

# REAL ESTATE BULLETIN

Official Publication of the Division of Real Estate

EARL WARREN, Governor

Sacramento, July, 1951

D. D. WATSON, Commissioner

## Bimonthly Bulletin Enlarged to Eight Pages

### Licenses Urged to Retain File of Copies

Licenses have advised that the *Bulletin* is instrumental in creating better understanding of the licensing and subdivision laws and regulations, and that it is of considerable benefit to both the public and the real estate industry. With the hope that the change will result in still greater usefulness, starting with this issue, the *Bulletin* is enlarged from four to eight pages.

The purpose and intent of the *Bulletin* is to keep licensees better informed of their obligations as agents—of the application of the licensing and subdivision laws and regulations—of the commissioner's intent and policy—and to assist in improving the standards of the business.

### University of California Educational Material Added

A portion of each issue will be devoted to real estate educational material developed and furnished by the University of California and its Extension Division—thus giving all licensees an opportunity to benefit from the educational program made possible by the legislative grant to the university from the Division of Real Estate funds.

**SAVE YOUR BULLETIN**—The Real Estate Commissioner believes you will find it worthwhile to save this *Bulletin* and succeeding issues as they come out. The small expenditure of time and effort necessary to keep these *Bulletins* together in a ring binder, or by some other method, should pay dividends. You will be able to find specific articles or subjects by reference to the annual "Subject Index."

It is planned to publish an annual "Subject Index." For this reason, pages of the *Bulletin* will be numbered consecutively from issue to issue. For example, this July *Bulletin* contains pages 1 to 8, the pages of the September issue will be numbered from 9 to 16, the November issue 17 to 24, etc.

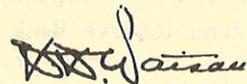
## THANK YOU

In the May *Bulletin*, I asked you to make sure your license renewal applications were sent in completely and carefully filled out. I also asked that brokers send in their salesmen's applications together with their own.

Now I want to thank you for your fine response to those requests. The staff advises that the current license renewal is the smoothest on record in the Division of Real Estate.

No matter how carefully we might have made our own preparations for the "renewal season," it was only with your splendid cooperation that we have been able to achieve an improved standard of efficiency and economy.

Once again, my sincere thanks and appreciation.



Real Estate Commissioner

## Broker Office Survey

During the past few months, the division has been surveying the offices of real estate brokers throughout the State.

A very noticeable effect of this survey has been the large number of licenses turned in for cancellation (inactivation). During the 1950-51 Fiscal Year, approximately 14,300 or 15.2 percent of the total licenses issued were turned in to be canceled (inactivated).

## Governor Signs Bill Exempting Real Estate Salesmen From Unemployment Insurance Tax

Governor Earl Warren has signed Senate Bill No. 1573, which was introduced in the California Legislature by Senator Arthur H. Breed, Jr., of Alameda County. This bill exempts licensed real estate salesmen, whose earnings depend solely on commissions, from the payment of California unemployment insurance taxes. It was backed by the organized real estate industry which claims resulting savings will run into hundreds of thousands of dollars.

The measure does not go into effect until September 22, 1951 (90 days after the Legislature adjournment date). After that date, if the broker and salesman want to continue under the terms of the Unemployment Insurance Act, they may do so on a voluntary basis by making application to the Auditing Section of the California Department of Employment.

### Amendment Not Retroactive

This amendment to the law is not retroactive in effect. That means that the unemployment insurance tax must be paid, and its coverage is effective, up to September 22d. Claims for refund are not in order unless in individual cases a ruling is made that the salesmen were independent contractors and not "employees."

It should be pointed out that the salesman, once he discontinues the payment of unemployment insurance taxes, loses both unemployment and disability insurance coverage available under the terms of the act. However, it is reported that the individual can purchase from private insurance companies disability benefits at a premium cost substantially similar to the salesman's present contributions (1 percent of the first \$3,000 of his annual earnings) to the Unemployment Insurance Fund.

**REAL ESTATE BULLETIN**

Sacramento, July, 1951

*Published Bimonthly by the*  
**DIVISION OF REAL ESTATE**  
 STATE OF CALIFORNIA  
 EARL WARREN, Governor

D. D. WATSON  
 Real Estate Commissioner

M. R. GRIFFIN, Administrative Assistant

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**DISCIPLINARY ACTION—MAY AND JUNE**

NOTE: Any person whose license has been suspended or revoked, or whose license application has been denied, has the right to file a petition for writ of mandate. Generally, this must be done within 30 days after the effective date of the decision.

Although a number of hearings are held on denials of licenses where the applicant's good reputation is concerned, the Real Estate Commissioner does not feel that any public purpose would be served by the publication of the names of those applicants to whom the privilege of licensing is denied.

**LICENSES REVOKED DURING MAY AND JUNE, 1951**

| Name   | Address  | Effective date | Violation   |
|--|--|----------------|---|
| Richards, Walter Lee (also known as Lee MacInnis)..... | 4231 Farmdale Ave., North Hollywood                | 5/ 4/51        | Sec. 10177 (b), (f)   |
| Real Estate Salesman                                   |  |                |   |
| Jessen, Andreas Peter.....                             | 333 Fourth Ave., San Francisco                     | 5/19/51        | Secs. 10176 (a), (e), (i); 10177 (f); 10301 (a), (e), (i) & 10302 (e) |
| Real Estate Broker                                     |  |                |   |
| Business Opportunity Broker                            |  |                |   |
| Brown, Patrick Francis.....                            | 1826 E. Compton Blvd., Compton                     | 5/19/51        | Sec. 10177 (f)  |
| Restricted Real Estate Broker                          |  |                |   |
| Brock, Robert Lee.....                                 | 1318 E. 104th St., Los Angeles                     | 5/25/51        | Sec. 10177 (f)  |
| Real Estate Salesman                                   |  |                |   |
| Young, Helen P.....                                    | 10054 Culver Blvd., Culver City                    | 5/25/51        | Sec. 10177 (f)  |
| Real Estate Broker                                     |  |                |   |
| Day, Frank Hamilton.....                               | 10505 Hawthorne Blvd., Inglewood                   | 5/29/51        | Secs. 10162 & 10165   |
| Real Estate Broker                                     |  |                |   |
| Rector, Logan Samuel.....                              | 1808 Lincoln Blvd., Venice                         | 5/29/51        | Secs. 10162 & 10165   |
| Real Estate Broker                                     |  |                |   |
| Frankfort, Milton Samuel.....                          | NE. cor. Laurence Way and Ryan Ave., Lake Elsinore | 6/13/51        | Secs. 10156.7 & 10177 (b), (f)  |
| Restricted Real Estate Broker                          |  |                |   |
| Smith, Charles Sidney.....                             | 1441 W. Century Blvd., Los Angeles                 | 6/27/51        | Secs. 10176 (e), (i) & 10177 (f)                                      |
| Real Estate Broker                                     |  |                |   |

**LICENSES SUSPENDED DURING MAY AND JUNE, 1951**

| Name                        | Address                                    | Effective date and term | Violation  |
|-----------------------------|--|-------------------------|--|
| Lewis, Max Charles.....     | 9601 S. Figueroa St., Los Angeles          | 5/ 8/51<br>30 days      | Secs. 10177 (f) & 10302 (e)                      |
| (Dba A & M Real Estate)     |  |                         |  |
| Real Estate Broker          |  |                         |  |
| Business Opportunity Broker |  |                         |  |
| Robinson, Florence May..... | 125 E. Alejo St., Palm Springs             | 5/25/51<br>30 days      | Secs. 10130; 10134; 10177 (d), (f)               |
| Real Estate Salesman        |  |                         |  |
| Burkhead, Nora E.....       | 2122 1/2 E. Florence Ave., Huntington Park | 5/28/51<br>30 days      | Secs. 10162 & 10165                              |
| Real Estate Broker          |  |                         |  |
| Blazek, Charles.....        | 316 Santa Rosa Ave., Santa Rosa            | 6/11/51<br>6 months     | Secs. 10176 (a), (g), (i); 10177 (f) & 10302 (e) |
| Real Estate Broker          |  |                         |  |
| Business Opportunity Broker |  |                         |  |
| Blake, Charles Joseph.....  | 316 Santa Rosa Ave., Santa Rosa            | 6/11/51<br>3 months     | Secs. 10176 (a), (g), (i); 10177 (f) & 10302 (e) |
| Real Estate Broker          |  |                         |  |
| Business Opportunity Broker |  |                         |  |

**Subdivision "Stop Orders" Issued**

Climaxing a long "fight" made by residents of the area, a formal hearing was held recently regarding several subdivisions in the Sugarloaf area near Big Bear, which appeared to have been inadequately served with water by a mutual water company.

After one day of testimony, by stipulation, the sale of lots or parcels in these subdivisions was ordered stopped until such time as a public utility water system had been issued a permit to serve the area and until an adequate supply of domestic water was actually made available to the lots in the tract.

The Real Estate Commissioner is concerned about the problems created by some other mutual water companies which are not subject to regulation except during the period of issuance and sales of shares of stock. It has been alleged that some subdividers have represented that assured supplies of water are available to supply lots they are selling; whereas in reality the mutual water companies are unable or unwilling to fulfill their commitments.

Thorough investigations in all such cases will be made in order to determine whether or not the sale of lots in these subdivisions should be stopped.

**Rules Changed for Registration Under Regulation X**

The May issue of the *Bulletin* quoted a Federal Reserve Bank letter dated April 25, 1951, which stated that real estate brokers were automatically registered under Regulation X, and it was not, at that time, necessary to register formally with the FRB.

Shortly after the *Bulletin* went to press, the Board of Governors of the Federal Reserve System issued an amendment to Regulation X which required many licensees to register on or before June 30th.

Persons required to register are those "engaged in the business on May 31, 1951, of extending real estate credit with respect to residences, residential property, multiunit residential property, or nonresidential property, in-

cluding any person who acts as an agent for a lender in arranging for such credit."

For the purpose of Regulation X, a person is deemed to be engaged in such business if, in his own right or as an agent or fiduciary, he either:

(1) extends or has extended such real estate credit more than three different times during the current calendar year or during the preceding calendar year, or

(2) extends or has extended such real estate credit in an amount or amounts aggregating more than \$50,000 during the current calendar year or during the preceding calendar year.

Registration is to be made on Form FR 269. Contact the nearest Federal Reserve Bank or branch for this form and for complete information if you have not already done so.

## Veterans Home Purchase Plan Ceiling Raised

Governor Earl Warren has signed a bill raising the amount the California Department of Veterans Affairs may advance for purchase of a home for a qualified veteran from \$7,500 to \$8,500. The bill also contains a provision which allows the department to increase the amount of advances toward purchases of farms from \$13,500 to \$15,000. The legislation was introduced by Assemblyman Richard H. McCollister, and becomes effective September 22, 1951; that is, 90 days after the adjournment of the Legislature.

Another important feature of the legislation is the provision to raise to \$11,500 the allowable maximum appraised value of a home which the department might purchase for the veteran. The allowable maximum appraisal on a farm eligible for purchase is raised to \$16,500. Previously these amounts were limited to \$10,000 for a home and \$15,000 for a farm.

### Korean Veterans Eligible

The Legislature and the Governor also approved the extension of the benefits of the farm and home purchase plan to California veterans of the Korean action. The term "veteran" now includes anyone in the military or naval service of the United States at any time from June 27, 1950, to a future date to be established by the Governor. Also approved at this session, were plans to put a new \$150,000,000 bond issue before California's voters in 1952. The proceeds of the issue would be used to carry on the California Veterans Farm and Home Purchase Plan.

The plan, created by the Legislature in 1921, permits the State Department of Veterans Affairs to assist qualified California veterans to acquire suitable farm or home property at low financing cost. The California Department of Veterans Affairs, after all requirements have been met, purchases the home or farm using state funds, raised by self-liquidating bond issues, plus funds advanced by the veteran. The property is purchased in the name of the department which in turn sells to the veteran on a contract of sale.

## BROKERS—DO YOU WANT A COPY OF THE 1951-52 DIRECTORY?

Copy for the 1951-52 Directory of Brokers and Salesmen Licensees of the Division of Real Estate will go to the printer as soon as the current license lists have been completed. If you want a new Directory, please send in your request now so we can adjust our printing order to meet the demand.

Each licensed broker is entitled to a free copy of the Directory of Licensees upon his request therefor. *But, brokers who want copies are asked to order their Directories now.* Send a postcard or letter asking that a copy be reserved for you. Give your name, business address and license number. Address your request to the Division of Real Estate, 1021 O Street, Sacramento.

Only by reserving a copy, can you be assured of getting one of the 1951-52 Directories of Licensees. In the interests of economy, we plan to print only enough to take care of reservation requests.

## Reference Book

A recent court case in Los Angeles offered an interesting sidelight on the Division of Real Estate's Reference Book. A broker had sued for commission basing his claim on a listing which he held.

The point at issue was whether this listing was "open" or "exclusive." When the case was first heard, the 1948 edition of the Reference Book was introduced in evidence for its definition of an "open listing." The court found for the defendant and, upon appeal, the District Court of Appeal held it was **proper to introduce in evidence the Division of Real Estate Reference Book to establish a definition of an "open listing."**

## Branch Office Licenses For Partnerships

When a branch office license is issued to a partnership, the official partnership name appears on the license. However, only one of the partners is named on this branch office license—the one who is set forth as senior member of the organization.

No names beyond this first name appear on the branch office license even though one or more of the unnamed partners might be operating out of this particular branch. The fee for such a branch office license is \$1 and the one license entitles all of the regularly licensed members of the partnership to operate out of the branch office.

## That Criminal Record Question in Applications

All applications for licenses issued by the Division of Real Estate contain a question concerning the applicant's law violation record. It is highly important that the license applicant answer this question fully and honestly.

Regardless of how minor the law violation may seem to the applicant or his employing broker, the fact that the applicant falsifies his answer to the question is of great importance to the commissioner. It is a strong indication that his "truthfulness" is open to question.

The applicant is expected to give a full account of his law violations, without exception. If he has merely had a series of parking tickets or other minor traffic violations, he can so state generally. However, the commissioner does not consider that drunk driving, manslaughter on the highways, and similar convictions are minor.

The commissioner recognizes that many honest and respected citizens have been convicted of traffic viola-

tions and other minor crimes. It is not likely that these will be considered to reflect upon the applicant's honesty, truthfulness and good reputation unless they are unusually numerous.

You, who are licensees, should advise the applicant for license to make full disclosure of any past violations of law. **Making a false statement on the application concerning a minor crime, is often considered more serious than the conviction of the crime, in determining the applicant's honesty.**

## Appraisal Courses To Be Offered at USC

The American Institute of Real Estate Appraisers announces two courses, Real Estate Appraisal I and Real Estate Appraisal II (Urban), will be offered at the University of Southern California later this year.

Real Estate Appraisal I, scheduled August 6th through 18th, will be a study of the fundamental theories and principles of appraising urban and rural properties and will be illustrated by demonstration-case studies.

Real Estate Appraisal II, which will be given August 20th to September 1, 1951, is strictly an advanced case-study course, and open only to those who have completed the first course, or who have certain experience.

Students who secure satisfactory grades in the courses will be given credit toward the MAI designation. The tuition fee is \$75 per course. For further information, write the American Institute of Real Estate Appraisers, 22 West Monroe Street, Chicago 3, Illinois.

## Licensees' Responsibilities

A real estate license imposes upon the licensee definite legal and ethical restrictions in the conduct of his business. The broker and his salesman owe a responsibility to their clients, and are prohibited by law from personally profiting by virtue of their agency, except for the agreed compensation for their services.

In a reported case *Thompson v. Stoakes* 46 Cal. App. 2d 285, the court summarized the duties of the agent as follows:

"It is elementary, of course, that an agent is in duty bound to disclose to his principal all material facts and circumstances of the transaction handled by him; that the agent must exercise the utmost good faith; that he must acquire no secret interests adverse to his principal; that he cannot lawfully make a secret personal profit out of the subject of his agency; that if an agent conceals his interest in the property sold he is liable to his principal for all secret profits made by him; that where an agent falsely represents the figure at which property can be purchased and then purchases it himself at a lower figure, charging his principal the larger price and pocketing the difference, he will be compelled to disgorge the secret profits; that the property may have been worth the amount charged the principal is immaterial."

## UC Extension Real Estate Education Program

Aided by appropriations made by the California Legislature from the license fee fund of the Division of Real Estate, the University of California is expanding its real estate educational facilities in several fields.

Generally speaking, those who are now licensed will receive the most direct benefit from the courses offered by the Extension Division, or from regional institutes and local conferences for which the university will supply speakers and films.

Those who eventually plan to enter the real estate field will be able to specialize in real estate education while completing undergraduate or graduate work leading toward university degrees.

### Location of Extension Division Courses

Off-campus courses are now being offered in Berkeley, Long Beach, Los Angeles, Oakland, San Diego and San Francisco, and more than 600 individuals are now enrolled throughout the State.

This program will be offered in any section of the State where a sufficient demand is shown by the real estate group of that area. Classes are expected to be established soon in such areas as Sacramento, Stockton, Fresno, Monterey, Santa Cruz, Napa-Santa Rosa and San Jose-Peninsula.

The university extension has suggested that interested individuals make their requests through local real estate boards, because group requests make it possible for the university to take prompt action in establishing courses.

### Types of Courses Offered

Comprehensive coverage of real estate subjects is offered in the extension program. The courses include real estate principles, real estate practice, real estate law, appraisal and valuation of real property, real estate management, real estate finance, general insurance, salesmanship, sales analysis, advertising principles, investments, city and regional planning, and construction costs and estimating.

### Certificate in Real Estate

A "Certificate" in Real Estate will be granted to individuals who complete certain specified work in the Extension Division. Any interested person may take any course individually, quite

apart from work toward a certificate. However, if a certificate is desired, it can ordinarily be achieved in two years if enrollment is made in two courses each semester.

In the curriculum leading to the certificate there are three groups of courses, the first containing courses of value to anyone in the real estate business, the second emphasizing special aspects of real estate, and the third embracing associated fields.

**For attainment of the certificate, all of the courses of the first group must be completed, including two whose practical usefulness may be demonstrated by description of the contents.**

These two courses are "Real Estate Principles XL 180," which surveys the business methods, economic problems and legal background of real estate operation, and studies ownership estates, liens, mortgages, taxes, leases, deeds, escrows, title problems, brokerage, subdivisions, appraisals and zoning and building ordinances; and "Real Estate Law 824 AB," which tackles topics like estates in real property, ownership and rights incident to ownership of real estate, real estate contracts, transfers of real estate, wills and probate procedures, trusts, inheritance taxes, and recent legislation governing real estate transactions.

Selection is permitted from the other two groups of courses, which concern management, finance, insurance and salesmanship, and other specialized and related subjects.

## Highest in History

When the Empire State Building, world's tallest structure, changed owners recently, the transaction was reported as the largest single building sale in history. A New York real estate firm participated, and the commissions were estimated at \$1,000,000.

## University of California On-campus Real Estate Specialization

In addition to the Extension Division Program of the University of California, the university is also providing to undergraduate students the opportunity to specialize in real estate.

The university stresses a solid background in economics and business practices for students planning to enter the real estate field. A student is required to complete his first two years of instruction in the broad subjects of general education, and he must take courses in accounting, business law, economics of enterprise, business fluctuations and forecasting, corporation finance, industrial relations, marketing and production organization.

To establish real estate specialization, the student must take courses in fundamentals of real estate, property valuation, and a selection from such subjects as real estate law, economics of the building industry, research in business problems, land economics, city life and city planning, urban aesthetics, public finances, etc.

Course combinations are arranged to meet the needs of various careers in real estate. A student planning to enter real estate brokerage would be advised to include investment, insurance, advertising and sales subjects among his courses; while a student expecting to enter the residential construction industry would be advised to stress homebuilding economics, industrial relations, site planning and municipal government. The student aiming at the real estate finance and mortgage field could emphasize accounting, money and credit, pro-

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duction management and real estate finance courses; while still another curriculum, including economic geography, domestic trade, corporation finance and management problems would be adapted to the needs of the student planning to enter commercial and industrial real estate.

### Graduate Study in Real Estate

Graduate students may work toward the graduate degree of Master of Business Administration with specialization in real estate, or may take urban land economics as their field for the Ph.D. degree in economics. The graduate student must complete a research project in his field of specialization. Graduate students have recently worked on such research projects as "Financing Real Estate in the San Francisco Bay Area," "Property Valuation in Urban Blighted Areas," and "An Appraisal of the Veterans' Administration Real Estate Loan Program."

Most of these research projects have been financed through the use of special real estate research funds made available to the university's Bureau of Business and Economic Research.

## Teachers and Realtors Cooperate

In connection with the University of California's Real Estate Education Program, a number of California realtors are preparing instructors' syllabi in such subjects as Real Estate Fundamentals, Real Estate Practice, Real Estate Finance, Real Estate Management and Real Estate Appraisal and Valuation, with the cooperation and guidance of the faculty of the university.

This procedure is being followed so that on the one hand the content of the courses will be standardized and uniform wherever the courses are given, and on the other hand the contents of the courses will be practical and of value to those who will be, or are, actually working in the real estate field.

## Educational Conferences Successful

The 1951 series of educational and sales conferences conducted by the California Real Estate Association ended June 13th. One-day conferences were held in 13 cities, from San Diego in the south to Eureka in the north. Attendance exceeded 2,500 persons—averaging almost 200 per meeting.

During the course of the series, a total of 110 of the leading real estate sales personalities, appraisers, title experts, etc., lectured or participated in panel discussions on ways and means to improve ethics, and service and sales methods in the real estate business.

Although the CREA conducted the conferences, they were open to licensees who were not affiliated with the association.

## Must Deliver Copy of Listing Agreement

Section 10142 of the Real Estate Law provides that when a licensee prepares or has prepared an agreement authorizing or employing such licensee to purchase or sell real estate for compensation or commission, the licensee must deliver a copy of the agreement to the person signing same. It further provides that acknowledgment of receipt of the copy may be made on the face of the agreement. The purpose of this law is quite evident, as it affords protection to the listing party against a change in the listing or the filling in of blank spaces in the listing already signed by the seller.

However, the question has been asked as to what is required of a licensee when he receives a listing in the form of a letter or in the form of a telegram sent by the owner of the property, generally from a distant place.

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The law plainly requires that a copy of the agreement be given to the person signing the same, *when it has been prepared by the licensee or he has had the agreement prepared*. Therefore, it is our opinion that, when a signed agreement is sent in to a broker's office in the form of a letter or a telegram originating from the home or office of the signer, no copy of the letter or telegram need be sent to the signer by the

## Complaints Can Be Reduced

It appears the Division of Real Estate would receive fewer complaints if salesmen and brokers would make sure that all parties concerned understand the transaction before their deals are placed in escrow. More care in this respect on the part of some licensees would eliminate many "misunderstandings" which reflect unfavorably on the real estate profession.

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*licensee as it is not an agreement which was prepared by the licensee or prepared under the direction of the licensee.*

## What Constitutes Moral Turpitude

The Real Estate Law specifically states that the commissioner may revoke or suspend the license of any broker or salesman who, within the three years immediately preceding, has been convicted of a felony or a crime involving moral turpitude.

Originally, the license law made only felony convictions a cause for action, but it was amended recently to include crimes involving moral turpitude. These crimes may be either felonies or misdemeanors. The California courts collectively have established the meaning of "moral turpitude," and hearing officers are guided by these decisions.

The commissioner, in considering whether or not the crime involves moral turpitude, is guided by *Lantz v. State Bar*, 212 Cal. 213. This was an action on a petition to set aside a disbarment of an attorney who had been accused of procuring a will. The court says, at pages 218 and 219:

"(2) Moral turpitude, as defined by Bouvier, and approved by this court in the case of *Matter of Coffey*, 123 Cal. 522 (56 Pac. 448), comprises 'everything done contrary to justice, honesty, modesty, or good morals.' Petitioner accepts this definition as correct.

"For an attorney to treat his client unfairly and thereby gain an advantage over the latter is a species of dishonesty which has always met with the severest censure and condemnation by the courts and by the general public. Any such transaction involves moral turpitude on the part of the attorney, and evinces on his part a dishonest purpose to acquire the property of his client."

The attorney in the foregoing circumstances is much in the same position as a broker who acts as an agent for his principal. Both are in a position of trust, and have a fiduciary relationship with the client or principal. Any broker who obtains a secret profit is therefore guilty of a breach of this relationship. When a licensee, however, is convicted of any crime as defined above, whether or not it was connected with his real estate business, the grounds for disciplinary action exist.

## HOLC Goes Out of Mortgage Business

The Home Owners' Loan Corporation closed its books, locked its doors, and went out of business as a lending and mortgage-holding agency of the government this past month with a small ceremony at its sole remaining office in New York. It turned over a check for nearly \$14,000,000 of surplus to the Treasury, representing the results of the HOLC's \$3.5 billion rescue task of the depression years.

Thus ended the agency established by Congress in 1933 when foreclosures of homes were taking place at the rate of a thousand a day and whose work averted the loss of their properties by 800,000 homeowners. During its first three years of existence, HOLC refinanced 1,017,821 defaulted home loans, equal to one of five of all the mortgages on owner-occupied homes in the Nation's nonfarm areas. The average borrower was then delinquent two years on his old mortgage and up to three years in arrears on taxes. These families were granted modernized, monthly payment loans.

In exchange for frozen mortgages, harassed financial institutions and individual lenders received \$2.75 billion

from HOLC, which disbursed \$490,000,000 also to cities and towns in payment of delinquent taxes of its borrowers and taxes on its own acquired properties. These actions helped to restore collapsed values of residential real estate. Since it ceased making loans in 1936, the major work of HOLC has been collecting on its mortgages and assisting thousands of its borrowers to meet their payments.

A speeded-up program of liquidation of HOLC began in 1949, when the agency had 201,000 mortgages outstanding on its books. Their dollar value amounted to \$319,000,000. All remaining mortgages have now been sold to 180 private financial institutions throughout the Country, who have agreed to maintain the liberal terms of the HOLC contracts.

The world's best credit risk was the label placed on the American homeowner by J. Alston Adams, a member of the Home Loan Bank Board, at the closing ceremony. The HOLC experience proved also, he said, "that the mortgage on the owner-occupied home is the best security I know of." (From **Headlines**)

## Real Estate Brokers Under OPS

Apparently, fees for real estate services, such as brokerage, appraisal, management, etc., are subject to Ceiling Price Regulation No. 34, according to the Regional Office of Price Stabilization.

Their inclusion in the regulation means that brokers must post in a conspicuous place, accessible to clients, a list showing fees charged for various services. These fees are not to be higher than the highest fee for similar service charged during the base period—December 19, 1950, to January 25, 1951. Statements under CPR No. 34 were required to be filed with the District OPS office by June 16, 1951.

Full details may be obtained from your local OPS office.

## Salesman Licensees On the Increase

When the amendments to the license law requiring previous experience or specialized education on the part of the applicant for original real estate broker license became effective October 1, 1949, the immediate effect was a 90 percent drop in the average number of broker applications received each month. The same date marked the beginning of a rapid rise in the number of persons applying for real estate salesman licenses.

Almost 100 percent of the brokers renewed their licenses for the 1950-51 year—whether "active" or "inactive." About the only losses to the brokers' ranks resulted from deaths, removals from the State and revocations.

The net result in that there were about 1,000 fewer real estate brokers licensed during the 1950-51 year than in the previous year and approximately 5,000 more licensed salesmen.

However, at the end of the 1950-51 license year, there were still about twice as many real estate brokers as there were salesmen. This is almost exactly the reverse of the situation in the late 1920's when salesmen outnumbered brokers by approximately two to one.

## Licenses for Selling Stock

The May issue of the *Real Estate ulletin* referred to a decision of the California Supreme Court which held that an agent who effects the transfer of real property by means of selling the stock in the corporation owning the property, must have a license from the Division of Corporations.

The Corporation Commissioner has advised this division that there are two types of licenses for such transactions.

One is an "agent's" license which requires a \$15 fee, but no bond or examination, while the other is a "broker's" license which requires a \$25 fee and a \$5,000 bond, but which requires no examination.

Although it is not necessary to be employed by a licensed stockbroker, the "agent's license" is limited because a separate license is required to represent each individual owning the stock to be sold. However, in isolated cases where all of the stock is owned by a single individual, or by a very few, an "agent's license" may be preferable to a "stockbroker's license."

The "stockbroker's license" may be more practical when a number of individual sellers of stock are involved.

Further information about this matter may be obtained from the Commissioner of Corporation's offices which are located in Sacramento, San Francisco, and Los Angeles.

## Business Opportunity Licenses

It is not the purpose of the Real Estate Commissioner to urge anyone to hold a particular type of license. However, it should be noted that the acts permitted to holders of real estate and business opportunity licenses are closely related, and often the holder of one or the other type of license finds he cannot legally collect a full commission for his services unless he holds both licenses.

**The holder of a business opportunity license is particularly restricted. His compensation for services is limited strictly to the sale of personal property, i.e., the stock, fixtures and good will of a business. He cannot participate in commissions from the incidental sale or lease of real property.**

Quite often the handling of the renewal or transfer of a lease, in connection with the sale of a business, involves

## Withholding Commission From Purchase Money

Brokers often seem to have the impression that deposit money is their money up to the amount of commission, and that they have the right to hold back commission out of deposit money even though the transaction is still pending.

The Real Estate Commissioner is often asked questions which betray this attitude on the part of the questioner. The commissioner believes Mr. Herbert L. Breed, General Counsel, California Real Estate Association, has given a comprehensive and authoritative analysis of the status of deposit monies in his column published in the February issue of the California Real Estate Magazine.

The question and Mr. Breed's answer follow:

**"QUESTION:** Is it all right for a broker to withhold commission after he has found a buyer, provided he puts the balance of the money into escrow or into a trust fund?

**"ANSWER:** Under ordinary circumstances a broker accepting a deposit on a piece of real property does so as the agent of the vendor, and the vendor is entitled to the deposit. This is true where the broker has a listing from the vendor in which authority to accept a deposit is given. The vendor has a right to demand the deposit from the broker, who cannot withhold the same legally.

**"In situations wherein there is no listing or the listing does not contain a clause authorizing**

**the broker to accept a deposit, the broker takes the deposit initially as the agent of the purchaser. In these circumstances, however, when the vendor accepts the offer by his signature to a deposit receipt, thus ratifying the acts of the broker, the broker then holds the deposit as agent for the vendor.**

**"Whether the deposit has come into the broker's hand by virtue of prior authorization to accept the same or by ratification of the taking of the deposit at a later date, the broker has no legal right to retain the deposit for purposes of securing payment of his commission from the vendor. The money in point of law belongs to the vendor.**

**"Unless the agreement between the vendor and the broker contains language to the effect that the amount of the deposit received for may be retained by the broker as his commission, the money legally belongs to the vendor. A broker must recover his commission from the vendor by some other means. The obligation to pay a commission is a general one, and does not relate to any specific fund."**

## Checks Received Without Explanation

Through the mail, this division receives many checks not accompanied by letters of explanation as to the application of the check. Sometimes a notation appears on the check itself, but, since the check must be deposited, no record would remain for the division's information.

When such checks are received, the result is a considerable delay in processing and in performing the service desired by the licensee. **Therefore, all licensees are requested to be sure and send a letter or a form with each check submitted so that the division may give prompt and efficient service.**

a larger commission than the handling of the business itself.

The real estate broker who ordinarily does not handle the sale of going businesses, occasionally finds that he is able to sell such a business in the course of his activities. It is then that he wakes up to the fact that he is unable to legally charge or collect a commission for his efforts in selling the business. For this reason many business opportunity licenses are held by real estate licensees, so that they may profit from the incidental sale of a business.

## Subdivision Public Reports Must Go to Purchasers

Those selling subdivision property should note that it is unlawful to accept a deposit receipt or execute an agreement of sale on any lot, improved or unimproved, in a subdivision until the prospective purchaser (1) has been given a true copy of the Commissioner's Public Report, (2) has been given an opportunity to read it, and (3) his receipt has been taken therefor.

In other words, in addition to giving the prospect an opportunity to read the report and getting his receipt therefor, *he must actually be given a copy of the report to keep for his own use.*

## Broker Sign Violations

Although the survey of brokers' offices by the Real Estate Commissioner's deputies has not been completed, over 10,500 apparent violations, principally of the law and regulations covering display of broker's signs and licenses, have been reported in the present drive for conformance. Violation notices have been, and are being, served on all those involved.

### Are You Using an "Exclusive Right to Sell" Listing?

A California District Court of Appeal recently made a decision which should be of interest to all brokers using "exclusive listings." The case is *Strout v. Gregoire*, Civil No. 7819, District Court of Appeal, Third Appellate District (Colusa).

The listing in question contained the words "sole and exclusive right to procure a purchaser," but the court interpreted this to be, in effect, merely an exclusive agency which did not protect the broker in case of a sale by the owner. Consequently, a commission to the broker was denied after the owner himself sold the property during the term of the listing.

The court made a distinction between an "exclusive right to find a purchaser" and an "exclusive right to sell," and pointed out that the right of an owner to sell the property himself will not be taken away from him unless the contract clearly states that is the agreement.

In contrast to the listing involved in this case, it is noted that standard forms prepared by the California Real Estate Association and other real estate organizations usually not only have the wording "the exclusive and irrevocable right to sell," but also provide that the commission is to be paid if the property is "sold by said broker or by me," the "me" in this case being the owner of the property.

This is once again good evidence of the value of using a standard form which has been prepared on the basis of long experience and with due consideration for all contingencies.

### NOTICE

A civil service examination for Deputy Real Estate Commissioner I is scheduled tentatively for September 22d. Final filing date of applications with the State Personnel Board, 1015 L Street, Sacramento, will probably be around September 1st. Applications and full particulars can be obtained from any State Personnel Board office.

The job pays \$341 to \$415 per month, and also offers opportunities for advancement within the Division of Real Estate. Minimum experience qualifications include either two years full-time real estate work or three years full-time paid experience in investigation work. Education equivalent to graduation from college is required. Additional qualifying experience may be substituted for the required education on a year-for-year basis.

The State Personnel Board will give examinations for Assistant Right of Way Agent positions on September 15th. Final filing date is August 25th. Applications must be filed with the State Personnel Board, 1015 L Street, Sacramento, before that date.

The salary runs from \$341 to \$415 a month. The position calls for two years experience in rights of way acquisition for public use or three years appraisal and valuation experience connected with transfer and sale of real property, right of way engineering, or title examining.

### Subdivision Law Violator Gets Fine and Suspended Jail Sentence

For failure to file an "Intention to Sell" with the Real Estate Commissioner, a Sacramento "subdivider" was fined \$250 and given a 90-day suspended county jail sentence by Sacramento Municipal Judge James M. McDonnell. The trial, the first of its kind in Sacramento County, resulted from the defendant's sale of more than four parcels from his single land-holding without conforming to the subdivision law. Among the several parcel buyers were servicemen who claimed misrepresentation in the sales.

At the trial, the defendant changed his original plea of "not guilty" to "guilty," and his suspended jail sentence was conditional on good behavior for one year. The condition of "good behavior" included the court's stipulation that title to the several parcels of land involved in the charges be cleared up, or that satisfactory arrangements be made with the purchasers.

In a similar action brought in Placer County, the same operator agreed to satisfy the demands of complainants there and to make the necessary subdivision filing.

### Court Decision on Installment Payment Contracts

Purchasers of real estate on installment contracts, which specify definite payments per month "or more," are affected by a recent Appellate Court Decision, *Harman v. Walsh*, 102-ACA-674. In this case the buyer had paid more each month than called for by the contract in order to reduce the unpaid principal balance more rapidly. He then claimed the right to quit pay-

ing until the installments due caught up with the amount he had paid.

The court ruled that he could not do this without becoming in default; that he had the privilege to pay more than the stipulated amount any month, but did not have the privilege of paying less in any month than called for by the contract. Therefore, he was held in default even though he had paid more than required.

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