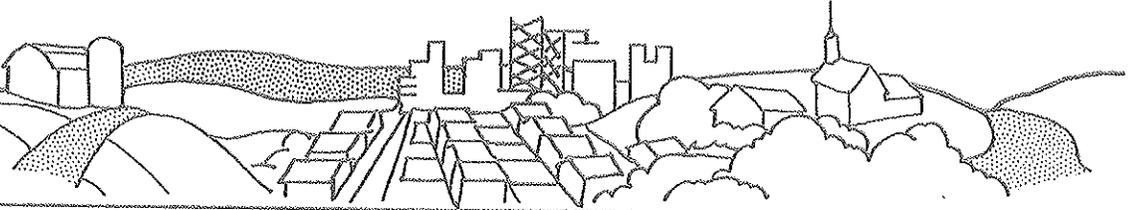


# REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate



EDMUND G. BROWN JR., Governor

Spring 1980

DAVID H. FOX, Commissioner

## New and Amended Regulations

New regulations and regulation changes have been adopted by Commissioner Fox following a public hearing in Los Angeles on December 6, 1979. They became effective on February 16, 1980.

Newly adopted regulations appear below in full text, as do amended regulations which for various reasons do not reduce well in summarization. Other amended regulations are treated in brief digest form.

The *Real Estate Law* book printed by DRE is being revised and will include all these changes in the regulations. The book should be available at any department office by May 1, 1980 for \$3 plus tax.

**Section 2700. Offices.** Amended to reflect new office locations for principal and one branch office:

**Principal Office**  
Sacramento 95816  
1719-24th Street  
P.O. Box 160009

**Branch Office**  
San Francisco 94107  
185 Berry Street, Room 5816

**Section 2715. Business and Residence Addresses of Licensees.** Deletes the reference to a \$4.00 fee for license changes.

### AMEND SECTION 2790.1 OF ARTICLE 12 TO READ:

**Section 2790.1. Filing Fees.** All subdivision filing fees shall be the maximums set forth in the Real Estate Law and the Subdivided Lands Law except the following:

(a) The filing fee under Section 11011 of the Code shall be \$50 plus \$3 for each lot in the subdivision to a maximum of \$3,000.

(b) The filing fee under Section 11011.1 of the Code shall be:

(1) \$50 for each subdivision interest for subdivision offerings of nine or less interests.

(2) \$500 plus \$3 for each subdivision interest for subdivision offerings of ten or more interests to a maximum fee of \$5,000.

(c) The filing fee under Section 10249.3 of the Code shall be:

(1) \$50 for each subdivision interest for subdivision offerings of nine or less interests.

(2) \$500 plus \$3 for each subdivision interest for subdivision offerings of ten or more interests to a maximum fee of \$5,000.

(d) The filing fee under Section 11011.12 of the Code for a subdivision offering of less than five subdivision interests shall be \$20 per interest.

**Section 2792.8. Governing Instruments for Common Interest Subdivisions.** Amended to incorporate reference to new Regulation 2792.29.

### REPEAL SECTION 2792.14 OF ARTICLE 12.

### ADOPT NEW SECTION 2792.14 OF ARTICLE 12 TO READ:

**2792.14. Undivided Interests Subdivisions—Blanket Encumbrances.** (a) Except as provided in subdivision (b) hereof, if the real property to be owned by the stock cooperative corporation will be subject to a mortgage or deed of trust affecting the interest of more than one member or shareholder of the stock cooperative (hereafter blanket encumbrance), a public report will not be issued unless legal or financial arrangements satisfactory to the Real Estate Commissioner have been made to provide assurance that the ownership and possessory rights of a member of the stock cooperative will not be adversely affected by foreclosure or acceleration of the blanket encumbrance by or on behalf of the beneficiary unless the affected member or shareholder is delinquent in payments allocated by the stock cooperative to debt service on the blanket encumbrance.

(b) The provisions of subdivision (a) shall not apply in the case of a stock cooperative which is (1) insured under Section 213 or Section 221 of the National Housing Act, as

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## AGENTS' SPECIAL STATUTORY DUTY

A real estate broker in Northern California, acting as agent of the seller, negotiated the sale of real property in a so-called Special Studies Zone along the San Andreas fault. The broker however did not advise the buyer that the property was located in a Special Studies Zone.

Section 2621.9 of a chapter of the Public Resources Code known as the Alquist-Priolo Special Studies Zones Act imposes a special duty upon the agent for a seller of real property—or upon the seller if the seller is acting without an agent—to disclose to a prospective buyer the fact that the property is located within a Special Studies Zone if that is the case. These Special Studies Zones have been delineated by the State Geologist. They are narrow strips of land (ordinarily one quarter mile or less in width) along potentially and recently active traces of well defined faults in the earth's surface.

An Accusation was filed against the licensee and the evidence introduced at the administrative hearing established the following facts:

- the real property was within such a zone;
- the house was one of several relatively new residences built by a reputable builder subsequent to the effective date of the Alquist-Priolo Special Studies Zones Act;
- broker had no idea that the property was located in this zone although he knew that some properties located in hills in the

(Continued on page 6)

**DRE Headquarters  
Office Has Moved to:  
1719-24th Street, Sacramento 95816  
P.O. Box 160009**

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Administration . . . . .	916-445-3995
Examinations . . . . .	916-445-6587
Investigations . . . . .	916-445-6776
Licensing . . . . .	916-445-5741

**REAL ESTATE BULLETIN**

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

Vol. 40, No. 1 Spring 1980

STATE OF CALIFORNIA  
EDMUND G. BROWN JR., Governor  
DAVID H. FOX  
Real Estate Commissioner

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LEIGHTON J. PEATMAN, Assistant Commissioner

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Sacramento, Suite 250, 4433 Florin Road 95823  
DUANE AASLAND, Chief Deputy

The Real Estate Bulletin (USPS 456600) 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. Postmaster, send address changes to Real Estate Bulletin, 1719 24th Street, Sacramento 95816.

**Disciplinary Action—October–November 1979**

REB—Real estate broker RES—Real estate salesperson REO—Real estate officer  
RREB—Restricted real estate broker RRES—Restricted real estate salesperson 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.  
\* 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 \$3.00 plus tax. Code sections summarized will vary from issue to issue as they will correspond with the particular disciplinary listings.

*Business and Professions Code*

490	relationship of conviction to licensed activity	10176(b)	making false promise	10177(f)	conduct that would have warranted denial of a license
10085	failure to submit to Commissioner prior to use advance fee agreements or advertising	10176(d)	failure to disclose dual agency	10177(g)	negligence or incompetence as licensee
10130	performing acts for which a license is required without the appropriate license	10176(e)	commingling trust funds	10177(j)	fraud or dishonest dealing not in licensed capacity
10137	unlawful payment of compensation	10176(i)	fraud or dishonest dealing in licensed capacity	10238.3	sale of real property securities without permit
10139	unlicensed activity	10177(a)	procuring a real estate license by misrepresentation or material false statement		
10145	trust fund handling	10177(b)	conviction of crime		
10176(a)	making any substantial misrepresentation	10177(d)	violation of real estate law or regulations	2832	improper handling of earnest money deposit

*Regulations*

**LICENSES REVOKED**

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
*Executive Apartment Corporation (REC) . . . . .	1959 S. La Cienega Blvd., Los Angeles . . . . .	1/15/79	10137, 10176(a)(i), 10177(d)
Off—Woodard, Allen Correggio III			
Woodard, Allen Correggio III (REB)(REO) . . . . .	4800 Venice Blvd., Los Angeles . . . . .	1/15/79	490, 10137, 10177(a)(i)(f)
Dba—Woodard Realty Co.			
Off—Executive Apartment Corporation			
*Shipman, Robert David (RES) . . . . .	1335 Oriole Dr., Visalia . . . . .	9/ 7/79	10085, 10130, 10177(d)(f)
*Payne, James Lester (REB) . . . . .	P.O. Box 404, Highway 170, Groveland . . . . .	9/ 11/79	490, 10177(b)(f)
Ades, George T. (RES) . . . . .	14012 Gresham Place, Santa Ana . . . . .	10/ 2/79	490, 10177(a)(b)
Rollins, Wilbert Erwin (RRES) . . . . .	45 6th Street, San Francisco . . . . .	10/ 2/79	490, 10177(b)(f)
Zavala, Roberto (RES) . . . . .	4978 Ridgela Ave., Buena Park . . . . .	10/ 2/79	490, 10177(a)
Unruh, Quentin Clifford (REB) . . . . .	441 Wakefield, Gokita . . . . .	10/31/79	10145, 10176(e)(i), 10177(d)(f)
Lager, Edward Michael (REB) . . . . .	177 Riverside Ave., Ft. Newport Beach . . . . .	11/20/79	10176(a)(i), 10177(d)(g), 10237.1(b)(e), 10238.3
Bonar, Robert Delmar (RES) . . . . .	15 Purdue Ct., Magalia . . . . .	11/26/79	10177(b)
Callaghan, Edward (RES) . . . . .	3837 26th St., San Francisco . . . . .	11/26/79	490, 10177(a)(f)
Erdy, Emery Irving (RRES) . . . . .	65 Hagen Oaks Ct., Ahimo . . . . .	11/27/79	10175, 10176(a)(i), 10177(d)(g)
Rubin, Samuel (RRES) . . . . .	45538 North Cedar Ave., Lancaster . . . . .	11/27/79	2832, 10130, 10137, 10139, 10145, 10176(a)(i)(k), 10177(d)(g)

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

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
*Johnston, Patrick Michael (REB)(REO) . . . . .	4050-C Perata Blvd., Fremont . . . . .	8/31/79	490, 10177(b)
Dba—Century 21, Johnston Realty			
Off—Johnston Realty, Inc.			
(Right to RREB license after 30 days on terms and conditions)			
Keeling, Darwin Garth (REB) . . . . .	1032 Wall St., La Jolla . . . . .	10/ 2/79	490, 10177(b)
(Right to RREB license on terms and conditions)			
Harville, Wilbert Jr. (RES) . . . . .	7232 Peter Pan Ave., San Diego . . . . .	10/16/79	490, 10177(b)
(Right to RRES license after 120 days on terms and conditions)			
Robertson, Leslie Loraine (RES) . . . . .	1093 East 30th South, Pleasant Grove, Utah . . . . .	11/20/79	10177(g)
(Right to RRES license on terms and conditions)			
Chandler, Charles Theodore III (REB) . . . . .	1275 South Main St., Yreka . . . . .	11/21/79	10176(a), 10177(d)
Dba—Chock Chandler Realtors Builders			
(Right to RREB license on terms and conditions)			
Wright, Walter S. (RES) . . . . .	P.O. Box 43191, Los Angeles . . . . .	11/22/79	490, 10177(b)
(Right to RRES license on terms and conditions)			
Key, Kery Brooks Jr. (REB) . . . . .	2101 Shoreline Dr., Menlo Park . . . . .	11/23/79	490, 10177(b)
(Right to RREB license on terms and conditions)			
Gunter, Ancil B. (REB) . . . . .	3571 Mt. Diablo Blvd., Lafayette . . . . .	11/26/79	10145, 10176(c), 10177(d)
(Right to RREB license after 120 days on terms and conditions)			
Goode, Edward Maurice (REB) . . . . .	31858 Alvarado Blvd., Fremont . . . . .	11/27/79	490, 10177(b)
(Right to RRES license after 30 days on terms and conditions)			
Coad, Donald Gregory (RES) . . . . .	19042 Handen Ln., Huntington Beach . . . . .	11/27/79	490, 10177(b)
(Right to RRES license after 120 days on terms and conditions)			
Cramer, Paul Richard (RES) . . . . .	4010 E. Chapman Ave., #B, Orange . . . . .	11/27/79	490, 10177(b)(f)
(Right to RRES license on terms and conditions)			
DiDonato, John Philip (RES) . . . . .	15950 Plummer St., Sepulveda . . . . .	11/27/79	490, 10177(b)
(Right to RRES license after 120 days on terms and conditions)			
Felix, Magdaleno Olmeda (RES) . . . . .	2419 West Beverly Blvd., Montebello . . . . .	11/27/79	490, 10177(b)
(Right to RRES license on terms and conditions)			
Foote, Philip Head (RES) . . . . .	P.O. Box 519, Cerritos . . . . .	11/27/79	10176(c)
(Right to RRES license on terms and conditions)			

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

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Franklin, John Jr. (REB) (Right to RREB license after 30 days on terms and conditions)	5820 Market St., Oakland	11/27/79	490, 10177(b)(0)
Hitchens, Robert Everett (REB) (Right to RREB license after 30 days on terms and conditions)	784 Ada St., Chula Vista	11/27/79	10177(g)
Joad, Joe Louis (REB) Dba: Property Consultants (Right to RREB license on terms and conditions)	6090 Sepulveda Blvd., Ste. 350, Culver City	11/27/79	490, 10177(b)
Martin, Alma Lee (REB)(REO) (Right to RRES license on terms and conditions)	4119 E. Compton Blvd., Compton	11/27/79	490, 10177(b)(0)
Morrison, Garth Douglas (RES) (Right to RRES license on terms and conditions)	P.O. Box 1035, Lake Arrowhead	11/27/79	490, 10177(a)
Payton, Alice Marie (RES) (Right to RRES license after 120 days on terms and conditions)	3212 Springdale Dr. #210, Long Beach	11/27/79	490, 10177(a)
Zontelli, Boyd Arthur (RES) (Right to RRES license on terms and conditions)	29474 Lake Vista Dr., Agoura	11/28/79	10176(a)(0), 10177(j)

**LICENSES SUSPENDED**

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Perez, Mary Gladys (RES)	420 Avenue F, Redondo Beach	11/27/79 (15 days)	10177(g)

**LICENSES SUSPENDED WITH STAYS**

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Knowles, Loree (REB) (Stayed for 1 year on condition)	13220 Sierra Way, Kernville	11/29/79 (10 days)	10177(g)
Harr, Robert Joseph (RES) (Stayed for one year on condition)	35 Poncetta Dr., #342, Daly City	11/26/79 (30 days)	10177(b)(0)
Jackson, Thomas Ralph (REB)(REO) (Stayed for 1 year on condition)	583A San Ramon Valley Blvd., Danville	11/26/79 (30 days)	10145, 10177(d)
Marshall, Erika Riesz (RES) (Stayed for 1 year on condition)	5469 Arlene Way, Livermore	11/26/79 (30 days)	10177(b)

**INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS**

Name	Address	Date
Cheroske, Richard Julian (REB)	P.O. Box 20313, San Diego 92120	10/18/79
Property Funding Group, Inc. (REC)	6301 Crawford Way, San Diego 92120	10/18/79
Drazin, Robert Martin (RES)	5425 Sepulveda Blvd., Van Nuys 91411	10/22/79
akamoto, Donald Y. (REB)	425 Payne Avenue, San Jose 95128	11/7/79
acific National Financial Corp. (REC)	3003 Moorpark Ave., San Jose 95128	11/7/79

**OUR APOLOGIES**

The Department of Real Estate apologizes to real estate broker Dennis Paul Hill and to persons associated with corporate broker Kohreen, Inc., for having erroneously reported in the Winter 1979 issue of the *Bulletin* that disciplinary action was taken against their licenses.

No disciplinary action has ever been imposed by DRE against a real estate license of Mr. Hill or Kohreen, Inc., and DRE regrets any embarrassment or inconvenience which may have resulted from the publication.

**FRANCHISE ADS**

An article in the Spring 1977 *Bulletin* entitled *Franchise—Need for Disclosure* dealt with advertising by franchises and the need for franchisee brokers to disclose in their ads that they are independently owned and operated.

Last year the United States Supreme Court affirmed a judgment of the United States District Court of Nevada which had upheld a regulation of the Nevada Real Estate Advisory Commission requiring that not less than 50 percent of the surface area of an advertisement of a broker using a franchise name be devoted to the broker's own name as opposed to the franchised trade name or logo type. In reaching its decision, the Nevada District Court concluded that the 50:50 advertising rule constituted a "legitimate means to the legitimate and important end of insuring that the public realizes it is doing business with an independent broker and not a national firm when it buys or sells real estate in Nevada."

Franchised brokers in California should make it clear in their advertising that they are independent firms so as not to create an impression in the mind of a reader of the advertisement that services and benefits of a giant nationwide organization will be available to him if he engages the services of the local franchisee.

**DRE**

**NOTICE**

*Bulletin* readers who are members of the State Bar may be interested in joining a newly-formed Real Property Law Section which will consider law reform measures in all areas of real estate law including trust deeds, property taxes, land use regulations and real estate litigation.

Annual dues of \$15 and requests for membership applications should be sent to Bonnie Vail, State Bar of California, 555 Franklin Street, San Francisco, CA 94102.

The item on Mobilehome Taxation in the Legislative Summary, page 1 of the Winter *Bulletin*, is clarified as follows (changes underlined):

**Mobilehome Taxation**

SB 1004—Presley, et al.—Ch. 1180: Makes any new mobilehome sold on or after July 1, 1980 which is installed for occupancy as a residence or mobilehomes for which the owners have allowed the registration to lapse

for a period of 120 days or more subject to local property taxation rather than vehicle taxation. Specifies that senior citizen owner occupant of mobilehome on rented land shall qualify only for homeowners assistance. Eliminates personal income tax renters credit for such persons. Also revises sales tax provisions relating to new mobilehomes and provides that sales tax will be assessed to retailer rather than consumer.

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## BROKER CONTROLLED ESCROW AND TRUST ACCOUNT VIOLATIONS

It would seem that real estate brokers who undertake the role of escrow holder for their own real estate transactions would exercise exceptional professional diligence in their expanded fiduciary capacities.

This did not prove to be the case in a recent DRE regulatory investigation which resulted in disciplinary action against a broker veteran of over twenty years' experience.

During a continuous period of more than three months broker received in trust funds more than \$5,125.81 for the benefit of several principals in connection with certain transactions in which broker acted as real estate agent and escrow holder. These trust funds were not placed in the hands of broker's principals, a neutral escrow depository, or broker's trust fund account as required by Business and Professions Code Section 10145 and Regulation 2830.

At the end of this time period the total monetary obligations owed by broker to these principals from trust funds received during the subject period exceeded trust funds in the custody and control of broker for the payment of said obligations by the amount of \$4,281.73.

During the same period broker failed to maintain a formal cash receipt journal, a cash disbursement journal, formal trust fund ledger or other similar acceptable trust fund records to be maintained with sound accounting principles, a violation of Commissioner's Regulations 2831 and 2831.1 and grounds for disciplinary action under Sections 10177(d)(g) of Business and Professions Code.

The investigation also revealed an instance of broker handling an escrow for sale of real property in which escrow closed but broker failed to prepare and deliver to purchaser a written closing statement describing all receipts and disbursements related to said escrow, as required by Regulation 2950.

Although broker did meet broker's financial liabilities at the close of the escrow transactions referred to above, his acts resulted in the following disciplinary action against his license.

- Revocation of license with the right to a restricted broker license pursuant to Business and Professions Code section 10156.5, and subject to the provisions of Section 10156.7 and the limitations, conditions, and restrictions of Section 10156.6 of said Code.
- Under the conditions imposed under Section 10156.6 authority, broker shall report in writing to the Department of Real Estate, while the restricted license is in effect, such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem appropriate to protect the public interest. Such reports shall be made quarterly, or more frequently if Commissioner directs, and may include,

but shall not be limited to, periodic independent accountings of trust funds in the custody and control of broker and periodic summaries of salient information concerning each real estate transaction in which the broker engaged during the period covered by the report.

In this case the Commissioner saw fit to require that broker submit to the Real Estate Commissioner a Trust Fund Position Statement as of the last day of each calendar quarter (March, June, September and December) for so long as said restricted license shall remain in effect.

The Position Statement shall consist of the following:

1. A schedule of trust fund accountability with the following information for each transaction in which broker is accountable as agent or trustee to the owner of funds.
  - A. Account number
  - B. Type of transaction (purchase and sale, property management, loan collection)
  - C. Name of principal or beneficiary
  - D. Description of real property
  - E. Trust fund liability.
2. A report of trust funds in the custody and control of broker as of the accounting date consisting of:
  - A. A copy of broker's trust account bank statement showing the balance of funds in the account as of the accounting date.
  - B. A schedule of uncleared checks drawn on the account adjusting the accounting to its true balance as of the accounting date.
3. A statement explaining any discrepancy between the total liability shown under (1) above and the adjusted trust account balance shown under (2) above.

The Trust Fund Position Statement shall be submitted by broker to the Department of Real Estate no later than 30 days after each accounting date. If broker has no trust fund liability as of an accounting date, report to the Department shall so state.

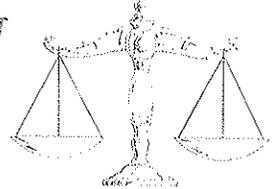
Broker shall certify the completeness and accuracy of each Position Statement to the best of broker's knowledge and belief.

The foregoing presentation emphasizes the seriousness in which the DRE holds broker trust fund accountability. Broker escrow holders should be fully aware of the provisions of Commissioner's Regulation 2950 dealing with the acts of brokers exempt from the Escrow Law (Financial Code Section 17006(d) as well as the other law sections mentioned herein.

How may the California real estate industry start to get rid of some of the regulation by government agencies? By making such action by DRE as cited above completely unnecessary. As stated in *The Hawaiian Realtor*, June 1979, page 16, concerning federal regulation of the VA loan program: "We do not like being regulated but we all know that if we do not clean up our act, someone will step in and clean it up by regulation." 

## THIS COURT SAID . . .

Submitted by  
Robert Arnold  
Chief Deputy



... "where there is more than one beneficiary under a single note and trust deed, in the event of a default, any one of the beneficiaries is empowered to give notice and election to sell."

This was the recent holding of the California Court of Appeal in *Perkins vs. Chad Development Corporation*, 95 CAL APP 3d 645 (August 1979), which affirmed the trial court's earlier judgment for Plaintiff Perkins.

Perkins was a co-beneficiary under a purchase money trust deed and note. He started nonjudicial foreclosure proceedings after the trustor defaulted on the payments and allowed the taxes to become delinquent. Although Perkins had first conferred with the widow and co-executor of the estate of the other co-beneficiary, she refused to join in the foreclosure proceedings. Perkins subsequently filed the notice of default and election to sell and served her with a copy.

Later Perkins filed an action to quiet title to the property he purchased at the foreclosure sale. An intervener in the action claimed an equitable interest in the property, challenging the validity of the foreclosure sale on ground the notice was executed by only one of the co-beneficiaries.

The trial court found in favor of Perkins, holding that intervener had no interest in the property, the foreclosure sale was valid, and Perkins was entitled to have title quieted in him.

The intervener appealed, but the Court of Appeal affirmed the trial court's finding concluding that, as stated above, where there is more than one beneficiary, in the event of a default any beneficiary may give notice of default and election to sell.

## SOLAR BUSINESS OFFICE PUBLISHES DIRECTORY

The California State Solar Business Office announces publication of the *California Solar Business Directory*. With more than 1,200 listings of solar business in California, the 200-page directory also provides readers with informative text on topics ranging from buying and selling solar homes to obtaining loans for solar businesses.

Fully illustrated, the *California Solar Business Directory*, written and edited by Jerry Yudelson and Margaret Kitchin, is available from the Solar Business Office, 921 Tenth Street, Sacramento 95814, at a cost of \$10, postpaid.



## Notes from Licensing

by Senior Deputy  
Larry W. Smith



Since mid 1979, DRE has been converting its licensing function to a computer based system. Many licensees are aware of a new style of real estate license certificate being issued by DRE. Eventually all licensees will receive them as licenses are renewed. Below is a reduced reproduction of the new certificate showing an active real estate broker with several fictitious business names.

Appearing on the certificate, in addition to the actual business address, is the mailing address as chosen by the broker. The mailing address may be any address selected by licensee (residence, post office box, or the business address). If this were a salesperson license, only the salesperson's mailing address would appear. The salesperson's broker's name and business address would not be displayed, except when entered on the certificate by the salesperson. If the license were restricted as a result of administrative action, the words "This license is restricted." would appear.

ACTIVE LICENSE NUMBER 00123456	TYPE BROKER	ISSUE DATE 08/05/79	EXPIRES DATE 08/04/83										
STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE													
LICENSE CERTIFICATE													
MAIL OFFICE ADDRESS: 123 ROCKY ROAD FEBRUZ BEACH CA 92603													
LICENSEE AND MAILING OFFICE: MYNDE, AUGUST A. 4081 RED TERN RD. FAIR OAKS, CA 91342													
<table border="1"> <tr> <td>REGISTRATION NUMBER 00123456</td> <td>TYPE BROKER</td> </tr> <tr> <td>ISSUE DATE 08/05/79</td> <td>EXPIRES DATE 08/04/83</td> </tr> <tr> <td colspan="2">STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE</td> </tr> <tr> <td colspan="2">LICENSEE NAME AND MAILING ADDRESS: MYNDE, AUGUST A. 4081 RED TERN RD. FAIR OAKS CA 91342</td> </tr> <tr> <td colspan="2">FOOTSTAMP AND EXPIRES DATE NOT A VALID LICENSE</td> </tr> </table>				REGISTRATION NUMBER 00123456	TYPE BROKER	ISSUE DATE 08/05/79	EXPIRES DATE 08/04/83	STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE		LICENSEE NAME AND MAILING ADDRESS: MYNDE, AUGUST A. 4081 RED TERN RD. FAIR OAKS CA 91342		FOOTSTAMP AND EXPIRES DATE NOT A VALID LICENSE	
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As in the past, licensees continue to make any needed changes (such as broker transfers and addresses) directly on the certificate after notification to DRE on appropriate application forms. Only in limited types of transactions are new certificates issued (addition or deletion of fictitious business names, duplicate license requests or branch office certificate).

DRE

## POINTS ABOUT "POINTS"

Most home buyers finance their purchase by obtaining a purchase money mortgage loan. They are usually aware that interest on the loan is deductible for the tax year in which the interest is paid.

Many borrowers who are cash method taxpayers however are not aware that there is a special tax treatment for "points" charged by lenders for making the loan above the stated loan interest rate. What this "points" charge covers and the manner in which borrower "paid the points" determines whether they are tax deductible in the year paid instead of over the life of the loan.

If the "points" charged are actually a charge for the use of money and not for specific services performed by the lender and separately charged (such as escrow fee, title fee, drawing documents fee), borrower may deduct the "points" as interest in the year paid to buy or improve a principal residence

provided the borrower pays the "points" charge with funds not obtained from the lender (meaning lender does not "withhold" the points from the loan proceeds when disbursed) and further provided:

- the debt must be secured by the residence
- the charging of points must be an established business practice in the geographical area where the loan is made
- the deduction may not exceed the amount generally charged in the area.

For the borrower to be entitled to a full lump sum deduction of "interest points," borrower should write out a check direct to lender to cover "points cost" prior to receiving the loan proceeds, and lender should then disburse the loan proceeds. To satisfy taxing authorities an actual exchange of checks appears to be necessary.

Otherwise IRS will require that the "points" interest deduction be spread over the prospective life of the loan—perhaps 30 or 40 years.

DRE

The possession of a license to engage in the real estate brokerage business in California imposes upon the holder certain definite legal and ethical restrictions in the conduct of business. It is not a license to launch into dealing in real estate for the purpose of gaining the greatest amount of earnings without regard for the best interests of the persons for whom the licensee acts as agent

and without treating purchasers fairly and openly.

A licensee intending to make a career in real estate should strike a professional attitude early. Buyers and sellers today are much more sophisticated and becoming quick to detect the salesperson who is not knowledgeable and to reject such a person's services.

## AGENTS' (Continued from page 1)

surrounding community were within the zone; and

- had buyer known the property was so situated, buyer would not have purchased it.

The Administrative Law Judge found a basis for disciplinary action against the broker under Business and Professions Code Section 10176(a) (making a substantial misrepresentation).

After having been served with the Accusation, the broker obtained a map delineating the Special Studies Zones in the area in which he conducted most of his real estate business as a means to prevent a recurrence of the violation.

When dealing with a seller and a property outside of their usual business areas, agents must also exercise care to determine if the property is in a Special Studies Zone. Most cities and counties affected by these zones are able to supply copies of maps indicating which particular properties are within a zone. These Special Studies Zones maps may also be examined at any office of the California Division of Mines and Geology.

More legislative action along the lines of the Alquist-Priolo Act can be anticipated as agencies of government seek new ways to minimize the loss of life and property from earthquakes.

DRE

## REGULATIONS (Continued from page 1)

amended and involves a regulatory agreement between stock cooperative and the Secretary of Housing and Urban Development with the provision for the establishment and maintenance of a general operating reserve or (2) assisted under Section 8 of the U.S. Housing Act of 1937 as amended and involves a housing assistance payment contract between the stock cooperative and the Secretary of Housing and Urban Development with a special provision for the establishment and maintenance of a general operating reserve as the Secretary of Housing and Urban Development may approve.

**Section 2792.16. Reasonable Arrangements—Assessments and Liens.** Amends Subsections (e) and (f) to allow special assessments for rebuilding to be levied upon the basis of square footage of floor area of units assessed to the total square footage of floor area of all units to be assessed and to provide that regular assessments in condominium conversion offerings will begin on the 181st day after recordation of annexation if the first sale of a unit in an annexed phase has not closed by that time.

**Section 2792.17. Reasonable Arrangements—Members' Meetings.** Amends Subsections (c)(d)(e) and adds new Subsection (f) to conform to changes in the nonprofit corporation law effective January 1, 1980. Specifically, changes the vote of members to call a special meeting to 5% of the total voting power of an Association; changes notice of

(Continued on page 7)

**REGULATIONS (Continued from page 6)**

regular and special meetings from not less than 10 days to not less than 10 nor more than 90 days; requires notice of new meeting be given if such date, time and place is set after an adjourned meeting; allows certain actions to be taken without a regular or special meeting if done in accordance with the nonprofit corporation law, Section 7513 of the Corporations Code.

**Section 2792.18. Reasonable Arrangements—Members' Voting Rights.** Amends Subsection (b)(4) to specify that with the exception of two specific actions to be taken by a homeowners association (Sections 2792.4 and 2792.24) the vote of the subdivider is to be excluded after the conversion of Class B to Class A shares only for so long as the subdivider holds 25 percent or more of the voting power.

**Section 2792.19. Reasonable Arrangements—Election of Governing Body.** Amends Subsection (b)(2) to read: Unless the entire governing body is removed from office by the vote of members of the Association, no individual governing body member shall be removed prior to the expiration of his term of office if the votes cast against removal would be sufficient to elect the governing body member if voted cumulatively at an election at which the same total number of votes were cast and the entire number of governing body members authorized at the time of the most recent election of the governing body member were then being elected.

**Section 2792.20. Reasonable Arrangements—Governing Body Meetings.** Amends Subsections (b)(2) and (c)(3) to provide that notice of regular or special meetings does not have to be given to a governing body member who has signed a waiver of notice or written consent to the meeting and provides minimum time required for posting and sending such notices to governing body members.

**Section 2792.21. Reasonable Arrangements—Governing Body Powers and Limitations.** Adds subsections to allow a governing body to elect officers of that body or to fill vacancies on the governing body except for a vacancy created by removal of a member [in which case, vote or written assent of the majority of the voting power would be required].

**AMEND SECTION 2792.22 OF ARTICLE 12 TO READ:**

**Section 2792.22. Reasonable Arrangements—Budgets and Financial Statements.**

(a) Financial statements for the Association shall be regularly prepared and distributed to all members regardless of the number of members or the amount of assets of the Association as follows:

(1) A pro forma operating statement (budget) for each fiscal year shall be distributed not less than 60 days before the beginning of the fiscal year.

(2) A balance sheet—as of an accounting date which is the last day of the month closest in time to six months from the date of closing of the first sale of an interest in the subdivision—and an operating statement for

the period from the date of the first closing to the said accounting date, shall be distributed within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and the name of the entity assessed.

(3) An annual report consisting of the following shall be distributed within 120 days after the close of the fiscal year.

(A) A balance sheet as of the end of the fiscal year.

(B) An operating (income) statement for the fiscal year.

(C) A statement of changes in financial position for the fiscal year.

(D) Any information required to be reported under Section 8322 of the Corporations Code.

(b) Ordinarily the annual report referred to in (a)(3) above shall be prepared by an independent accountant for any fiscal year in which the gross income to the Association exceeds \$75,000.

(c) If the report referred to in (a)(3) above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

**Section 2792.26. Reasonable Arrangements—Disciplining Members for Breaches of Governing Instruments.** Amendment to conform notice and hearing requirements for disciplining member to nonprofit corporation law by incorporating express reference to Section 7341 of Corporations Code dealing with that subject.

**ADOPT A NEW SECTION 2792.29 TO ARTICLE 12 TO READ:**

**2792.29. Reasonable Arrangements—Distribution in the Case of Condemnation or Destruction.**

(a) A condemnation award affecting all or a part of the structural common area of a condominium project which is not apportioned among the owners by court judgment or by agreement between the condemning authority and each of the affected owners in the subdivision, shall be distributed among the affected owners and their respective mortgages according to the relative values of the condominium units affected by the condemnation as determined by independent appraisal in accordance with a procedure set forth in the governing instruments.

(b) In the event of partial or total destruction of the structural common area of a condominium project, and an election by the owners not to rebuild, insurance proceeds received by the Association on account of the destruction of the common area shall be distributed by the Association among owners of units and their respective mortgagees proportionately by one of the following methods:

(1) According to the respective fair market values of the units at the time of the destruction as determined by an independent appraisal in accordance with a procedure set forth in the governing instruments.

(2) According to a formula or schedule set forth in the governing instruments based

upon the respective selling prices of the units in the original sales of the units by the subdivider.

(3) Such other method as the Department shall determine to be equitable.

**AMEND SECTION 2801.5 OF ARTICLE 12 TO READ:**

**Section 2801.5. "Owner" and "Subdivider" Defined.** In the case of subdivided lands for which a public report has previously been issued by the Department, the terms "owner" and "subdivider" as used in Sections 11010, 11012, 11018.1 and elsewhere in Part 2, Division 4 of the Business and Professions Code include any person, who at any point in time, owns, or has an option or contract to acquire, the subdivision interests listed in (a) or (b) below for purposes of sale, lease or financing if the subdivision interests were acquired or are to be acquired from the original recipient of a public report for the subdivided land, subdivider of the property or from a person who succeeded to the interest of the original recipient in five or more lots, parcels or undivided interests in a conventional subdivision, planned development or undivided interest subdivision or in two or more units or shares in a community apartment project, condominium project or stock cooperative:

(a) Five or more lots, parcels or undivided interest in a conventional subdivision, planned development or undivided interest subdivision.

(b) Two or more units or shares in a community apartment project, condominium project or stock cooperative. Except as provided in Section 11010.5 of the Code, an "owner" or "subdivider" as herein defined shall not offer for sale or lease, nor cause to be offered for sale or lease, any of the subdivision interests hereinabove referred to unless a subdivision public report has been issued by the Department expressly authorizing the sale or lease of the interests by or on behalf of said owner or subdivider.

**REPEAL SECTION 2830 OF ARTICLE 15. ADOPT NEW SECTION 2830 OF ARTICLE 15 TO READ:**

**2830. Trust Fund Account.** If a real estate broker who accepts funds in trust from others in the course of carrying on activities for which a real estate license is required does not effect compliance with Section 10145 of the Code by immediately placing such funds into a neutral escrow depository or into the hands of a principal on whose behalf the funds were received, the broker shall deposit the funds upon receipt into a trust fund account in the name of the broker as trustee at a bank or other financial institution.

Except as provided in Section 2830.1, the trust fund account may not be an account for which prior written notice can by law or regulation be required by the financial institution as a condition to the withdrawal of funds.

**ADOPT NEW SECTION 2830.1 OF ARTICLE 15 TO READ:**

**2830.1. Interest Bearing Account.** A real estate broker who receives funds in trust from or on behalf of an obligor for the payment of property taxes, assessments, insurance or

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REGULATIONS (Continued from page 7)

other purposes relating to real property containing only a one to four family residence shall not be precluded by the provisions of Section 2830 from depositing and maintaining said funds in an interest-bearing account in a bank, savings and loan association or other financial institution provided that the account is one that is insured by an agency of the Federal government.

**Section 2849. Reporting Format.** Revises the format of the Mortgage Loan Broker Annual Report to show the new principal limits for regulated loans to be up to \$20,000 for first trust deed loans and up to \$10,000 for junior trust deed loans.

**REPEAL SECTION 2849.1 OF ARTICLE 16.**

**ADOPT NEW SECTION 2849.1 OF ARTICLE 16 TO READ:**

**2849.1 Reporting Period.** (a) Any real estate licensee reporting pursuant to Section 10248.9 of the Code may submit the annual report on a calendar year basis. A report prepared for a calendar year shall be submitted to the Commissioner during the month of January immediately following the calendar year covered by the report.

(b) A licensee who accounts on a fiscal year basis in reporting income for purposes of federal income taxation may submit the annual report on that basis.

**REPEAL SECTION 2850 OF ARTICLE 17. ADOPT NEW SECTION 2850 OF ARTICLE 17 TO READ:**

**2850. Advance Fee Rental Agent Defined.** A person who engages in the business of supplying prospective tenants with listings of residential real properties for tenancy pursuant to an arrangement under which the prospective tenants are required to pay a fee in advance of or contemporaneously with the supplying of the listings is hereafter referred to as an advance fee rental agent for purposes of the administration of Section 10143 of the Business and Professions Code.

**REPEAL SECTION 2851 OF ARTICLE 17.**

**AMEND SECTION 2852 OF ARTICLE 17 TO READ:**

Prior to the acceptance of a fee from a prospective tenant, an advance fee rental agent shall provide the prospective tenant with a written contract which shall include at least the following:

(a) Name and business address of the advance fee rental agent.

(b) Acknowledgement of receipt of advance fee, including the amount of the fee.

(c) A description of the service to be performed by the advance fee rental agent, including significant conditions, restrictions, and limitations where applicable.

(d) The prospective tenant's specifications for the rental property, including but not limited to:

(1) Type of structure, e.g., detached single family, apartment, duplex, etc.

(2) Location by commonly-accepted residential area name, by designation of boundary streets or in any other manner affording a reasonable means of identifying locations acceptable to the prospective tenant.

(3) Furnished or unfurnished.

(4) Number of bedrooms.

(5) Earliest occupancy date desired.

(6) Maximum acceptable monthly rental.

(e) Contract expiration date which shall not be later than 90 days from the date of execution of the contract.

(f) Provisions which shall read as follows unless different language shall have been approved in writing by the Department prior to use.

(1) "If the prospective tenant has not obtained a rental through information supplied by agent, the full amount paid hereunder shall be repaid to the prospective tenant upon presentation of evidence by the prospective tenant that the advance fee rental agent supplied rental information that was not current or accurate."

(2) "The amount of the fee paid to agent by prospective tenant over and above a service charge of \$25 shall be returned to prospective tenant if a rental is not obtained by him through services of agent. A demand for a return of the fee over and above the \$25 service charge shall be made by prospective

tenant within ten days following the expiration of this contract.

(3) A person who purchases rental information for purposes other than that of locating a rental unit for personal use or the use of a designated person shall not be entitled to the return of any part of the fee paid to the agent.

\_\_\_\_\_  
(Prospective tenant or purchaser initial here)

**THIS CONTRACT EXPIRES ON**  
(Full caps, bold face or italicize)

\_\_\_\_\_  
"A demand for a refund referred to above may be made in person at

\_\_\_\_\_ or

by mail directed to \_\_\_\_\_."

**Section 2852.1. Filing Form Contract with Commissioner.** Changes a reference from "broker" to "agent."

**Section 2852.3. Handling and Disposition of Advance Rental Fee.** Eliminates references to "real estate broker" or "broker" and changes references to service charges from \$10 to \$25.

**Section 2853. Disposition of Contracts.** Deletes reference to "broker" and sets not less than six months from date of termination of contract as period within which it shall be retained by agent and subject to examination by Commissioner or his authorized representative.

**REPEAL SECTION 2854 OF ARTICLE 17.**

**REPEAL SECTION 2855 OF ARTICLE 17.**

**Sections 3000, 3006, 3007 and 3007.2 of Article 24, Private Vocational School and Supervised Course of Study Approvals.** Amended to include references to student fee refund policies in continuing education course offerings and allows (3006) continuing education completion certificates to be printed on any size paper from 3 1/2" x 5" to 8 1/2" x 11".

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