond 90 days from its specified expiration date or in the case of a late renewal request, from the date the renewal application with fee is received until compliance with Article 2.5 is met, whichever occurs earlier. Any license issued after such an extension has been granted shall be dated effective as of the prior license expiration date or the date the late renewal application with fee was received.

(c) The holder of an expired renewal license who fails to comply with the continuing education requirement even though a 90-day license extension may have been granted and who otherwise qualifies for such license may renew it within two years from such expiration upon proper application, the payment of a late renewal fee and compliance with the provisions of this Article.

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The Department has been advised that copies of:

**THE 1977 NARELLO ANNUAL REPORT OF THE INTERSTATE COOPERATION COMMITTEE**

may be purchased for \$10.00 each. This report gives license law statistics and information pertaining to all member jurisdictions of the National Association of Real Estate License Law Officials. If interested send complete name and address and check or money order payable to NARELLO to:

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 Executive Vice President  
 Sunset Valley Law Building  
 2580 South 90th Street  
 Omaha, Nebraska 68124