

# CALIFORNIA DIVISION OF REAL ESTATE

## BULLETIN

SEPTEMBER

1944

EARL WARREN, GOVERNOR OF CALIFORNIA

HUBERT B. SCUDDER, REAL ESTATE COMMISSIONER

*You Are Invited*

### THIRD REALTY WAR CONFERENCE

BILTMORE HOTEL  
LOS ANGELES

OCT. 9, 10, 11, 12, 1944

All brokers and salesmen, regardless of membership, are invited to attend this Conference at which real estate problems will be discussed by national experts. This is an unusual period in the real estate business and you will profit by hearing these experienced speakers.

In the afternoon and evening of October 9, conferences will be held on proposed rules and legislation affecting your business. The Commissioner and the Board will attend Evening Sessions.

A nominal registration fee will be charged for those attending the sessions October 10, 11 and 12.

## HERE AND THERE IN REAL ESTATE

### *Congratulations*

Congratulations are due to the real estate brokers and salesmen of California, who not only met the \$10,000,000 quota set by the Treasury Department for their group in the 5th War Loan Campaign, but actually tripled this amount. Together with the title interests, a total of more than \$33,500,000 in war bonds was turned in to headquarters. Your Commissioner is grateful for this overwhelming response to his appeal. He advised the Treasury Department that you were a group of supersalesmen, and your results have substantiated his statement.

Unfortunately space does not permit us to give special mention to the outstanding records of certain individuals and communities in the drive. Your Commissioner has written hundreds of letters in response to brokers and salesmen who made inquiries and submitted reports during the drive, and has also publicly complimented the various communities upon their outstanding showing. The fact that many brokers and salesmen put aside their regular business for certain hours and days during the campaign, has definitely demonstrated their patriotism.

The war is not over—or paid for. We may expect other similar bond drives; however your Commissioner is satisfied that the real estate interests will again and again meet the call.

### *Annual Real Estate Conference*

The Annual Real Estate War Conference under auspices of the California Real Estate Association will be held in Los Angeles on October 10, 11 and 12, 1944. This state-wide organization announces that they will welcome all real estate brokers, salesmen, and persons interested in real estate to attend this conference. Membership in a Real Estate Board is not necessary. The Biltmore Hotel, Los Angeles, will be official headquarters.

A special preconference meeting on proposed legislation affecting the real estate agents will be held in the afternoon and evening of October 9, the day preceding the official opening of the conference. Many proposals of interest will be discussed generally at this conference, including those proposi-

tions appearing on page 4 of this bulletin. You are welcome to attend and add your part to this discussion. These meetings will also be held at the Biltmore Hotel.

Something special—the annual dinner Thursday evening October 12 will be at Earl Carroll's. The real estate people will take the place over! Governor Warren is invited. Complete show, dance and dinner is \$5 per. But reserve early—tickets are going fast and 1,000 is capacity.

### ***Secret Profit Complaints***

A large proportion of the complaints against brokers being received by the Real Estate Division, are over secret profits. As stated in previous bulletins, when such complaints indicate that the broker has violated the responsibilities of his agency, the matters will be set for formal hearing and licenses denied or suspended if the broker is found guilty.

Secret profits can not be long kept hidden. Buyer and seller eventually get together and compare notes. If you expect more than the usual compensation for your services in the sale of real property, make this point clear to your principals.

The rapidly rising market presents many temptations to make unusual profits in handling a client's property. Under ordinary listing agreements, the broker is duty bound to secure the greatest possible return to his client. If it is found that the property will bring more than the listed price, the client is entitled to the additional amount. Brokers and salesmen charged with concealing excessive profits in the handling of their clients' property will be rigidly investigated.

### ***Termite Complaints***

Second to secret profits, the largest number of complaints being received by the Division are over termite guarantees. Over-anxious agents assure the purchaser that termite inspections have been made and the property is duly clear, when in truth they have no definite knowledge of the fact. Recently a complaint was received against a broker who is alleged to have assured the purchaser that the property had "termite clearance." Actually, the property was badly infested, and the purchaser had to expend over \$1,000 to rectify the condition. A civil suit recovered this sum and costs from the broker, and the broker's license is in jeopardy.

Old time experienced brokers tell us that they will make no representations whatsoever regarding termites. They make it perfectly clear to the buyer that he must secure his own report and be satisfied with it. This sounds to us like sound sense. We might add that if the broker has knowledge of a bad

termite condition, he should call it to the buyer's attention and urge an inspection.

### ***Promise of Possession***

High in number among complaints received by the Division from real estate purchasers, are cases where it is alleged that the agent has promised immediate possession or possession by a certain date to purchasers of residential property. Sometimes these promises are made in good faith, but in any event it is dangerous to make such promises under present war-time conditions. It is much better, if possible, to let the seller advise the purchaser when he may take possession, or to secure the seller's written promise or to provide for a possession date in the escrow which the seller signs.

Carelessness in this connection may work undue hardship upon the purchasers. Often a purchaser surrenders a rental property, delivers possession to a property he has sold or otherwise places himself in a precarious position, depending upon delivery of the property at a certain time. Ordinarily it is not necessary for the broker to make such promises, and in his anxiety to make a sale he should not make them.

Recently, two or three cases of this kind resulted in hearings, the testimony in which cases indicated that the broker had made promises without any basis. Do not let careless promises of this kind jeopardize your license.

### ***Chinese Gain Right to Citizenship***

In December, 1943, the Congress of the United States enacted a law which makes Chinese eligible to citizenship through naturalization. This right was formerly denied them. Good authorities maintain that natives of the Philippine Islands, not of white blood, may still not be subject to naturalization. The Philippine Islands have never been an integral part of the United States, but merely a possession. This does not give Filipinos the right to naturalization.

### ***New Reference Book***

A completely revised edition of the Reference Book and Guide published by the Division of Real Estate is expected off the press about October 1st. The book has been entirely rearranged, set in more readable type, and generally improved. Copies bound in paper covers will be available at the old price of \$1.55 including tax. A limited edition will be bound in cloth covers and sell for \$2 plus tax. As war-time conditions limit the number that will be available in the improved binding, they will be largely limited for sale to libraries, schools, etc. The supply of the old edition is now exhausted.

### ***Oil Operators Out***

As a result of 18 months' intensive investigation by the Division of Real Estate, 109 licenses were revoked or suspended, 30 operators who applied withdrew their applications, and 237 known operators failed to apply for further license. A total of 35 operators were convicted of felony in the courts, and 30 others are pending trial.

One of the worst situations in California real estate history developed in the sale of oil lands and leases. These were sold by a high-pressure group to inexperienced persons with flagrant promises. Lands bought as low as \$10 per acre were marketed as sure-fire oil investments for as much as \$500 per acre. The Division of Real Estate will take every precaution to see that this unsavory business does not again get a foothold.

### ***Business Property Sales***

Brokers who keep close account of business property sales in their cities report that there has been a surprising volume of sales in such properties located in suburban business districts, and in property surrounding the fringe of high priced downtown business property. The sales in the "100% area" of various cities have been very few.

Speculators are therefore turning to the "fringe" properties which they feel will come into the higher brackets with improved conditions and increased population. The alert broker will study these trends and profit accordingly.

### ***Brokers Are Responsible***

Another decision has been handed down by Judge Emmet H. Wilson, of the Superior Court in Los Angeles County, in which real estate brokers are held responsible for the continued misrepresentations of their agents.

Some time ago the Commissioner held a hearing in which it was rather clearly demonstrated that a large sales force had entered into wholesale misrepresentations regarding a tract of land. The complaints were primarily against the salesmen, as they were the ones who contacted the public. Not only the licenses of the salesmen were revoked, but the Commissioner revoked the licenses of the men in charge of the business. While there was no direct testimony against one of these principals, it was pointed out that he was president of the firm, attended sales meetings, and in a position to know the practices engaged in by the sales force over a period of years. The court held that the Commissioner was justified in his action to revoke the broker's license.

### ***When is an Office not an Office?***

The California Real Estate Law requires that a broker maintain a definite place of business, main-

tain a proper sign, and display his license. This was the principal provision of the California Real Estate Act when it was enacted in 1919.

Hearings are now pending on the renewal applications of brokers who have maintained offices in hotel rooms without maintaining signs, or who have given hotel addresses where they are infrequently registered. Others availed themselves of "mail box address" offices where some clerk rents a series of mail boxes which are given as addresses in advertising. In most instances licenses are not displayed, proper signs are not maintained, and the broker is seldom readily located through these addresses. Your Commissioner holds that these are not proper offices or meet the office requirements intended by the Legislature. In cases where it appears that licensees are deliberately evading this provision of the act, action will be taken by the Commissioner to deny licenses at such addresses. It is his belief that to be entitled to a real estate broker license in California, the licensee must maintain a recognized place of business where he can be readily contacted. It will be noted that one of the propositions on page 4 of this bulletin deals with this subject.

### ***G. I. Bill of Rights***

This law, known as Public Law 346, provides for a great program of home purchasing by veterans after they are released from service.

Under Title III of this law, a veteran will be assisted in the purchase of a home, farm or business if he makes application to the Administrator of Veterans' Affairs. If the venture seems sound, the administrator will guarantee as much as 50 per cent of the loan to obtain the property or business and pay the interest for the first year on the 50 per cent he guarantees. The administrator will guarantee as much as \$2,000.

If the veteran is eligible for an FHA mortgage, the Government will guarantee as much as 100 per cent of the down payment, provided same is not over \$2,000. This in some instances would permit a veteran to buy a property costing \$10,000 without the outlay of any money of his own.

Many brokers predict that returning veterans will invest heavily in small businesses, and are taking out business opportunity broker licenses to participate in this business. There has been a marked increase in the number of applications issued.

### ***Ceiling on Licensees***

California now has in excess of 30,000 real estate brokers and salesmen licensed to do business. At least 300 new licenses are being issued each month. How long will this go on?

The answer, of course, is impossible to give as no one can definitely foresee the future. Let us speculate a little, however.

In 1924, during the postwar boom of World War I, a ceiling of 66,000 licensees was reached. It could be assumed that this peak might again be reached.

Let us carry the matter a little further, however. Our population at the present time is nearly twice what it was in 1924. Proportionately, therefore, it is theoretically possible for the number of licensees to reach the huge figure of 120,000. This, of course, is purely a theoretical figure.

#### **Percentage Leases**

The more extensive use of percentage leases is being urged by many prominent business property brokers. They point out that business property owners have suffered from low rentals and high taxes for many years, and they are entitled to a share of the large profits now being made by merchants in general. A fair percentage lease works no hardship upon the merchant and gives the property owner an opportunity to participate in general prosperity.

#### **Real Estate Board Meets**

The State Real Estate Board, created by the Real Estate Law, will hold its next quarterly business meeting at the Los Angeles Office of the Division on the morning of Monday, October 9, 1944. Three representative northern brokers, three representative southern brokers together with the Commissioner form this Board. The members advise with the Commissioner as to matters of policy and confer with him upon matters beneficial to the real estate business.

The Commissioner and his Board always welcome suggestions from the licensees for the purpose of study and discussion. If you have any proposals for the betterment of the business or better administration of the law, address them to the Commissioner, Division of Real Estate, Sacramento 14.

#### **More Realty Study Courses**

It is believed by many responsible brokers that the establishment of more available classes throughout the State in real estate subjects would be beneficial to the real estate business. Some communities have established such public courses, but there is a great demand for such instruction in communities

where it is not available. The Commissioner has urged our public educators to make a study of the subject with view to establishing more courses in the adult education division and in the high schools.

Ignorance creates fear, and it is believed that a more general understanding of real estate subjects would cause more families to make an investment in a home. Many are now discouraged by relatives and friends who have little knowledge of the matter and who cite examples of persons who have had disastrous home ownership experience.

The truth is that a home well selected, intelligently financed and properly planned is the greatest single source of joy acquired by any family. Familiarity with real estate procedure would offset poor advice and gloomy predictions.

\* \* \* \* \*

California is now the third most populous State, with an estimated population of 8,450,000 people. Only New York and Pennsylvania exceed this figure. The number of prospective home buyers and general real estate investors among this number during the next few years is almost too enormous to contemplate.

\* \* \* \* \*

#### **Safeguard Renewal Form**

With your renewal license for the year 1944-45, you were mailed a renewal form to be used next spring for your 1945-46 license. Put this form away where it will be readily available when you wish to use it for your next license. Last spring many were lost, causing much trouble and delay for both the licensees and the department.

#### **San Diego District**

The San Diego Office in the future will be serviced from the Los Angeles Office, and deputies will spend sufficient time in the district to give examinations, handle complaints, and check licenses. The division branch office at 517 Bank of America Building will be maintained as usual in charge of an experienced clerk. Appointments for interview with a deputy should be made at that office.

San Diego examinations in the future will be held at the branch office on the first and third Tuesdays of each month, at 1 p.m.

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# PROPOSED REGULATIONS AND LEGISLATION

In the administration of the Division of Real Estate, several problems have presented themselves and recommendations have been made by brokers and others which are deemed worthy of being presented for consideration of the licensees of this division.

We would like to have you express your preference on these matters so that your Commissioner (and board) may have an idea of the popular demand for some correction. Some of these measures would have to be corrected by law, others by rule, and some might be effected by policy established by the real estate fraternity. It is suggested that brokers study these propositions, indicate their stand by marking "Yes" or "No," and mailing this last page to the Real Estate Commissioner, 584 Business and Professions Building, Sacramento 14, California.

1. *Commission on probate sales:* To provide that where an offer to purchase in a probate has been made by an individual, a licensed broker appearing in court and raising the bid at least 10 per cent would be entitled to a 5 per cent commission.

It is believed that this proposition is self-explanatory. At the present time under these circumstances the law does not provide for payment of a commission to the broker.

Yes ..... No .....

2. Provide for the payment of a commission to brokers of other States in deals consummated by a California broker.

Occasionally California brokers cooperate with brokers of other States in the making of sales and exchanges. As the law now stands, it is illegal for a California broker to pay any part of a commission to any broker not licensed in this State.

Yes ..... No .....

3. That the prerequisite to securing a broker's license would require that the applicant have one year's experience as a salesman.

Some brokers maintain that regardless of the amount of study one has given to real estate subjects, he can not be properly equipped to act as a broker without actual experience. They urge that newcomers to the business be required to act as salesmen for at least one year.

Yes ..... No .....

4. Amend the law to provide that a real estate broker's license be a continuing license, and that a yearly fee be charged as is the case in insurance broker and agents licenses.

The advantages of such an amendment are somewhat technical and would solve many of the administrative problems of the Division. It does not mean that a new license certificate would not be issued each year, but does mean that the license status would continue, rather than come to an abrupt end on June 30.

Yes ..... No .....

5. Provide for penalty examinations to be exacted whenever the Commissioner might feel that the broker or salesman had not sufficient knowledge to conduct his business.

The amendment would give the Commissioner the right to require such a licensee to pass the regular broker's examination to determine whether he was fit to continue in the business. This is particularly advisable, if the law is amended to make the license continuing.

Yes ..... No .....

6. Provide for a restricted salesman license. Some other licensing acts have this provision. The Commissioner encounters some situations where he does not feel justified in granting a license unconditionally, but still feels that the applicant deserves a chance to engage in the business under supervision. Such license would be issued only in isolated cases.

Yes ..... No .....

7. Require that a simple bookkeeping system be set up to show all transactions in sales of real estate and provide for the inspection of same by deputies of the Division. The present law prohibits the commingling of funds.

Many complaints arise from this source. A minimum record of deals open for inspection to deputies might discourage commingling of funds, secret profits and dummy deals, and assist in the administration of the law.

Yes ..... No .....

8. Provide for a definite and continuous place of business for every broker, and define the minimum requirements for an office.

Defining the requirements for an office might eliminate the present practice of brokers maintaining offices at telephone service addresses and post office boxes. Brokers have been licensed at hotels, rooming houses, etc., where they can seldom be found. A major purpose of the law is to provide that brokers may be located.

Yes ..... No .....

9. Provide for minimum specifications for branch office.

The Division has had instances where branch office licenses have been issued for locations under a palm tree, in a vacant lot, solicitors' umbrella stands, etc. Many believe that any licensed office should maintain a certain standard of dignity.

Yes ..... No .....

10. A provision to prohibit brokers who conduct real estate schools from hiring their students who procure broker licenses for a period of at least one year after such license is acquired.

Complaints have been received that some brokers who maintain coaching schools for the purpose of giving applicants sufficient information to pass the examination, do so at least in part with the idea of having them associate as broker salesmen.

Yes ..... No .....

11. Provide by legislation that the \$100,000 limitation for the real estate fund be removed.

At the present time all funds over \$100,000 in possession of the Division of Real Estate at the end of the fiscal year revert to the General Fund of the State and is used for general purposes. Many brokers believe that these license fees should be permitted to accumulate to tide the Division over depression periods, at which time there is even a greater demand for investigations and correction of bad practices.

Yes..... No.....

12. Provide for a reasonable termination period in all real estate listing forms.

Many complaints come to the Division over the use of listing forms which have no definite termination date. It is the practice with some brokers to use listing forms which provide that the listing terminate on a certain date, but shall continue "until cancelled in writing." Some forms also provide for the use of registered mail in filing cancellation notices. These forms provide unethical brokers with a means of taking unfair advantage of their clients and stigmatise brokers generally.

Yes..... No.....

13. Prohibit the use of listing forms which contain an agency agreement and at the same time an option provision in the same form.

This type of contract has resulted in numerous complaints to the Division. They place the agent in a dual capacity of an optionee and agent, an undesirable situation. If he exercises his option he more than likely violates his fiduciary relationship with his client.

Yes..... No.....

14. Publish a monthly list of license suspensions and revocations imposed by the Commissioner.

This requirement is the law in the State of Utah. Several years ago the Division published lists of suspensions and revocations. Some brokers feel this practice should again be instituted, as it is unlawful to pay a commission to an unlicensed person, and brokers are entitled to know the identity of such persons.

Yes..... No.....

15. Provide for the study of real estate and its uses by creating a school of real estate education in our State university.

It has been proposed that the real estate people of the State sponsor a chair in real estate at the University of California to study and make research to determine the best use of real estate and to delve into all matters concerning real estate and its future.

Yes..... No.....

16. Encourage the teaching of real estate subjects in high schools, junior colleges, and adult courses.

This would make widely available good real estate instruction. Knowledge of the subject overcomes the fear of real estate investment. It would make proper instruction available to those seriously desiring to enter the business.

Yes..... No.....

## License Denials, Revocations and Suspensions

Since June 15 last, 17 real estate broker and salesman licenses have been revoked or denied. Others were withdrawn after hearing was set, which eliminated the necessity of a hearing.

Without publishing names of the defendants, we here-with give a brief summary of the nature of offenses for which the Commissioner denied or revoked the license.

1. Broker denied. Misrepresentation of wildcat oil land.
2. Salesman denied. Had been convicted of using the mails to defraud.
3. Broker denied. Engaged in misrepresentation in the sale of Federal oil leases.
4. Broker denied. Contrived to secretly gain possession of property involved in a sale.
5. Broker denied. Misrepresented water situation in connection with subdivision.
6. Salesman denied. Same reason as No. 5.
7. Salesman denied. False representations to promote sale of oil leases.
8. Broker denied. Same reason as No. 7.
9. Broker denied. Same reason.
10. Broker denied. Same reason.
11. Salesman revoked. Acted as broker while licensed only as salesman.
12. Broker denied. Had previous criminal record.
13. Broker denied. Misrepresentation of oil leases. This broker is now under indictment.
14. Business opportunity broker denied. Dishonest dealing.
15. Salesman denied. False promises regarding oil leases.
16. Broker denied. False representations and attempted bribery.
17. Broker denied. Misrepresentation of oil leases. This broker now under indictment.
18. Broker denied. Commingled funds of his client with his own. This broker is now under indictment.

## Bonds and the War

*The War Finance Committees in California are completing plans for the Sixth War Loan Drive. Officials point out that even victory in Europe must not be permitted to disrupt the Nation's war financing task.*

*Most of the Treasury's volunteer groups are rechecking their Fifth War Loan methods and achievements with an eye to improvements in the forthcoming campaign.*

*Asked to comment on the news from Europe, Mr. W. W. Crocker, State Chairman of the War Finance Committee of Northern California, said:*

*"We as citizens of this Country undertook a definite task when the job of war financing was handed to us. We promised to see it through. We can not stop now. We must continue to invest regularly through the pay roll savings plan \* \* \* and we must continue to put our extra cash into war bonds.*

*"The war will be over sooner \* \* \* if we all cooperate. So let's stick with it, and do what we've been doing, or maybe a little more. Let's all finish the job with war bonds."*