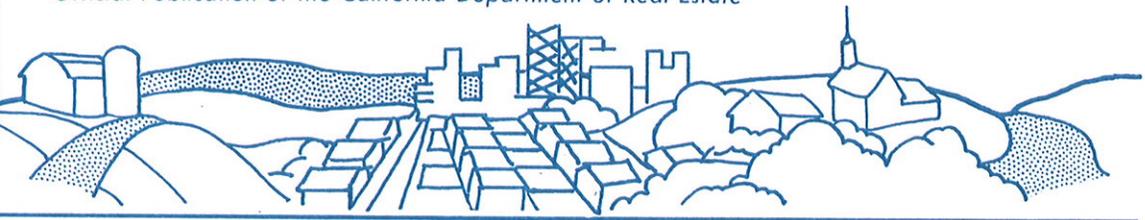




REAL ESTATE BULLETIN

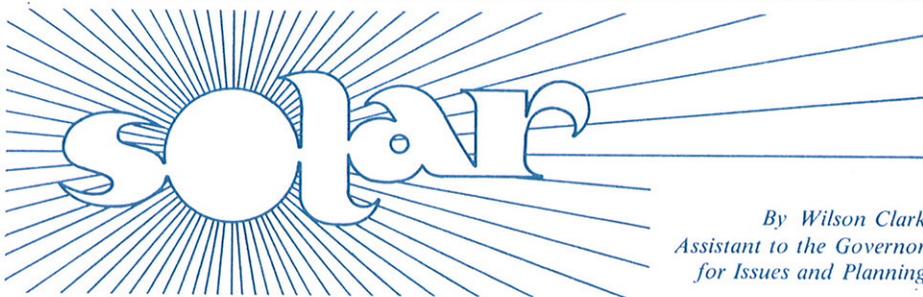
Official Publication of the California Department of Real Estate



EDMUND G. BROWN JR., Governor

Summer 1978

DAVID H. FOX, Commissioner



By Wilson Clark
Assistant to the Governor
for Issues and Planning

More and more Californians are learning that solar energy is a viable and economical alternative to ever-dwindling fossil fuel supplies. The sun is a safe, clean, and environmentally benign source of energy, and California already has the technologies and the incentives to make solar energy available at reasonable cost and little effort to homeowners.

Solar energy's present uses for the home include water heating and space conditioning. It has been demonstrated that solar domestic water heating systems in particular perform well technically, and surveys indicate that people will readily buy—and often prefer—homes with solar equipment. Furthermore, financing for solar systems is widely available; the leaders among banks and savings and loan institutions are promoting and financing solar systems all throughout California, for home improvements as well as new construction.

California homebuilders are among the most active promoters of solar energy for the home. Several builders are already installing solar domestic water heaters as standard features in entire developments, up to 300 homes at a time. Likewise, experienced installers and equipment dealers all over the state are installing proven systems at reasonable prices.

California's Solar Income Tax Credit

Governor Brown signed into law last year the most liberal state solar income tax credit in the United States. The solar tax credit permits California homeowners and businesses to deduct up to 55% of the total cost of an installed solar system from the state income taxes they owe. Here are the main features of the solar tax credit guidelines as defined by the California Energy Commission:

A. Eligible Systems

1. A solar energy system is any system which operates for the purpose of collecting, distributing, and/or storing heat, cold, or electricity and which derives its primary energy from the sun. Eligible systems include solar water heaters, solar space conditioning systems, solar-assisted heat pumps, and certain energy conservation measures in conjunction with the solar installations.
2. The taxpayer must own and control the premises at the time the system is installed. In the case of new home construction, this means that the homebuilder must take the tax credit. However, the time of final "installation" could probably be delayed so that the credit could be "passed through" to the home buyer. (The Legislature is presently considering a specific provision to permit homebuilders to "pass through" the credit to the new-home buyer.)
3. The system must be installed between January 1, 1977 and December 31, 1980. Solar energy systems must receive required building permits.
4. The tax credit must be claimed the year in which the system is installed, and the credit may be carried forward until used up. *The tax credit reduces tax liability directly; it is not a deduction.*

B. Amount of Available Credit

1. For any system (residential, commercial, industrial, etc.) whose purchase-plus-installation costs are \$6,000 or less, the amount of the available credit is 55% or \$3,000, whichever is less.
2. For any system whose purchase-plus-installation costs exceed \$6,000 and which is installed on other than single-family dwellings, the amount of the credit is 25% of the total cost or \$3,000, whichever is greater.

(Continued on Page 5)

CONTINUING EDUCATION—

Requirements
For Real Estate
License Renewals



Because of the amount of interest in this subject, the Department of Real Estate has prepared this series of questions and answers.

Q. What is the basis for requiring the continuing education?

A. Senate Bill 332, approved by the Legislature in 1976, requires real estate licensees to attend 45 clock hours of Commissioner approved courses, seminars or conferences each four-year period preceding renewal of active licenses.

Q. When is the continuing education requirement effective?

A. It is effective for real estate license renewals on or after January 1, 1981.

Q. How does it affect me?

A. If your real estate license expires before January 1, 1981 and you renew it before that date, you will not be affected until your next four-year renewal.

Q. Can you give an example?

- A.** Suppose license expires:
- 12-10-78..... Not affected
 - 12-10-80..... Not affected
 - 01-10-81..... Affected
 - 06-10-81..... Affected

(Continued on Page 3)

Attention, Please

James L. Quillin, State Labor Commissioner, has informed the Department of Real Estate that it is the position of the Division of Labor Standards Enforcement that for the purposes of workers' compensation insurance coverage, real estate brokers are employers of their salespersons, and must carry a policy on them.

If you have any questions regarding this requirement, you should contact Department of Industrial Relations, Division of Labor Standards Enforcement, 455 Golden Gate Avenue, San Francisco, California 94102, Telephone (415) 557-3827.

Commissioner Quillin and his staff have received many inquiries from licensed real estate brokers stating that they were not aware that coverage was required. This assumption was based on their mistaken belief that they are not employers of salespersons, according to Mr. Quillin.

REAL ESTATE BULLETIN

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Member, National Association of Real Estate
License Law Officials

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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—January-March 1978

REB—Real estate broker
RREB—Restricted real estate broker
RES—Real estate salesperson
RRES—Restricted real estate salesperson
REO—Real estate officer
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 \$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>				
490	relationship of conviction to licensed activity	10177(a)	procuring a real estate license by misrepresentation or material false statement	11018.1 failure to give public report
10130	performing acts for which a license is required without the appropriate license	10177(b) 10177(d)	conviction of crime violation of real estate law or regulations	11018.2 illegal subdivision sales (sales of subdivision lots without public report)
10137	unlawful payment of compensation	10177(f)	conduct that would have warranted denial of a license	<i>Regulations</i>
10143	failure to deliver contract or receipt to prospective tenant by rental agent	10177(g)	negligence or incompetence as licensee	2725 failure of broker to review agreements
10145	trust fund handling	10177(h)	failure to supervise salespersons	2731 unauthorized use of fictitious business name
10148	retention and availability of real estate broker records	10177(j)	fraud or dishonest dealing not in licensed capacity	2852.1 failure to file form of advanced fee rental contract with Department of Real Estate
10176(a)	making any substantial misrepresentation	11010	failure to file notice of intention to sell or lease subdivision	2800 failure to notify Department of Real Estate of material change in subdivision
10176(c)	commingling trust funds	11012	material change in subdivision without notice	2832 improper handling of earnest money deposit
10176(i)	fraud or dishonest dealing in licensed capacity			

LICENSES REVOKED

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Hache, Cesar Emilio (RES)	22315 Fawnridge Dr., Palm Springs	1/ 5/78	490, 10177(b)
Okum, Arnold Harvey (REB)	1800 N. Highland, Ste. 416, Hollywood	1/11/78	490, 10177(b)
Hanich, Richard James (RES)	2222 W. Garvey Ave., W. Covina	1/12/78	490, 10177(b)
Phillips, Willie Samuel (RES)	Rte. 2, Box 245, Grifton, N. Carolina	1/17/78	490, 10177(b)
Johnson, Kenneth Melvin (RRES)	8911 Genoa Ave., Orangevale	1/17/78	490, 10177(b)
Clark, James Harold (RES)	8271 Acacia, Cypress	1/19/78	490, 10177(b)
Hall, David Alan (RES)	8660 Cuyamaca St., Santee	1/19/78	490, 10177(b)
Gee, Terry Allen (RES)	3158 Caminito Quixote, San Diego	1/19/78	490, 10177(b)
Mehren, Clarence Grant (REB)	P.O. Box 1000, 420 N. Grand, Glendora	1/19/78	490, 10177(b)
Turner, Allen Jesse (RES)	Box 3723, 2582 Palmira, S. Lake Tahoe	1/26/78	490, 10177(b)
Farley, Bruce Roland (REB) (REO)	1521 Hotel Circle West, San Diego	1/19/78	490, 10177(b)
Officer—Bruce Farley Corporation			
Mingo, Daniel Joseph (RES)	P.O. Box 87, Bonita	1/31/78	490, 10177(b)
McMillan, Alex (RES)	3733 Durfee Ave., El Monte	2/ 2/78	490, 10177(b)
Simpson, Gale James (RES)	4800 Marconi Ave., #216, Carmichael	2/14/78	10176(a)(i), 10177(j)
Eastman, Stephen Gary (RES)	P.O. Box 11183, Tahoe Paradise	2/15/78	490, 10177(b)
Gilano, Benedict Joseph (RES)	27 Burning Tree Circle, Newport Beach	2/15/78	490, 10177(a)(b)
Winslow, Jeanne Anne (RES)	1168 Belhaven, #B, Anaheim	2/15/78	490, 10177(b)
Lind, Kenneth John (RES)	23942 Carmel Dr., El Toro	2/15/78	490, 10177(a)(b)
Johnson, Edgar Lee (REB)	5028 S. Verdun Ave., Los Angeles	2/15/78	490, 10177(b)
Lawrence, Barbara Theresa (RES)	19845 Ventura Blvd., Woodland Hills	2/16/78	490, 10177(b)
Grossinger, James Ernest (RES)	405 E. Van Buren Dr., Monterey Park	2/16/78	490, 10177(b)
Modravec, Robert Charles (REB)	22651 Mariano St., Woodland Hills	2/16/78	490, 10177(b)
Levitin, Manuel (REB)	1775 41st Ave., San Francisco	2/22/78	10137, 10176(a), 10177(d)(g)

LICENSES REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Torok, Sebastian (REB)	12300 W. Washington Blvd., Culver City	12/21/77	10176(a)(i)
(Right to RREB license after 90 days on terms and conditions)			
Brown, Albert A. (REB) (REO)	1086-3 Calle De Las Estrellas, Azusa	1/ 6/78	490, 10177(b)
DbA—Flamingo Land Co.			
(Right to RREB license after 120 days on terms and conditions)			
Allen, Gary Knowles (RES)	5010 Marconi Ave., Carmichael	1/10/78	490, 10177(a)(b)
(Right to RRES license on terms and conditions)			
Penny, Donna Lynne (RES)	2 Eucalyptus Ln., Rolling Hills	1/11/78	490, 10177(b)
(Right to RRES license after 60 days on terms and conditions)			
Qualkenbush, Orville Paul (REB)	112 W. Bennett, Ste. 8, Glendora	1/ 3/78	10177.5
DbA—Jan Realty			
(Right to RREB license after 30 days on terms and conditions)			
Pyle, William Wayne (REB)	6848 Magnolia Ave., Ste. 21, Riverside	1/ 3/78	10177.5
DbA—Mutual Realty			
(Right to RREB license after 30 days 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
O'Donnell, Boyd James (REB) Dba—Regent Realtors (Right to RREB license on terms and conditions)	301 W. Lexington Dr., Glendale	1/12/78	490, 10177(b)
Smith, Darron Rene (RES) (Right to RRES license on terms and conditions)	717 Alvarado, #252, Davis	1/12/78	490, 10177(b)
Toman, Warren (RES) (Right to RRES license on terms and conditions)	22321 3rd Ave., S. Laguna	1/17/78	490, 10177(b)
Hanson, Robert Dennis (RES) (Right to RRES license on terms and conditions)	929 W. Covina Pky. West, W. Covina ..	1/19/78	490, 10177(b)
Hulse, Charles James (RES) (Right to RRES license after 30 days on terms and conditions)	6855 Western Ave., Ste. P, Buena Park ..	1/19/78	490, 10177(a)(b)(f)
Rich, Robert Paul (RES) (Right to RRES license on terms and conditions)	220 W. Carrillo St., Santa Barbara	1/19/78	490, 10177(b)
Poe, William Joseph Sr. (REB) (Right to RRES license after 60 days on terms and conditions)	40849 Fremont Blvd., Fremont	1/23/78	490, 10177(b)(f)
Callahan, Carl Charles (REB) (REO) Officer—Results Realty of San Diego, Inc. (Right to RREB license on terms and conditions)	4631 Collwood Ln., San Diego	1/31/78	10176(a)(i), 10177(g)
Results Realty of San Deigo, Inc. (REC) . (Right to RREB license on terms and conditions)	4631 Collwood Ln., San Diego	1/31/78	10176(a)(i), 10177(g)
Sexton, Betty Jean (REB) (Right to RREB license on terms and conditions)	465 E. Chase, El Cajon	2/ 2/78	490, 10177(b)
Topolnak, John (REB) (Right to RREB license after 60 days on terms and conditions)	7920 Orangethorpe Ave., Buena Park ..	2/15/78	490, 10177(b)
Horne, Robert Henri (RES) (Right to RRES license on terms and conditions)	3423 Gauntlet Dr., W. Covina	2/16/78	490, 10177(b)
Kelly, Daniel Patrick (RES) (Right to RRES license after 60 days on terms and conditions)	18120 Brookhurst St., #51, Fountain Valley	2/23/78	490, 10177(b)
Fisher, Franklin Peter (REB) (REO) Officer—P F C Investments, Inc. (Right to RREB license on terms and conditions)	566 Washington St., Marina Del Rey ...	3/ 1/78	490, 10177(b)
National Rental Services, Inc. (REC) (Right to RREB license after 90 days on terms and conditions)	4352 Broadway, Oakland	3/ 1/78	2731, 2740, 2852.1, 10130, 10143, 10148, 10177(d)(f)
Liu, Tommy Jr. (REB) (REO) Officer—National Rental Services, Inc. (Right to RREB license after 90 days on terms and conditions)	4352 Broadway, Oakland	3/ 1/78	2731, 2740, 2852.1, 10130, 10143, 10148, 10177(d)(f)

LICENSES SUSPENDED

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
McArthur, Jeffrey Scott (RES) Shingle Springs	P.O. Box 396, 4101 Mother Lode Dr.,... Shingle Springs	1/17/78 10 days	10177(g)
Ronzone, Joseph David (REB) (REO) Dba—Westland Realty	P.O. Box 396, 4101 Mother Lode Dr.,... Shingle Springs	1/17/78 5 days	10177(d)(g), 2725
Hayes, John Beatty (RES) Dba—Aztec Financial Services	P.O. Box 546, 8700 River Rd., Forestville	1/19/78 30 days	10177(g)
Sitron, Irwin Raymond (REB) (REO) Dba—Beacon Mortgage Co.	1636 West 8th St., Ste. 101, Los Angeles	1/31/78 90 Days	10176(i)

LICENSES SUSPENDED WITH STAYS

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Schaefer, Gerald Albert (REB) (All but 30 days stayed for 1 year on condition)	1399 Florin Rd., Sacramento	1/ 9/77 60 days	10176(a)(i)
Flynn, Richard Herbert (REB) (All but 5 days stayed for 1 year on conditions)	P.O. Box 782, 20 Main St., Sutter Creek	1/17/78 30 days	10145, 10177(d), 2832
Ross, Allan Efreim (REB) (All but 30 days stayed for 1 year on condition)	4721 Laurel Canyon Blvd., Ste. 103, N. Hollywood	2/ 8/78 90 days	10177(d), 11010, 11018.2
Witkower, Leonard Joseph (RES) (All but 15 days stayed for 1 year on condition)	8820 Wonderland Park Ave., Los Angeles	2/8/78 90 days	10177(d), 11010, 11018.2
Aytes, David (REB) (All but 15 days stayed for 2 years on condition)	4239 E. Fountain Way, Fresno	2/14/78 90 days	10177(g)
Garland, John Michael (REB) Dba—Century 21 Pacific Properties (All but 30 days stayed for 1 year on terms and conditions)	3516 Highland Ave., Manhattan Beach .	2/15/78 180 days	10176(a)(i)
Folberg, Harry (REB) (All but 15 days stayed for 1 year on terms and conditions)	3400 El Camino Real, Santa Clara	2/21/78 60 days	10176(a), 10177(j)
Jones, Robert Hamilton (REB) (REO) ... (All but 15 days stayed for 1 year on terms and conditions)	2225 Grant Rd., Los Altos	2/21/78 60 days	10176(a), 10177(j)

INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS

Name	Address	Date
Mason, Leroy Bernard (REB) Syncom Management Company, Inc. (REC)	18036 Lamson Rd., Castro Valley	3/ 3/78
Boyle, Malcolm Joseph (REB) Hagen, Leon (REB) Gulley, James Lawrence (REB)	16161 Ventura Blvd., Ste. 225, Encino .. 3145 Geary Blvd., San Francisco	3/ 3/78 3/10/78 3/23/78
	P.O. Box 893, Magnolia	3/30/78
	3651 40th St., Sacramento	

Continuing Education

(Continued from Page 1)

Q. How can I find out what courses have been approved for real estate license renewal under the continuing education statutes?

A. The Commissioner will evaluate and approve or disapprove a sponsor's seminar, conference, or course on its individual merit. Such an offering must be a reasonable application of *current* law, procedures, or practice in the field of real estate that will provide a basis for a high level of consumer protection and service. Naturally, approved seminars and courses will be advertised in that fashion. Part of the approval process calls for the offering entity to give the attendee a coded form as evidence for later submission to the Department.

Q. If I should take one or more of the courses required for the broker license, would that satisfy the license renewal requirements for either sales or broker license renewal?

A. No. The regulations provide that courses required for licensure will not satisfy the continuing education requirement.

Q. What Real Estate Commissioner's Regulations apply to the continuing education program?

A. Article 25, Sections 3005-3013. The primary thrust of these regulations deals with the means by which an offering entity can qualify a course. Regulations will be printed in the next edition of the Real Estate Law published by the Department, and supplements to the current edition are available over the counter at any office of the Department.

Q. If I do not complete my real estate license renewal continuing education requirement in accordance with real estate law by the time my license expires, what must I do to renew my license?

A. If, for instance, you submitted a seminar which had not been approved by the Department to make up your total of 45 clock hours, your license may be extended for a maximum of 90 days for you to meet the requirements of real estate continuing education (Section 10171.2, Business and Professions Code). Of course, this issue would not arise under ordinary circumstances and, in any event, deals with renewals beginning January 1, 1981.

Q. Are there any exemptions or equivalent activities which would qualify me for renewal of my license without taking continuing education courses?

A. Yes, as contained in Regulation 3011, the Commissioner may consider equivalent education activities such as instruction in approved real estate continuing education programs or authorship of published books on current real estate practices. As contained in Regulation 3012, an exemption may be granted by the Commissioner for bona fide health reasons or other compelling cause beyond the control of the renewal applicant. Again, the question of whether or not such an exemption could be considered would deal with renewals on and after January 1, 1981.

Q. Can I take a Commissioner approved seminar which only lasts six hours and use those six hours as part of the 45 clock hours requirement?

A. Yes. The least amount of time credited toward the 45 clock hours is a three-hour seminar. For example: a mix of approved seminars or courses completed over a four year period preceding license renewal is acceptable, as long as the clock hours add up to at least 45.

Q. When I finish a Commissioner approved continuing education seminar or course, may I send the certificate of attendance to the Department of Real Estate for retention?

A. No. Over 60,000 licenses are renewed each year. The Department could not store each successive certificate of attendance for up to four years pending license renewal.

Q. When is the earliest time that I can send in my application for renewal with evidence of meeting the continuing education requirements?

A. The Department of Real Estate accepts the renewal application within 60 days before license renewal. The policy will continue. Of course, the evidence will not be required until 1981 or after.

(Continued on Page 8)

DRE DISCIPLINARY ACTIONS

BROKER RISKS GOOD REPUTATION

A salesperson in the employ of broker, in expectation of earning a commission, prepared a deposit receipt wherein a purchaser offered to purchase a residence listed with employing broker for a total purchase price of \$18,000, contingent upon:

- buyer obtaining a maximum FHA loan on 203B conditions; and
- buyer paying no more than \$750 cash, including a \$100 deposit on the purchase price, for down payment and closing costs.

The deposit receipt falsely stated that buyer had made a \$100 deposit on the purchase price in the form of a promissory note, but seller, without knowledge of this falsity, accepted the buyer's offer as contained in the deposit receipt. Subsequently the purchase price for the property was reduced to \$17,500 by mutual consent of the buyer and seller.

For purpose of closing the sale to buyer, broker and salesperson caused an escrow to be opened at a title company and salesperson caused buyer to apply to a lender for a loan for \$17,250 and to FHA for a firm commitment to insure the loan, which loan was to be secured by a trust deed on the subject real property.

Salesperson knew that buyer did not have and did not intend to expend any of the buyer's own funds for the purpose of acquiring title to this property, yet licensee influenced purchaser to enter into and continue with the purchase, loan application, and FHA insurance commitment.

Salesperson knew that buyer had represented to lender and FHA that buyer would pay buyer's closing costs from buyer's own funds and would occupy the property. Salesperson knew that these representations were false and failed to notify lender and FHA of these misrepresentations, thus concealing the true facts from lender and FHA.

Broker's office loaned buyer sufficient funds to pay buyer's closing costs, concealing this from the lender and FHA, after having negligently caused to be delivered to the escrow a letter which certified that buyer had given broker \$750 in cash as a deposit to complete the purchase and that said \$750 had been deposited into broker's trustee bank account. (This representation was false and untrue but broker did not know it was false and untrue until a time immediately subsequent thereto, at which time broker notified escrow holder.)

Prior to close of escrow, broker, through salesperson, caused to be delivered to escrow a "broker's demand" wherein broker instructed escrow to deduct from broker's commission the amount of money needed to pay buyer's closing costs. Thus, broker's demand did negligently represent that broker would withhold from buyer's deposit on the

property (which broker earlier represented was being held in broker's trust account) any and all funds advanced from broker's commission to pay buyer's closing costs.

Salesperson caused buyer to sign the required Mortgagor's Certification, which certified to false statements. Relying upon the false representations, lender and FHA approved a \$17,250 loan and commitment to insure. If the true facts had been disclosed lender and FHA would not have funded and insured this loan, which loan enabled title to be conveyed to buyer.

Because of broker's proven negligence and failure to supervise salesperson's activities in this transaction, broker's license was suspended for thirty days pursuant to provisions of the B & P Code Sections 10177(g) and (h), no other complaint having been filed against licensee in approximately 20 years as a licensee. Salesperson's license was revoked pursuant to each and all of the B & P Code Sections 10176(a) & (i) and 10177(f) & (j).

FRAUDULENT CONDUCT

Licensee brokers were husband and wife. As principals they entered into a contract to sell certain residential real property they owned to purchasers for a purchase price of approximately \$26,600. The purchase contract called for a \$1,000 down payment, assumption by buyers of the existing first trust deed loan on the property of approximately \$22,600, with the balance of purchase price to be in the form of a junior purchase money note and trust deed executed by buyers to sellers for approximately \$3,000.

Ten days after entering into this contract to sell, licensees executed a note and second trust deed against said real property as security for a \$2,500 loan made to licensees by a corporate lender, all without knowledge or consent of purchasers. The corporate lender promptly recorded its second trust deed.

The day after they executed the \$2,500 note and trust deed, licensees caused to be opened an escrow to consummate the sale of the real property to purchasers on the original purchase terms. Licensees induced purchasers to waive the requirement of title insurance.

About 30 days later, licensees negotiated the sale of the not yet existent \$3,000 promissory note (to be executed prior to close of escrow by purchasers) to another party for a purchase price of \$3,000. Licensees represented this trust deed as being a second trust deed, subject only to a first trust deed securing a loan with an unpaid principal balance of approximately \$22,600. Licensees induced the purchasers/assignees of the then non-existent note to waive the obtaining of a policy of title insurance insuring their interest and willfully failed to reveal to assignees the existence of the \$2,500 note and trust deed against the property.

Approximately 60 days thereafter, purchasers executed the purchase money note and trust deed securing it to the sellers for \$3,176, and the escrow for the sale/purchase of the residence closed. At no time prior to the

(Continued on Page 6)

Furnishing of Transaction Data To County Assessors Is Required By Law

From time to time county assessors mail to property owners a request for data on recorded sales transactions.

Section 441(d) of the Revenue and Taxation Code requires every person to provide such information to the Assessor, i.e., "details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the Assessor's duties."

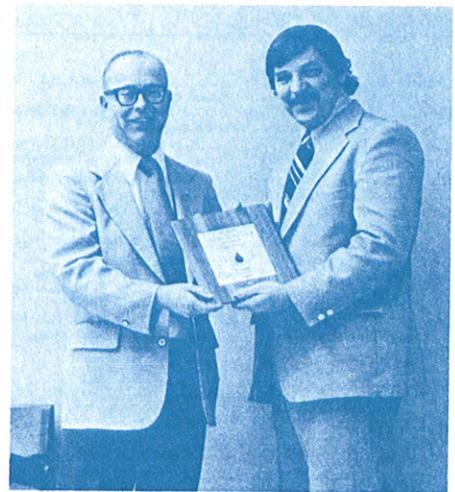
The Commissioner has been advised that some licensees may not be aware that the furnishing of this information by property owners, when requested, is mandatory under the above mentioned law Section. Another law section requires assessors to keep such information confidential.

Licensees are requested to advise their principals and clients of the foregoing when they make inquiry about this matter.



According to U.S. Department of Commerce statistics (Business of the Census) in February 1978, privately owned housing units were started at an estimated seasonably adjusted annual rate of 1,580,000. This is 10% below the rate of 1,751,000 for February 1977, but about the same as the revised annual rate of 1,547,000 for January 1978.

ZERO COUNT IMPORTANT



especially when it refers to the number of accidents suffered statewide by DRE employees in 1977. Accepting Governor's Safety Award for DRE as a "Zero Frequency Award Winner" is William A. Wiggins, Assistant Commissioner Administration. The presenter is Robert E. Denison, Governor's Safety and Rehabilitation Program Manager.—

Photo by Linda Hidley



Commissioner David H. Fox and approximately 1,200 Realtors listen while Governor Edmund G. Brown Jr. addresses the CAR Convention in Sacramento, March 29th. The Governor's remarks mainly concerned the real property tax controversy.—Photo by Linda Hidley

RECENT PROCEDURAL EXAMINATION CHANGES

In order to better assure the integrity and security of the DRE examination for licensing, positive identification will be required from each examinee at the examination site prior to being admitted into the exam room. If the examinee cannot present an acceptable form of identification to the proctor, such as a California driver's license; a military, federal or state identification; or an official passport, then the examinee will be required to submit to the taking of a complete set of fingerprints prior to leaving the examination room.

After completing the examination and just before leaving the exam room, upon submission of the examination answer sheet to the proctor, each examinee will further identify his or her own answer sheet by affixing thereto the examinee's own thumbprint, by using the special print tab affixed to each examination sheet by the DRE.

Examinees will be allowed to use slide rules or silent, battery-operated, pocket-sized, electronic calculators which are nonprogrammable and which do not have a printout capability. Examinees must furnish their own slide rule or calculator, if they wish to use them. 

In Memoriam

Dudley Dean Watson, 82, former Real Estate Commissioner, appointed by Governor Earl Warren in 1948 and served until 1957. "D. D." was a native of San Francisco, past president of CAR and past vice-president of NAR for the Western States.

SOLAR (Continued from Page 1)

3. The Franchise Tax Board is in the process of deciding whether apartment and condominium owners whose total purchase-plus-installation costs exceed \$6,000 may claim a 55% tax credit for each unit if each unit has its own separate solar energy system.
4. In each case where the support structure of the solar energy-system also serves another main function, 50% of the costs for that component is eligible for the credit, except as otherwise defined in the Energy Commission's solar energy tax credit guidelines. An example of this situation is a rock bed thermal storage unit which has two of its side walls also serving as the building foundation.
5. Any federal solar income tax credit would be substituted for an equivalent amount of the available California credit. That is, the combined federal and state credits cannot exceed that allowed by the state. The federal credit would be used first.

C. Allowable Systems

Eligible solar energy systems include indirect thermal (active) systems and direct thermal (passive) systems, providing that each system meets existing building codes and carries the minimum warranties (as defined below). Some active systems are: forced air systems, forced circulation water heating systems, radiant systems, solar assisted absorption cooling systems, and solar assisted heat pump systems. Passive system features include: solar glazing and shading, solariums, thermal ponds, and thermal mass construction. Eligible passive features and active systems are described in detail in the Energy Commission's tax credit guidelines.

D. Warranty Requirement

After April 1, 1978, these warranty requirements must be met by solar systems to be eligible for the tax credit:

1. *Solar Equipment Manufacturers.* The solar collector, storage unit, and heat exchanger must be guaranteed to be free from defects in materials or workmanship for at least three years.
2. *Installers.* The solar system, any component, or assembly must be guaranteed against defects in workmanship, materials, or installation for at least one year after date of installation completion.

E. Conservation Measures

Certain energy conservation measures must be installed in conjunction with solar energy systems eligible for the tax credit:

1. *Space Conditioning Systems* require certain extra insulation and weatherstripping measures, as specified in the tax credit guidelines.
2. *Domestic Water Heating* requires insulation of storage tank and low-flow devices on hot-water outlets.

F. Further Information

The Energy Commission solar tax credit guidelines also specify:

1. Other eligible conservation measures.
2. Eligible solar applications for hot tubs and swimming pools.
3. Requirements for other eligible solar applications.

Copies of the guidelines and criteria for the solar tax credit may be obtained by contacting the Energy Resources Conservation and Development Commission, Publications Office, 1111 Howe Avenue, Sacramento, California 95825. Form 3805L for claiming the credit may be obtained from the Franchise Tax Board, Sacramento, California 95867.

Government Assistance

The State Business and Transportation Agency has set up a special office to serve as a one-stop information and assistance point for homebuilders planning to install solar equipment, especially solar water heaters, in their new residential units. The "builders hot-line" is (916) 445-5185, and the following services are available to builders:

- Technical and design assistance
- Assistance with local government requirements
- Detailed information on the solar tax credit
- Consumer education and protection programs.

The California Energy Commission is available to the general public to provide information and assistance on all solar energy-related matters. The Commission's Solar Office at 1111 Howe Avenue, Sacramento 95825, will, upon request, indicate whether a particular solar system technically conforms to their solar tax credit guidelines. The Commission's toll-free number is (800) 852-7516.

1978 QUARTERLY EXAM RESULTS

	SALES		BROKERS	
	Took	Passed	Took	Passed
January	10,576	4,415	1,039	500
February	6,885	2,957	1,055	489
March	8,474	3,538	1,055	544
TOTAL	25,935	10,910	3,149	1,533

SUBDIVISIONS

In the fall 1977 edition of the *Bulletin* an article entitled *What Should Agent Do?* discussed the applicability of certain provisions of the Subdivision Law and DRE regulations to a person acquiring two or more units in a condominium development with the intent of selling or leasing the units.

The article was correct in pointing out that a condominium project of two or more units is a subdivision by definition under California law. The article is incomplete or incorrect however in certain respects. First, it suggests that the Subdivision Law applies in the case of a person who acquires two units with the intent to sell only one whereas the position of DRE is that a person acquiring more than one unit must have the intent to sell or lease (for a term of one year or more) at least two units in order to be subject to the Subdivision Law. Secondly, the article fails to specify that the Subdivision Law is applicable to a person owning more than one condominium unit only if two or more of the units were acquired for the purpose of resale or lease from the original subdivider or from a person who succeeded to the interest of the original subdivider, e.g., by purchase, gift, foreclosure, inheritance, etc.

Section 2801.5 of the regulations of the Commissioner was recently amended to clarify the DRE position with respect to condominiums and to conventional subdivisions and planned developments as well.

In the case of a conventional subdivision or planned development, a person must obtain a public report or amended public report to sell or lease five or more lots if at any point in time that person owns five or more lots which he or she acquired from the original subdivider or from a person who succeeded to the interest of the original subdivider in five or more lots.

HIGH CONSTRUCTION RATE IN NEW SUBDIVISIONS

During the first nine months of the 1977-1978 fiscal year, the Department issued Subdivision Public Reports qualifying approximately 12,527 lots/units per month for sale to the public.

Of a total of 112,745 lots/units, only 15% were vacant lots. The balance contained construction of all types such as single-family dwellings, planned developments with townhouse-type structures, condominiums, community apartment houses, and stock

cooperatives.

This is in contrast to the late 1960s and early 1970s when public reports were issued on nearly as many vacant lots as on lots with construction. The Department has averaged receiving 393 new subdivision filings per month during the first nine months of this same fiscal year for a total of 3,540 new filings. This number of new filings will represent 130,601 additional new lots/units when the public reports are issued.



Results of Telephone Surveys of DRE Offices

Los Angeles District Office recently completed a telephone survey covering one business week to determine, among other things, the daily volume of incoming telephone calls handled by the reception desk and the Consumer Service Deputies. Results are:

	Total Received	Daily Average
<i>Inquiries received and handled by reception desk staff</i>	3,109	622
<i>Inquiries referred to Consumer Services Deputies</i>	1,464	293
<i>Inquiries referred direct to other sections of DRE (Subdivisions, Audits, Regulatory, etc.)</i>	636	127
Total	5,209	1,042

At the same time the Licensing Section of Sacramento Headquarters Office was completing its own survey, conducted by the telephone company at the request of the DRE, to determine the volume of telephone calls placed by the public and real estate licensees to the licensing section in Sacramento. The survey covered approximately six months.

It was determined that 85% of the busy signals received by callers occurred between the hours of 10:00 a.m. and 12 noon, and between 3:00 p.m. and 4:00 p.m., while only 1% of the busy signals occurred between 8:00 a.m. and 9:00 a.m., and between 1:00 p.m. and 2:00 p.m. From this, it is apparent that to reach the licensing section with a minimum of delay it is best to place the call before 9:00 a.m. or between 1:00 p.m. and 2:00 p.m.

For assistance in calling, the following telephone numbers are provided for Sacramento Headquarters Office Sections:

Original license issuance	(916) 445-5971
Real estate broker qualifications	(916) 445-4611
Examination scheduling	(916) 445-6587
Corporation licensing	(916) 322-6460
Licensing expiration	(916) 445-5741.

Disciplinary (Continued from Page 4)

closing of the escrow did licensees-sellers inform purchasers of the real property that the property had been further encumbered by licensees in the sum of \$2,500.

Had either the purchasers of the real property or the purchasers/assignees of the \$3,176 promissory note executed by purchasers been aware of the existence of the \$2,500 note and trust deed, they would not have consummated their respective transactions.

Having received no payments on its \$2,500 loan to licensees, the corporate lender subsequently recorded a Notice of Default and Election to Sell. To avoid a forced sale, purchasers sold the property and paid off the first, second and third trust deed liens, plus expenses of sale, all possible only because the property had appreciated considerably in the intervening months.

Grounds existed for disciplinary action against the licenses of the brokers under Section 10177(j) of the Business and Professions Code. Licenses were revoked.

(Continued on Page 7)



Seated, left to right, at table at the March 21st open hearings in Los Angeles on Commissioner's proposed Code of Ethics, are DRE representatives: W. Jerome Thomas, Chief Legal Officer; John E. Hempel, Assistant Commissioner, Policy and Planning Division; Commissioner David H. Fox; and Martin F. Dingman, Staff Counsel. — Photo by Gary Skow

Notes from Licensing

by Senior Deputy
Larry Smith



Many real estate brokers do not work independently but work for other real estate brokers. These brokers are commonly referred to as broker/salespersons because they conduct business like a licensed real estate salesperson except they hold a broker license.

Even though similar to a salesperson this broker/salesperson arrangement is not recognized when it comes to licensing records. A broker/salesperson still has broker status for licensing purposes and licensing record changes; such as, addition of any new business addresses which should be submitted on appropriate broker forms, not salesperson forms. A broker/salesperson does not transfer a license as does a salesperson; the broker merely changes business addresses. A salesperson must obtain the employing broker's signature, while a broker/salesperson does not.

A broker/salesperson must initiate his or her own requests, over his or her own signature, concerning the license record and not rely on the broker "employer" or anyone else to do it.



Butte College is the setting for this DRE sponsored Consumer Clinic. These clinics are coordinated statewide by the community and junior colleges participating in the Consumer Clinics Program. The successful pilot programs were held in Sacramento and Inglewood. The clinic sessions which followed were well received. Those six hour programs cover such consumer needs as: renting, fair housing problems, buying homes and land, and simple home maintenance. Seated from left to right are Carl Donica, Real Estate Broker; Tom Edgar, Attorney; Don Brown, Butte College Coordinator; Ron Russell, Building Inspector; Thomas Hensley, Department of Real Estate.

Disciplinary

(Continued from Page 6)

BEFORE HEARING SUSPENSION JUSTIFIED

As a result of a formal DRE administrative hearing, a real estate salesperson's license was revoked with the right to receive a restricted real estate salesperson's license 60 days after the effective date of the order of revocation, pursuant to Business and Professions Code Section 10156.5. Subsequently, said restricted license was issued subject to the provisions of Section 10156.7 and the limitations, conditions, and restrictions of Section 10156.6 of the Code.

Approximately six months after receiving the restricted license referred to above, this licensee prepared and presented to sellers an offer from buyers to purchase sellers' residential property. Buyers' offer was presented in the form of a Deposit Receipt which contained a representation that licensee had received from buyers a personal check in the amount of \$500 as a deposit on account of the purchase price of the real property.

This representation by licensee was false and known by licensee to be false when made, with the intention that seller would rely thereon and accept buyer's offer. The true facts were that licensee had agreed to and did accept from buyers as a deposit on account of the purchase price of the property a promissory note for \$500 payable to licensee's

broker at the close of an escrow covering the sale of a residence then owned by the buyers.

Licensee, through the representation in the Deposit Receipt and also by licensee's silence as to the true facts concerning the nature of the deposit by buyers, induced sellers to sell the property to buyers according to the terms of the offer, with minor modifications. At no time did licensee present buyers' promissory note for \$500 to sellers for specific approval of the substitute deposit. Ultimately the sale to buyers was consummated in a timely fashion and all funds properly disbursed.

Pending the hearing on the Accusation filed against licensee, licensee's restricted license was suspended pending a final determination to be made after the hearing on the Accusation. Following the hearing, at which cause for disciplinary action against the restricted real estate salesperson license was established under Sections 10176(a) and 10176(j) of the Business and Professions Code, the salesperson's restricted license was suspended for 220 days. 

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" by 9", bearing \$.41 first class postage to Department of Real Estate, 714 P St., Sacramento, CA 95814, ATTENTION: LAW SUPPLEMENT.

What is a Dba? These initials mean "doing business as" and refer to someone operating a business under a fictitious name. Many real estate brokers prefer to operate in such a manner rather than use their own name when conducting business. This is quite permissible, providing appropriate filings have been made with the County Clerk's Office and with the DRE. Unless these filings have been made and a broker license issued bearing the fictitious name, a broker cannot use such a name in the conduct of business.

A fictitious business name is any name that does not include the surname of the individual or that suggests existence of additional owners, such as inclusions of "company," "sons," "associates," "brothers," and the like, but not words that merely describe the business being conducted. In the case of a corporation, a fictitious name would be any name other than the corporate name as stated in the Articles of Incorporation. In the case of a partnership, a fictitious name would exist if all the surnames of the partners were not included or if the name included a word suggesting the existence of additional owners.

The Department finds that many brokers make proper filings for fictitious business names with the County Clerk, but do not follow through by filing with the DRE to obtain a license bearing the name. It is a violation of the Real Estate Law to conduct business under a fictitious name without filing with the DRE. (Regulation 2731.)

An instruction form is available upon request outlining the procedure to obtain a fictitious business name.

"AS IS" ???

How is a seller of real property which has real physical deficiencies, or the seller's real estate agent, to be sure what this troublesome term means when they insert in a listing contract or deposit receipt a clause such as "property sold in its present 'as is' condition"?

Whatever the term eventually proves to mean, on a case by case determination, it is most unlikely it will translate into *caveat emptor*—let the buyer beware!

A purchaser inspecting an improved real property, such as a residence, is certainly expected to have information about the

property which a reasonable inspection would disclose. But, how about those hidden structural imperfections known only to seller and/or seller's agent which are not disclosed to the purchaser, such as:

- an owner-built den, constructed without a permit and not according to code
- a roof that leaks but looks like new
- recurring plumbing problems?

A seller has an affirmative duty to disclose to the buyer the known invisible problems in the improvements. The agent who is aware of the physical deficiencies *must* disclose them to a purchaser. It has been held that a purchaser has a right to rely upon the statements of a broker and a seller, without making an independent investigation.

To be of any force or effect an "as is" or similar provision in a contract should refer to the particular features of the property that have been made known to the purchaser. An example of a legally effective clause would be a statement that buyer has personally inspected the property and is aware that the residence has a roof which leaks and will need to be repaired or replaced. If the roof defect was not obvious and buyer did not know it was defective, a general "as is" clause is probably worthless.

Fraud includes knowingly suppressing or concealing facts which should be disclosed. Section 10101 of the Business and Professions Code now provides, in part, that the accusation against a licensee provided for by Section 11503 of the Government Code shall be filed within one year after date of discovery by the aggrieved party of the fraud, misrepresentation or false promise or within three years after the occurrence thereof, *whichever is later*.

The improper or incomplete use of an "as is" clause by an agent may insure a future lawsuit for the transaction parties.

Caveat licensee!



Frank Ryan, DRE Sacramento United Way Chairperson, presenting a Silver Award to Commissioner Fox. This award by the United California State Employees Campaign, United Way Sacramento, acknowledges the DRE's expressed concern for the needs of the many United Way agencies. This year the Sacramento DRE employees had a 201% increase in contributions with 95.7% of employees participating. Frank Ryan received an Individual Award of Excellence from United Way for his personal efforts in assisting the DRE employees to greatly surpass their original goal and achieve this outstanding performance.—Photo by Linda Hidley

Continuing Education

(Continued from Page 3)

Q. Do you anticipate courses or seminars being taken by licensees in other institutions outside of California?

A. Yes. However, before the department can accept such certificate of attendance, the school, firm or entity would have to have received Commissioner's approval.

Q. How does a person, firm, or other entity get approval to offer a Real Estate Commissioner approved continuing education course?

A. The offering entity completes an application for approval, furnished by the Department of Real Estate, and pays a fee of \$150. Once the Commissioner has examined the merit of the course or seminar (for reasonable currency of knowledge and level of consumer protection, etc.), the Commissioner will grant or deny a certificate of approval to give the offering for real estate continuing education credit. Incidentally, the offering entity is required to file for approval at least 90 days before offering the course or seminar.

Q. I have been told that the only courses you will approve are those dealing with up-to-date information. Is that true?

A. Yes. The law requires that the Commissioner's standards assure *reasonable currency of knowledge* as a basis for a level of real estate practice which will provide a high level of consumer protection service.

Q. Will a course I took in Real Estate Tax Law in 1977 for three semester hour credit apply to my continuing education requirement?

A. No, because no continuing education courses were approved by the DRE prior to January 1978. The law is not retroactive and only those courses approved by the Commissioner can apply.

Q. Do I have to take 45 clock hours of continuing education during each four years before I renew my license?

A. Yes. Completion of Commissioner approved continuing education is required for every four-year period prior to renewal of your license.

If you have any further questions that the above information does not answer, please do not hesitate to contact us.

The Department of Real Estate
Continuing Education Unit
4433 Florin Road, Suite 200
Sacramento, CA 95823