



Real Estate Bulletin

Official Publication of the California Division of Real Estate

EDMUND G. BROWN, *Governor*

August 1966

MILTON G. GORDON, *Commissioner*

COMMISSIONER OUTLINES BLUEPRINT FOR PROFESSIONALIZATION

1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	
	4 years experience for broker license Repeal M.O.G. License 2 years college in lieu		Partnership & Corporation Licenses Discontinued 2 years college enacted		Inactive Licenses Phased Out 2 years college effective		Prof. Designation Enacted 4 years college enacted		4 years college effective		Prof. Designation Effective	PROFESSION R. E. Sales License Discontinued Legislation Abolishing R.E. Sales Enacted
VOCATION												

The chart above depicts the chronological progress of a blueprint or plan to achieve professional status for real estate practitioners. The plan, treated in the next column, has been presented to the industry and others by Commissioner Gordon for discussion and modification. Note that sufficient time intervals are provided to allow persons with real estate career aspirations to mount the successive steps.

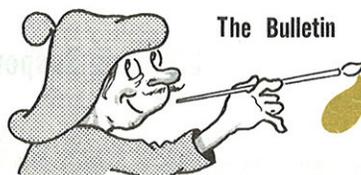
How to Meet Provisions of the Bulk Transfer Act

By Professor Kent McKee

The Bulk Transfer Act is Division 6 of the new California Commercial Code which became law on January 1, 1965. It should be pointed out that, though the Bulk Transfer Act was adopted as a part of California's adoption of what is commonly known as the Uniform Commercial Code, the California version with respect to bulk transfers differs considerably from the uniform act. This is because the California Legislature attempted to refrain from drastically changing the existing California law with respect to bulk transfers.

The basic purpose of the act is to deal with a particular form of commercial fraud, namely this situation: A merchant, owing debts, sells his stock in trade and equipment, pockets the proceeds, and disappears leaving his creditors holding the bag. The act attempts to prevent this by requiring the buyer from the merchant to record and publish notice of the transfer, or risk losing his interest in the property to the creditors of the

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Goes to Color

In keeping with modern printing practice, the *Real Estate Bulletin* is dressed up with another color in addition to the usual black and white—temporarily at least. Color production will be on a trial basis for the next two issues. Continued use of color will depend upon the reactions of readers. Please tell us what you think.

State Official Offers Tentative Plan for Real Estate Industry

At a recent industry meeting, Commissioner Milton G. Gordon unveiled a basic proposal for a blueprint or plan designed to achieve eventual professionalization of the real estate industry.

"This is a bold new concept," Gordon said. "It will be resisted by many people for different reasons. It will not be enthusiastically received by those who are slow to accept change and innovation or those who doubt the real estate business can ever be professionalized. But for the thousands in the real estate business who give allegiance—not just homage—to the cause of professionalism, it is a beginning."

The Commissioner emphasized the blueprint does not pretend to be more than a tentative framework—a written basis for discussion, development and refinement. Before a blueprint which can be supported by all interested parties is evolved, there must necessarily

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DIVISION OF REAL ESTATE

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MILTON G. GORDON
Real Estate Commissioner

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Chief Assistant Commissioner

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DESIST AND REFRAIN ORDERS

Issued June 1966

Number of
orders

Violations

IN-STATE

3

Failure to provide for subdivi-
sion public report, promised recrea-
tion facilities, proper permit or
otherwise meet requirements of
Subdivided Land Act.

OUT-OF-STATE

3

Failure to comply with Califor-
nia subdivision requirements.

Disciplinary Action—April—May 1966

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, until a final determination of the court action. Names of persons to whom licenses are denied upon application are not published.

REB—Real estate broker
RREB—Restricted real estate broker

RES—Real estate salesman
RRES—Restricted real estate salesman

Licenses Revoked During April—May 1966

Name	Address	Effective date	Violation
Barry, Francis John (REB).....	630 W. Duarte Rd., Arcadia.....	4/ 5/66	Secs. 10177 (d), (f); 10237.3; 10237.8; 10238.3 and Sec. 2975 of R.E. Comm. Reg.
(Granted right to restricted license on terms and conditions)			
Nicolaus, Robert Henry (RES)....	2720 Forrest St., Apt. D, North Sacramento	4/ 5/66	Sec. 10177 (b)
Wilcox, Melvin William (RES)....	2910 El Rancho Dr., Santa Cruz...	4/ 5/66	Sec. 10177 (f) and (j)
Critchlow, William Lloyd (REB)...	2144 El Cajon Blvd., San Diego...	4/ 7/66	Sec. 10177 (b) and (f)
(RES).....	3958 Park Blvd., San Diego		
(Granted right to restricted license on conditions)			
Way, Dorothy Flower (REB).....	1230 H St., Eureka.....	4/12/66	Secs. 10176 (e), (i); 10177 (d), (f), (j) and Sec. 2832 of R.E. Comm. Reg.
dba Way Realty			
(Granted right to restricted license 30 days after effective date of decision on terms and conditions)			
Borders, Jack (REB).....	360 21st St., Oakland.....	4/19/66	Secs. 10160; 10162 and 10177 (d)
Engelhardt, Donald William.....	14044 Ventura Blvd., Sherman Oaks	4/19/66	Sec. 10177 (f) and (k)
(RRES)			
Wilson, Arthur Drew (REB).....	1787 Hester Ave., San Jose.....	4/19/66	Secs. 10176 (a), (b), (i); 10177 (d), (f), (g), (h), (j); 10237.3; 10237.4 and 10238.3
(Granted right to restricted license on terms and conditions 60 days after effective date of decision)			
Loring, Clyde James, Jr. (REB)....	1253 Winton Way, Atwater.....	4/20/66	Secs. 10176 (e), (i); 10177 (d), (f) and Sec. 2832 of R.E. Comm. Reg.
(Granted right to restricted license 90 days after effective date of decision on terms and conditions)			
Burke, John Edward (RES).....	1261 Lincoln Ave., Ste. 210, San Jose	4/28/66	Sec. 10177 (d) and (f)
(Granted right to restricted license on terms and conditions)			
Gross, Vance Leon (RES).....	877 Willow St., #122, San Jose....	4/28/66	Sec. 10177 (d) and (f)
(Granted right to restricted license on terms and conditions)			
Tula, Paul Rene (REB).....	2847 Mission St., San Francisco...	4/28/66	Secs. 10176 (a), (b), (g), (i); 10177 (f) and (j)
(Granted right to restricted license on terms and conditions)			
Horowitz, Aaron (RREB).....	5053 Mission Blvd., Ontario.....	5/ 2/66	Secs. 10176 (f); 10177 (f) and (k)
dba Magnet Real Estate			
(Stayed 2 years on terms and conditions 45 days after effective date of decision)			
Coleman, Preston (REB).....	3182 National Ave., San Diego....	5/ 3/66	Secs. 10159.5; 10176 (a), (i); 10177 (d), (f), (j) and Sec. 2731 of R.E. Comm. Reg.
Davis, Charles Virgil (REB).....	38248 N. Sierra Hwy., Palmdale..	5/ 3/66	Secs. 10145; 10162; 10164; 10176 (e), (i); 10177 (d), (f), (g), (j); Secs. 2830 and 2832 of R.E. Comm. Reg.
Newberg, Albert (RES).....	253 Covina Ave., Long Beach.....	5/ 3/66	Sec. 10177 (b) and (f)
(Granted right to restricted license 90 days after effective date of decision)			
Roosevelt, Jack Norman (RES)....	4230 Ranson St., Long Beach.....	5/ 3/66	Sec. 10177 (b) and (f)
St. Clair, Richard Emlyn (RES)....	5715 Lakewood Blvd., Lakewood..	5/ 3/66	Sec. 10177 (b) and (f)
(Granted right to restricted license on terms and conditions)			
Brent, Charles (REB).....	9363 Wilshire Blvd., Ste. 216, Beverly Hills	5/ 5/66	Secs. 10145; 10176 (a), (d), (g), (i); 10177 (d), (f) and (j)
dba Regal Realty			
(Stayed for 3 years on conditions 30 days from effective date of decision)			
Walker, Kenneth Arnold (RES)....	4140 1/2 Mildred Ave., Los Angeles..	5/11/66	Secs. 10176 (e), (i); 10177 (d), (f) and (j)
(Granted right to restricted license on conditions)			
Woods, George Gilbert (REB).....	2144 Concord Blvd., Concord....	5/11/66	Secs. 10176 (e), (i); 10177 (d), (f); Secs. 2830, 2831, 2831.1 and 2832 of R.E. Comm. Reg.
(Granted right to restricted license on terms and conditions)			
Milla, Oscar Rolando (RES).....	1036 Wilmington Blvd., Wilmington	5/17/66	Sec. 10177 (b) and (f)
Harrison, John (REB).....	5138 Hazeltine Ave., Sherman Oaks	5/20/66	Secs. 10176 (a), (b), (i); 10177 (f) and (j)
(Granted right to restricted real estate salesman license on terms and conditions)			
Gibbs, Andrew Jefferson (RES)....	4231 W. Pico Blvd., Ste. 6, Los Angeles	5/24/66	Sec. 10177 (f) and (j)
Maves, Robert Frank (RES).....	4582 Ospey St., San Diego.....	5/24/66	Sec. 10177 (b) and (f)
(Granted right to restricted license on terms and conditions)			
Little, Paul Francis (REB).....	1400 N. Hacienda, La Puente.....	5/25/66	Secs. 10176 (e), (i); 10177 (d), (f), (j); 10177.5; Secs. 2831; 2831.1; 2950 (d) and (g) of R.E. Comm. Reg.
dba Blue Chip Realty			
dba Pomona Valley Mortgage Co.			

Licenses Suspended During April—May 1966

Name	Address	Effective date and term	Violation
Fiske, Charles Clifford (RES)....	126 W. 25th Ave., San Mateo....	4/ 5/66 30 days	Secs. 10176 (a), (i) and 10177 (f)
Gagnon, Maurice Joseph (RES)....	8776 Brookhurst St., Anaheim....	4/ 5/66 45 days	Sec. 10176 (a)
(Stayed for 3 years on conditions)			
Reed, Sherwood Horace.....	3380 Argonaut Ave., Rocklin....	4/ 5/66 45 days	Sec. 10176 (a)
(REB & RES)			
(Stayed for 3 years on conditions)			
Rothman, Alexander (RES).....	5914 S. Crenshaw Blvd., Los Angeles	4/ 5/66 90 days	Secs. 10085; 10130; 10131; 10137; 10177 (d), (f); Secs. 2970 and 2971 of R.E. Comm. Reg.
(Stayed for 3 years on terms and conditions)			
Thornton, Thelma (REB).....	21494 Foothill Blvd., Hayward...	4/ 5/66 to and including 3/28/69	Secs. 10162; 10164 and 10177 (d)
(After 30 days from effective date, remainder or any portion thereof may be stayed on conditions)			
Winchester, Earl Ross (REB)....	161 W. 25th Ave., San Mateo....	4/ 5/66 45 days	Secs. 10176 (a), (i) and 10177 (f)
Wirch, LaRone Bernarr (RES)....	480 El Dorado Dr., Daly City....	4/ 5/66 30 days	Sec. 10177 (b) and (f)
McAllister, Dorothy Irene (REB)..	5437 Laurel Canyon Blvd., Ste. 207, North Hollywood	4/ 7/66 10 days	Secs. 10177 (f); (10301 (e), (i) and 10302 (e) as in effect prior to 1-2-66) and Sec. 2832 of R.E. Comm. Reg.

(Continued, col. 1, opposite page)

Licenses Suspended During April-May 1966—Continued

Name	Address	Effective date and term	Violation
McAllister, Roland (REB)	11937 Ventura Blvd., Studio City	4/ 7/66 10 days	Secs. 10177 (f); (10301 (i) and 10302 (e) as in effect prior to 1-2-66)
Chassey, Walter John dba Lincoln Mortgage Co. (REB)	730 S. Western Ave., Ste. 105, Los Angeles 7560 Woodman Pl., F-26, Van Nuys	4/12/66 180 days	Sec. 10177 (d), (f) and (h)
(Stayed for 30 months on terms and conditions)			
Lungo, Guy Anthony (RES)	730 S. Western Ave., Ste. 105, Los Angeles	4/12/66 180 days	Secs. 10130; 10131; 10177 (d) and (f)
(Stayed for 30 months on terms and conditions)			
Seamans, Leonard George (RES)	6738 Sunset Blvd., Hollywood	4/15/66 10 days	Secs. 10137; 10177 (d), (f) and (g)
Custom Properties Inc. William Stockton Mathews, Assistant Secretary (Stayed permanently)	1330 Gough St., San Francisco	4/19/66 5 days	Secs. 10137 and 10177 (f)
Doneson, Joseph (REB)	4995 Mission St., San Francisco	4/19/66 20 days	Secs. 10176 (a); 10177 (f) and (g)
(Stayed permanently)			
Donovan, Augustine George (RES)	7854 Festival Dr., Cupertino	4/19/66 60 days	Sec. 10177 (f), (g) and (j)
Dreith and Norton Realty Marvin Arthur Dreith, Pres.	1021 Geneva Ave., San Francisco	4/19/66 30 days	Sec. 10177 (f) and (j)
Durnerin, Romney Virginia (REB) dba Romney Realty	26033 Pacific Coast Hwy., Malibu	4/19/66 5 days	Secs. 10176 (i); 10177 (f) and (j)
Houlihan, John Francis (REB) (Stayed permanently)	785 E. El Camino Real, Sunnyvale	4/19/66 10 days	Sec. 10137
King, Charles Richard (RES)	1330 Gough St., San Francisco	4/19/66 5 days	Secs. 10130 and 10177 (f)
Mathews, William Stockton (REB) (Stayed permanently)	1330 Gough St., San Francisco	4/19/66 5 days	Secs. 10137 and 10177 (f)
Roth, Floyd (RES) (Stayed permanently)	4995 Mission St., San Francisco	4/19/66 10 days	Secs. 10176 (a); 10177 (f) and (g)
Smithson, Jean Mearle (RES) (Stayed for 3 years on conditions)	463 S. Auburn St., Grass Valley	4/19/66 90 days	Sec. 10177 (b)
Palmer, Albert (REB) (Stayed permanently)	12906 Moorpark St., North Hollywood	4/21/66 90 days	Sec. 10177.5
Steinman, Robert Albert (RES)	448 1/2 Cloverdale Ave., Los Angeles	5/ 3/66 90 days	Sec. 10177 (b) and (f)
West, Helen (REB)	2900 Jordan Rd., Oakland	5/ 3/66 30 days	Secs. 10176 (a), (i); 10177 (d), (f), (j) and Sec. 2903 of R.E. Comm. Reg.
Russo, Albert Louis (REB) (RES)	1855 The Alameda, San Jose 1545 Cameo Dr., San Jose	5/ 4/66 30 days	Secs. 10176 (a), (b), (i); 10177 (d), (f); 10237.3; 10237.4 and 10238.3
Goldberg, Robert (REB) dba Raleigh Realty & Investment Co. (Stayed for 3 years on conditions)	Ste. 4, 16611 Ventura Blvd., Encino	5/ 5/66 90 days	Secs. 10176 (d), (g), (i) and 10177 (f)
Hernandez, Hervey Charles (RES)	19246 Vanowen St., Reseda	5/ 5/66 30 days	Secs. 10176 (a), (e); 10177 (d), (f) and Sec. 2832 of R.E. Comm. Reg.
Middleton, Berniece Patricia (RES) (Last 60 days stayed for 2 years on conditions)	753 Foothill Blvd., La Canada	5/ 5/66 90 days	Secs. 10176 (a), (i); 10177 (f) and (j)
Kennedy, Thomas Jefferson (RES)	319 E. Weber Ave., Stockton	5/10/66 15 days	Secs. 10176 (a), (i) and 10177 (f)
Ladd, Kenneth Richard President of Sims & Grupe	319 E. Weber Ave., Stockton	5/10/66 45 days	Secs. 10176 (a), (i) and 10177 (f)
Partello, Roger Albert (RES)	1342 E. Chapman Ave., Orange	5/11/66 30 days	Sec. 10177 (b) and (f)
Collier, Donald Hiram (REB) (Stayed for 1 year on terms and conditions)	508 Balboa St., San Francisco	5/12/66 10 days	Sec. 10137
Williams, Robert Lawrence (REB) (Permanently stayed on conditions)	4729 Lankershim Blvd., North Hollywood	5/13/66 90 days	Secs. 10130, 10137, 10177 (d), (f), (g), (h); Secs. 2851, 2852, 2852.1 and 2853 of R.E. Comm. Reg.
Braden, Roland Charles (REB)	8234 Redwood Hwy., Cotati	5/16/66 15 days	Secs. 10177 (d); 11010; 11018.2 and Sec. 2795 of R.E. Comm. Reg.
Ditwell, Richard Redding dba Burbank Realty dba Montgomery Village Realty & Investment Co.	1823 4th St., Santa Rosa 2001 4th St., Santa Rosa	5/16/66 30 days	Secs. 10177 (d); 11018.2 and Sec. 2795 of R.E. Comm. Reg.
Casey, Cyril Robert (RES)	2877 Kalakaua Ave., Honolulu, Hawaii	5/17/66 60 days	Sec. 10177 (b) and (f)
Rogge, Harold George (REB) (Last 45 days stayed for 1 year on terms and conditions)	425 S. Moore St., Monterey Park	5/18/66 60 days	Secs. 10176 (a), (i); 10177 (f) and (j)
Signorelli, Vincent Anthony (REB) (Last 160 days stayed for 1 year on terms and conditions)	16505 Clark Ave., Bellflower	5/18/66 200 days	Secs. 10176 (a), (f), (i); 10177 (f) and (j)
Pasquan, Stephen Lawrence Sec. Treas., Dreith & Norton Inc. (REB) and (RES)	1021 Geneva Ave., San Francisco 267 Drake St., San Francisco	5/19/66 10 days	Sec. 10177 (f) and (j)
Graham, Burton Edward (REB) (Stayed for 2 years on conditions)	2830 Geary Blvd., San Francisco	5/24/66 30 days	Sec. 10177.5
Gridley, Arnold Stirewalt (REB) dba Gridley Realty Co. (Stayed for 2 years on conditions)	2830 Geary Blvd., San Francisco	5/24/66 30 days	Sec. 10177.5
Marsteller, Agnes Payne (RES) (Stayed for 2 years on conditions)	288 Miller Ave., Mill Valley	5/24/66 30 days	Sec. 10177.5
Zilberstein, Israel Aaron (RES)	223 1/2 Tower Dr., Beverly Hills	5/26/66 30 days	Secs. 10137; 10176 (i); 10177 (f) and (j)

SANTA ANA OFFICE MANNED

John W. Lamson, a 20-year veteran of the Los Angeles district office, was appointed Supervising Deputy in charge of the full-time branch office recently opened in Santa Ana. Lamson

will be assisted by Deputies William H. Wall and Larry Smith.

The office is located on the ground floor at 2215 North Broadway, Santa Ana 92706. The phone numbers are 541-6679 and 541-6670.

DRE Is Not Source of Legal or Business Advice

Some people apparently have the impression the Division of Real Estate is an agency which considers and solves all problems, legal and otherwise, which arise in real estate transactions. This, as most know, is not the case even though the words "Real Estate" appear in the agency's title. This accounts, no doubt, for many prevalent misconceptions. Surprisingly, however, many persons seeking, for example, legal advice, are referred to the commissioner's office by licensees who wish to be helpful, or perhaps are not completely aware of the office's functions and the limits of its jurisdiction.

As a result, the DRE receives numerous telephone calls and letters of inquiry in which the inquirer seeks legal advice on variegated issues. These inquiries include requests for information as to how to proceed with a real estate transaction, what commission a broker may charge, whether a landlord can raise the rent, how to evict a tenant, when and where certain state properties are to be auctioned, whether or not it is a good time to invest in business property, and so on.

The DRE cannot, under the law which governs its operations, perform as an information bureau on legal and business problems. Its primary concern is with the actions of its licensees and, even there, the office cannot assume the powers of a court to order a licensee to return money, cancel contracts or perform any specific acts.

The agency is ready and willing to investigate the grievances of any person who feels that he has been wrongfully dealt with by a licensee. The law provides that it is the duty of the commissioner to consider and analyze complaints against licensees which might lead to disciplinary action against them.

Insurance Money Trust Accounts

The California Insurance Commissioner requires insurance trust funds be kept separate from other funds. This precludes deposit of insurance fund collections and real estate funds in the same "trust account."

HOW TO MEET PROVISIONS OF THE BULK TRANSFER ACT

SALE OF STOCK IN BULK

(Continued from col. 1, page 765)

merchant-seller. In dealing with this problem the act takes the shotgun approach in that irrespective of whether or not there is actually fraudulent intent by anyone, notice is required if the transfer comes within the definition of a bulk transfer and is made by a designated type of business enterprise.

To What Transactions Does the Act Apply?

Two questions should be asked with respect to a contemplated transfer to determine if notice is necessary in order to protect the buyer from the seller's creditors: (1) Will the transfer be considered a bulk transfer? (2) Will the transfer be made of a type of business covered by the act? If each question is answered in the affirmative then notice is required.

(1) Is the transfer a bulk transfer? Commercial Code Section 6102 defines a bulk transfer as ". . . any transfer in bulk and not in the ordinary course of the transferor's business of a substantial part of the materials, supplies, merchandise, or other inventory of an enterprise subject to this division. A transfer of a substantial part of the equipment of such an enterprise is also a bulk transfer."

So far as business opportunity sales are concerned it is not necessary to concern ourselves with some of the technicalities inherent in the above language of the act. If a going business is sold and that business has some supplies, inventory or equipment, then there is going to be a bulk transfer. Thus, the second question is the key.

(2) Is the transfer being made by a type of business which is covered by the act? Commercial Code Section 6102 states that: "The enterprises subject to this division are all those whose principal business is that of a baker, café or restaurant owner, garage owner, cleaner and dyer, or retail or wholesale merchant."

We must look at this language quite closely. What types of enterprises are classified as merchants? It is impossible to understand the scope of the act without knowing what types of enter-

EDITOR'S NOTE: Several issues ago, the *Bulletin* carried an article largely devoted to the Uniform Commercial Code and the Bulk Sales Act. Since the subjects loom so large in business opportunity transactions, they are being further discussed in the accompanying article, which is the first of two parts. The second part in a future issue will cover the secured transactions law and will conclude the series of rather lengthy articles on business opportunities.

Prof. Kent McKee, B.B.A., M.B.A. and LL.B., associate professor of commercial law and tax, California State College at Fullerton, contributes this article. He is eminently qualified, since he is a teacher, an attorney and a certified public accountant.

Prof. McKee's statements and opinions are his own and are not to be regarded as an official expression by the Division of Real Estate.

prises come within the definition of a merchant. Regrettably, Division 6 does not define the term. However, a look at the court decisions leads one to believe that an acceptable working definition of a merchant is any enterprise whose principal business is the sale of merchandise from stock. And both wholesale and retail merchants fall within the act. Thus businesses such as the following would be covered: auto parts stores, delicatessens and groceries, dress shops, drugstores, florists, hardware stores and liquor stores. Also covered would be the businesses specifically enumerated in the statute: bakeries, cafés (this would include cocktail bars presumably), restaurants, garages and cleaners and dyers.

Manufacturers Not Covered by Act

However, manufacturers are not covered by the act. Nor are farmers, contractors or those rendering professional services. As a matter of fact, hundreds of service-type businesses, whose principal business is the sale not of merchandise, but of services, are not covered. Some such businesses are the following: barber shops, beauty shops, car washes, dance studios, hotels, laundromats, motels, physical culture establishments and pool halls.

Situations will arise where it is impossible to determine whether the transfer is covered by the act. One example would be the sale of a hotel (not covered) containing a restaurant (covered). Is this combination sale covered? One court has said that the

answer depends upon whether the dining room is really hotel business or the restaurant business, and that this is determined by the percentage of dining business which is from registered guests. The result is that there is no way of being certain in this type of transaction. In such cases the buyer would do well to presume that the transaction is covered by the act and proceed accordingly.

One further point with respect to the coverage of the act: Under certain circumstances the creation of a security interest (such as a chattel mortgage) in the supplies, inventory or equipment of a business is covered by the Bulk Transfer Act as well as Division 9 of the Commercial Code dealing with security interests.

The Notice Requirement When the Act Applies

Commercial Code Section 6107 requires that notice be both recorded and published. With respect to recording, the requirement is that it be ". . . recorded in the office of the county recorder in the county or counties in which the property to be transferred is located at least 10 days before the bulk transfer is to be consummated . . ."

With respect to publication the requirement is that notice be ". . . published at least once in a newspaper of general circulation published in the judicial district in which the property is located, if there is one, and if there is none, then in a newspaper of general circulation in the county embracing such judicial district, at least five days before the bulk transfer is to be consummated . . ."

As used in the above two paragraphs the term "consummated" should, in the case of a sale, be taken to mean the time when ownership is to be transferred to the buyer. Also, the local legal newspaper is considered a newspaper of general circulation so common practice is to publish notice in the legal newspaper for the area.

The act is very specific with respect to the information which must be contained in the recorded and published notice. Section 6107 states that:

(Continued, col. 2, page 769)

Commissioner Outlines Ten-Year Plan

(Continued from col. 3, page 765)

be exhaustive study and discussion, undoubtedly entailing numerous changes.

Before any decision is made to activate this kind of a plan, it would have to receive favorable and widespread acceptance. Through the years, both nationally and in the State of California, articulate real estate practitioners have been urging the cause of professionalism for their vocation. And certainly many individuals now in the real estate business have earned such a status.

Progress Has Been Uneven

But actual progress toward the professional goal has been slow and irregular even in this state, which is generally recognized as a leader in the move. It cannot be achieved in a hit-or-miss fashion nor in the span of a few years. If it is to be accomplished eventually, Gordon said, the time has long been ripe to formulate objectives and set a timetable for meeting them.

Such a plan or blueprint for progress must have a beginning some place. No plan of this kind has previously been formulated, or at least has never been widely distributed. After many discussions with industry people the commissioner committed the Division of Real Estate to draft an initial blueprint in order to get a program underway; and that is why it has been prepared and distributed to the industry and others who might be interested in refining and bringing its objectives to fruition.

The plan, as submitted for discussion, envisages the eventual elimination of some types of licenses—including the real estate salesman designation—a bachelor's degree in real estate or equivalent educational preparation as a prerequisite for a professional license and sequential accomplishment over a period of 10 years or longer. (Please see the suggested chart of action and timing reproduced on the front page.) Copies have been widely distributed in California and the nation to real estate practitioners and to leading real estate educators.

Although holders of previously issued licenses would not be affected by

BUSINESS OPPORTUNITIES SALES

Those brokers and salesmen engaged in the sale of business opportunities are cautioned to exercise care in selling a business in which the operator must be examined for technical qualifications and licensed by the state. The agent should make certain the prospective buyer is aware of the licensing requirements which he will have to meet. Among the more common businesses having licensing requirements of which prospective purchasers might be ignorant are drycleaning establishments and beauty shops.

the plan if it were put into effect, once the public realized and was convinced that a professional type of service was involved, that type of service and treatment would be expected.

Educational Opportunities

Fortunately, California, because of its unique Real Estate Education, Research (and Recovery) Fund, has reached the position where a great majority of its institutions of higher learning offer broad opportunities for real estate education — opportunities that are within the grasp of those who would avail themselves of the chance to improve their knowledge of a very complex field.

The blueprint suggests legislative, academic and industry action over the next 10 years. If intensive discussion by interested groups during the next few months results in preparation of a final draft plan, it could be used as a framework for legislative consideration, beginning at the next general session.

BULK TRANSFER ACT

(Continued from col. 3, page 768)

"The notice to creditors shall state: (a) that a bulk transfer is about to be made; and (b) the names and business addresses of the transferor and transferee, and all other business names and addresses used by the transferor within three years last past so far as known to the transferee; and (c) the location and general description of the property to be transferred; and (d) the place, and the date on or after which,

For Maury Read . . .

A great voice has been stilled . . . Maurice G. Read died July 28, 1966.

We can mention some of the outward adornments of achievement he wore so well . . . President of the National Association of Real Estate Boards, 16 years of service on the State Real Estate Commission, President of the California Real Estate Association and Director of the U.S. Chamber of Commerce. He held numerous other posts of fraternal, civic and business responsibility.

But primarily he was a professional real estate man and he surrounded himself with professional real estate people. He espoused and fought for real estate educational opportunities.

He was a gentle man, gracious, charming and vital. We shall miss him. . .

Mr. Read is survived by his wife, Laureen, his daughters Mrs. Albert Huber and Mrs. Pierre Labro and seven grandchildren.

the bulk transfer is to be consummated."

The Effect of Failure to Give Proper Notice

It is, of course, up to the buyer to see that proper notice is given as required by the act. Only in this way is he assured of protection from possible creditors of the seller. Failure to give proper notice does not affect the validity of the transfer as between the seller and buyer, but as against the seller's creditors the transfer will be considered fraudulent and void. Thus the seller's creditors could, in order to satisfy their claims against the seller, attach the property just as though it were still owned by the seller. And this right of the creditors exists for at least one year.

For a buyer of a business to fail to give proper notice of the transfer and as a result lose his inventory and equipment would be disastrous. And, of course, he would place the blame on the business opportunity broker who handled the transaction. He should have been warned! Certainly he should have been warned! It is up to you, the broker, to make the buyer aware of the dangers of noncompliance with the Bulk Transfer Act.

SUBDIVISION

DEVELOPMENTS • LAW • PROCESSING • CONTROLS

NEW REGULATIONS IMPLEMENT SUBDIVISION LAW

After a public hearing, the Real Estate Commissioner adopted and revised regulations implementing the Subdivided Land Act with the changes becoming effective about September 1, 1966.

Among the added regulations is Section 2801.5 which spells out a policy requirement which has long been in effect: The purchaser or optionee of five or more lots or parcels in a subdivision (two or more in certain types of congregate subdivisions) may not offer the lots or units for sale until he has filed a Notice of Intention with the Division of Real Estate. The regulation goes on to say that if there are no substantive changes in the setup compared to the original subdivision, the commissioner may issue an amended Public Report.

Another added regulation—Section 2819—makes specific a subdivider's responsibility to maintain for a period of three years records of accounting of all funds received and disbursed in connection with the subdivision.

An amendment to Section 2792.8 (11) makes it clear that bylaws, house rules or similar agreements, as they relate to the internal government of a community apartment, planned development or condominium project, may be amended by a majority of a quorum of the voting power present in person or by proxy at a duly called meeting of the authorized voters.

Section 2792.10(3) is amended to change voting procedures relating to consideration of annexation of additional area to a subdivision featuring any community property or facility.

An amendment to Section 2795(b) eliminates the requirement that a copy of a Preliminary Public Report must be deposited in a neutral escrow along with other papers and any valuable consideration involved.

In line with an amendment to Section 2795.1, the subdivider's receipt for a public report will include a

statement to the effect that the report does not constitute recommendation or endorsement of the subdivision by the commissioner.

Subdivision Manual Available

In the interest of licensees, subdividers, homebuilders, landowners, title companies and lending institutions, the Division of Real Estate has published a completely revised *Subdivision Manual*. It contains an explanation of the commissioner's jurisdiction and requirements in the development of new subdivisions and discusses the general scope of local authority under provisions of the Map Act.

The various types of subdivisions are defined and procedures applying to each explained. The text touches on subdivision planning and development, market research, processing and controls, and includes excerpts from pertinent statutes.

Copies of the *Subdivision Manual* can be purchased at any DRE district office or mailed postpaid from the Sacramento office, P.O. Box 2407, Sacramento 95811, upon receipt of order and remittance. The manual is priced at \$1 (plus 4 cents sales tax if ordered in California).

Law Eliminates Necessity for Securities License

September 17 will be the first anniversary of the Real Estate Commissioner's assumption of sole regulatory jurisdiction over new subdivisions at the state level, including stock cooperatives and condominiums.

Prior to that date, offerings of this kind were frequently subject to dual jurisdiction with attendant problems. The developer was required to obtain a permit for the sale of securities from the Division of Corporations. Real estate licensees handling the sales needed securities licenses.

Broker Cannot Commingle Client's Money With Own

A good portion of the complaints lodged against licensees stem from commingling of money belonging to a principal with the licensee's own funds. When investigation of such a complaint indicates a licensee has violated his fiduciary relationship the matter is set for formal hearing, and his license is revoked or suspended if he is found guilty of the infraction charged.

It is obviously a dangerous practice for the broker to place deposit moneys, rent collections and other money entrusted to him in his own personal bank account. In addition to the possibility of knowingly or inadvertently converting to his own use funds entrusted to him, there are other practical reasons why the law and the Commissioner's Regulations prohibit mixture of funds. Should the broker's personal account be attached or should he become incapacitated or die, the funds would probably be tied up for an indefinite period, causing principals hardship and expense which could have been easily avoided.

If a licensee does not immediately deposit all funds entrusted to him by his principal, or others, in a neutral escrow depository or in the hands of principals, he is required to maintain a trust fund account with a bank or other recognized depository and place all entrusted funds therein upon receipt. **All licensees should be thoroughly familiar with Sections 2830 through 2835 of the Commissioner's Regulations, relating to the handling of trust funds and accounts.**

Under the new law, condominiums and stock cooperatives are no longer subject to the Corporate Securities Act. You need only to be licensed with the DRE to sell or lease such units, providing there is a Commissioner's Public Report on the project.

Licensees might be reminded that the Subdivided Land Act now defines as a subdivision any condominium project containing two or more condominiums and a stock cooperative project having two or more shareholders.

EDUCATION-RESEARCH PROGRAM

University of California — State Colleges — Junior Colleges

A Case for Continuing Education for Real Estate Brokers

How does one real estate broker build a success image and how does his acceptance contrast with the poor image of another broker when both are evaluated by their business associates? Some answers to these questions were suggested during the course of a research project concerned with management practices and personality traits of two groups of relatively small real estate brokers in northern California. Professor Charles (Fred) Kunsemiller, Chico State College, conducted the research and prepared a report on

REPRINTS

The reprints listed below are now available free upon request to the Center for Real Estate and Urban Economics, Berkeley.

"Nonbusiness Construction," Reprint No. 41, by Sherman J. Maisel, reprinted from the *Brookings SSRC Econometric Model of the U.S.*, 1965.

"Regional Differences in Mortgage Financing Costs," Reprint No. 42, by A. H. Schaaf, reprinted from the *Journal of Finance*, March 1966.

(EDITOR'S NOTE: The December 1965 issue of the *Bulletin* featured a report on this study.)

his findings. His work was partially financed by an allocation from the Real Estate Education, Research and Recovery Fund administered by the Real Estate Commissioner.

To identify the most successful brokers in a community, opinions were sought from a number of business associates representing financial institutions and title companies. Most were in daily contact with brokers. The businessmen giving their opinions were asked to define the criteria upon which their judgments were based. They were then asked to select what they regarded as the not-so-successful brokers, and this they were somewhat reluctant to do. They agreed, however, to describe characteristics of those brokers whom they considered to be the least able.

Attributes of the Successful

The consensus: The *most successful* small broker typically experiences a

high sales volume; has well-rounded experience in the real estate field; is highly ethical, conscientious, reliable, sincere and capable; and has a professional attitude toward his work. He is a good student of business practices, reflected by his excellent office management and management of his sales force, particularly in selecting competent persons of high caliber. He conducts a consistent training program for his salesmen. He is thorough in his paper work, is tops in handling details, is meticulous in his presentations to his customers, and has the ability to handle complicated transactions to conclusion. He has a fine reputation in the community for service to his clients and to the community. His advertising is creative, imaginative, and appealing. He has a pleasing, friendly, helpful personality and displays a great deal of individual drive. He is well educated, and continues to participate in educational programs.

The Less Successful

By contrast, the brokers falling into the classification of *least successful* in the community were described as exhibiting a number of unflattering characteristics, some of which are: having a nonprofessional attitude; lacking in ethical standards; trying to get something for nothing; attempting to manipulate clients with high-pressure tactics; offices generally reflect poor office management practices; inadequate records maintained; poor supervision exercised over salesmen; paperwork inaccurate and incomplete, even including deposit receipts; and frequently the title company or lending institution is expected to put transactions together. Many transactions fail of completion by the unsuccessful broker because he does not explain

UNIVERSITY EXTENSION SETS PROGRAM

The University Extension, University of California, will offer a wide variety of real estate courses this fall.

Classes are scheduled in Berkeley, Buena Park, Burbank, Downey, Glendale, Inglewood, Irvine, Los Altos, Los Angeles, Norwalk, Palo Alto, Redding, Riverside, Rosemead, Sacramento, Salinas, San Diego, San Mateo, San Francisco, San Jose, San Rafael, Santa Barbara, Stockton, Torrance, and Van Nuys.

For information concerning specific courses get in touch with:

Northern California

University of California
University Extension
2223 Fulton Street
Berkeley 94704
Phone: 845-6000

Southern California

University of California
University Extension
1100 South Grand Ave., Rm. 315
Los Angeles 90015
Phone: 747-4321, Ext. 33

facts sufficiently to his clients, makes promises to both sides which he fails to keep, stretches the truth and neglects to follow through.

It became rather obvious, as the study progressed, that much of the difference between a successful broker and a nonsuccessful broker depended upon the degree of education, knowledge, sales ability; management ability as applied to office procedures, personnel, sales, advertising; and participation in community affairs, public image and personality. The successful broker had a considerable advantage in each of these areas.

Since the results of the study itself revealed that success in real estate brokerage management is the result of broad experience, diversified knowledge of the many facets of real estate and good management practices, it became clearly evident in Professor Kunsemiller's judgment that continuing education is a must for the person who wishes to succeed in real estate.

The complete report can be obtained from the Division of Real Estate, P.O. Box 2407, 111 Capitol Mall, Sacramento 95811. It is mailed postpaid on receipt of order and remittance (\$1.04).

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New License Regulations Effective September First

Elsewhere in this *Bulletin* is an article referring to changes in regulations relating to the Subdivided Land Act. At the public hearing on these changes three amendments to the regulations pertaining to the license law were also adopted. Effect of the changes, which also will become official about September 1, is briefed below.

When amended Section 2741.5 becomes effective, it will be possible to issue a salesman license to an officer-employee of a licensed corporation when the chief executive officer of the firm, primarily responsible for the real estate operations of the corporation, is a licensed real estate broker.

Section 2845 was amended to make it clear that the real estate licensee is not to lend his own funds in violation of Article 7 of the Real Estate Law, nor shall his charges, including interest, exceed 10 percent of any real estate loan he might make using his own funds.

Section 2848 amends the existing criteria for advertising of real property loans or securities. This section was amended in several respects including (1) clarification of the conditions under which the total amount of interest payable or the interest rates charged must be set forth in an advertisement and (2) banning of mention of a single interest rate in an advertisement offering first and second loans unless the interest rate is applicable to both types of loans.

UCLA LECTURE SERIES

The University of California Extension will offer two new series of lectures at UCLA on "Business Opportunities Sales and Procedures" and "Commercial and Investment Properties."

One 12-week program, starting September 19, is on business opportunity practice. The other series, beginning September 21, is designed for those holding investment properties or considering such investments.

Further information may be obtained from Continuing Education in Real Estate, University of California Extension, 1100 South Grand Avenue, Los Angeles 90015, or telephone 747-4321, extension 37.

Obituary

JOHN T. DICKINSON

Fellow employees were saddened to learn of the recent passing of John T. Dickinson, Deputy Real Estate Commissioner, attached to the Division of Real Estate district office in San Diego. He will be remembered with affection and esteem.

Dickinson entered state service as a field investigator for the Board of Equalization in 1957. In September 1963 he transferred to the DRE. He attended the University of Buffalo in New York State, and served four years in the U.S. Navy during World War II.

He is survived by his mother, Mrs. Rita Dickinson, of Los Angeles.

Money Handling—Rebates Rate Legislative Attention

Added to the Penal Code in 1965 was Section 484b which provides stiff penalties for the person who receives money intended to obtain or pay for services, labor, materials, or equipment incident to construction, and who willfully fails to apply the funds to complete the work or pay for costs involved.

Conviction for such an offense can result in a fine not to exceed \$5,000 or imprisonment. But if the amount willfully diverted is more than \$10,000, the violator may suffer both fine and prison term. The Legislature included in the section this clause: "To constitute a diversion within the meaning of this section, the diversion must result

in a reduction of the value of the owner's equity in his property or a reduction in the value of the security for the loan which provided such construction funds."

The Legislature also added Section 532e to the Penal Code providing that any person who receives money for the purpose of obtaining or paying for services and materials incident to the construction of improvements on real property and willfully rebates a portion of this money to someone with whom he contracts for services or materials for the job is guilty of a misdemeanor. Normal trade discounts for prompt payment are not considered a violation of this section.