

REAL ESTATE BULLETIN

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No. 2

HIGHLIGHTS OF DIVISION'S 1949-50 LICENSE ACTIVITIES

License Renewal Reaches All-Time High

The percentage of those renewing licenses for the 1950-51 Fiscal Year exceeded all previous records, it is believed. This applies to all types of licenses—brokers and salesmen; real estate; business opportunity; mineral, oil and gas. The division for the year ending June 30, 1950, issued 91,198 licenses of all types, as compared with 89,864 for the year previous. This is an increase of 1.48 percent.

As of July 31st, or at the end of the first month of the current fiscal year, 80,530, or nearly 90 percent of those eligible, had renewed their licenses, as compared with an estimated 82 percent at the same time the year previous.

So far as known, the number of requests for cancellation of license upon renewal was the highest in the division's history. 3,850, or 7.3 percent of the brokers, and 1,290, or 6.7 percent of the salesmen requested that their licenses be "issued and canceled" and placed on an inactive status. Those requesting that their licenses be "issued and canceled" can reenter the real estate business at any time during the current fiscal year by requesting that the license be issued and paying a reinstatement fee of \$1.

In the 1949-50 Fiscal Year the division issued 30,601 transfers of licenses. These transfers mainly concerned salesmen moving from one office to another and brokers changing their places of business.

Examinations

During the past year, the division gave 15,338 examinations. It is inter-

Subdivisions Continue at Record Pace

During the month of July, 181 new subdivision projects were filed with the division and the same number of Commissioner's Public Reports were issued. This figure falls only very slightly under the average of the first six booming months of the year and is 18 percent more than the 83 subdivisions filed with the Division of Real Estate in July of 1949.

esting to note that in June, 1950, the division gave 123 broker examinations, as compared with 1,113 for the same month the previous year. Of those taking the broker's examination in recent months, about 60 percent pass.

The experience requirement passed by the 1949 Legislature appears to be meeting with universal favor throughout the State. It has resulted in about a 90 percent decrease in new applications for real estate broker licenses and an increase of between 50 percent and 60 percent for salesman license applicants.

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Be Fair to the Serviceman

Many reserve servicemen and others are being called to active service with the armed forces these days, often on rather short notice. These men have many problems to settle quickly, sometimes including the sale of their homes, the disposition of leases or disposal of their businesses.

It would be the grossest type of "war profiteering" to take advantage of this situation by offering an unfairly low price for a house a serviceman must sell; or by holding him to the terms of a lease when he is powerless to remain in occupancy.

The commissioner believes that all licensees will do everything in their power to protect those who may be risking their lives for the protection of our Country. **Should any licensee fail in this duty, the commissioner will certainly take all disciplinary action possible.**

Policy

All of the division's offices have been quite active the past year due to generally increased enforcement activities. **The commissioner's policy, as passed down to all offices and personnel, is to approach all problems with "common sense" and, so far as possible, from a "grass roots" level.**

There has been a general "tightening" of examinations. At the same time, the examinations are being made more practical. Every effort is being made to tighten up on "questionable subdivisions" and to require compliance with the intent of the subdivision provisions of the Real Estate Law. On the other hand, the commissioner is endeavoring to eliminate as much red tape as possible for the landowners, developers, and licensees in respect to subdividing property.

Maintaining Trust Fund Accounts

The commissioner's new rules and regulations require those licensees, who do not immediately deposit in a neutral escrow the funds which they receive from principals and clients, to establish trust fund accounts. Since these rules became effective, questions have been asked as to what type of account should be set up. One prominent bank in the southern part of the State is setting up its real estate trust fund accounts on a basis similar to insurance trust accounts.

The Real Estate Commissioner does not attempt to dictate the exact manner and method of setting up the account, but is concerned that the intent of the rules and regulations be carried out in whatever manner the account may be set up.

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LICENSES SUSPENDED OR REVOKED IN
JULY AND AUGUST

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.

LICENSES REVOKED DURING JULY AND AUGUST, 1950

Name	Address	Effective date	Violation
Carr, Harry E. Real Estate Salesman	11026 Weddington, North Holly-wood	7/20/50	Sec. 10177 (a), (f)
McClure, Donaldson A. Real Estate Salesman	663 W. Fifth Ave., Pomona	7/20/50	Sec. 10177 (a), (f)
Richardson, Wallace A. Real Estate Salesman	510-A E. Buckthorn St., Inglewood	8/ 3/50	Sec. 10177 (b), (f)
Gayle, Frank W. Real Estate Broker	1312 Wilshire Blvd., Santa Monica	8/ 3/50	Sec. 10176 (b), (e), (i), 10177 (f)
Cravens, William C., Jr. Business Opportunity Broker	2089 15th St., San Francisco	8/21/50	Sec. 10302 (b), (e)
Bond, Coy General Real Estate and Business Opportunity Broker	1614 E. Victoria Court, Skyforest	8/24/50	Sec. 10176 (e), (i), 10177 (f), 10302 (e)

LICENSES SUSPENDED DURING JULY AND AUGUST, 1950

Name	Address	Effective date and term	Violation
Wahl, Helmuth Real Estate Salesman	624 Turner Rd., Lodi	7/12/50 5 days	Sec. 10137
Stewart, George G. Real Estate Salesman	174 Ellis St., San Francisco	7/28/50 60 days	Sec. 10177 (a), (f)
Ernde, Cora M. Real Estate Broker	10 W. Church St., Saticoy	8/ 3/50 30 days	Sec. 11010, 10177 (d)
Silva, Carl A. Real Estate Salesman	102 N. Fifth St., Richmond	8/21/50 90 days	Secs. 10176, 10177 (f)

Division's Activities

(Continued from Page 1, Col. 2)

Complaints

The division received 3,014 complaints this past year, as compared with 2,385 for the previous year, or an increase of 26 percent. 276 formal hearings were held, as compared with 124 the previous year, or an increase of 122 percent. Two hundred twenty-six penalties were imposed against licensees, as compared with 91 the previous year, or an increase of 148 percent. These penalties included suspensions, revocations, and denials of licenses.

In spite of the increase in complaints, formal hearings and penalties, the industry is to be complimented, since it appears that justifiable complaints are received against less than one-fourth of 1 percent of the licensees.

Subdivisions

Since 1943, subdivision activity is up 750 percent, and since 1940, it is up 1,258 percent. For the year ending June 30, subdivisions filed with the division totaled 1,878, which is an increase of 32.5 percent over the pre-

Attorneys Carrying
Real Estate Broker Licenses

A number of attorneys in California are licensed as real estate brokers. The law does require attorneys to have a real estate license if they engage in the activities of a real estate broker or a real estate salesman. Such a licensee must observe the requirements of the law in regard to display of sign and license.

Section 10133 (c) of the Real Estate Law exempts attorneys from this licensing requirement as follows: "Services rendered by an attorney at law in performing his duties as such attorney at law."

● CLAIMS OF QUALIFICATION FOR BROKER LICENSE, BASED ON OTHER THAN TWO YEARS' ACTIVE SALESMAN EXPERIENCE, MUST BE EVALUATED BY A BOARD COMMITTEE.

vious year. From January 1st to June 30th this year, subdivision activity reached an all-time high and averaged nearly 200 per month, or an increase of 58.6 percent over the same period the previous year. It appears that most of these new subdivisions were being developed for low cost homes.

Attention: Brokers
And Salesmen

Carelessness on the part of brokers about reporting to the division the fact that salesmen have left their employ may cause the broker to be called before the commissioner for an explanation. Too frequently mail addressed by the Division of Real Estate to salesmen at the address of the employing broker is returned with a notation "unknown at this address."

The presumption is that the salesman has left the employ of the broker, and that the latter has neglected to turn in the salesman's license or otherwise notify the commissioner as required by law.

A broker is ordinarily responsible for the acts of his salesmen. Serious trouble for the broker could result from the actions of a salesman running around the State using his "pocket card" to identify himself as a representative of the broker when he is actually no longer actively employed by the broker.

● If a salesman is no longer active/engaged as such, his license should be turned in for cancellation.

Original Licenses Not Issued Until Fingerprints Are Cleared

It is an established rule that an original license, either salesman or broker, will not be issued to any applicant until the division has cleared his fingerprints. Each applicant for original license is fingerprinted either at the time he presents his application, or at the time he takes his examination.

The time taken to "clear" fingerprints varies anywhere from 10 to 30 days. The salesman applicant who has his fingerprints taken at the time he files his application will normally receive his license earlier than if he waits until the time of his examination.

Often an applicant will receive notice that he has passed his examination, but does not receive his license for some time afterward. This is because of the "waiting period" required for fingerprint clearance, or other routine investigations concerning the applicant. **The passing of an examination does not mean the applicant is qualified or authorized to engage in the real estate business. The applicant must wait until he actually receives his license.** An applicant may successfully pass his examination, but be denied a license for some other reason.

A "60-day waiting period" applies to broker licenses for the purpose of

investigation. This period commences to run from the date the applicant successfully passes his examination. Said investigation period may be waived at the discretion of the commissioner when:

(a) The applicant applies for license within 90 days of the termination of his United States military service in World War II as defined in Section 10460, Business and Professions Code.

(b) The applicant is already licensed by the division as a broker in any one category, and is applying for a different type of broker license.

(c) The applicant is applying for a broker license within the second license year after his former license of the same type was allowed to lapse.

(d) The applicant is the successor to the business of an incapacitated or deceased broker.

(e) The commissioner determines that, in his opinion, circumstances justify a waiver.

Definite Termination Date On Exclusive Listings

Every licensee of the Division of Real Estate should be familiar with the fact that the use of an exclusive authorization to sell or listing agreement which does not contain a definite, specified date of final and complete termination can constitute grounds for disciplinary action.

Nevertheless, the following two examples of violations came to light recently through complaints. One called for termination of the exclusive listing "30 days after notice of completion is filed." The other would have terminated the listing contract "30 days after appraisal figures are known."

In the commissioner's opinion, such phraseology violates the letter and spirit of the Real Estate Law. So also would the use of any similar phrases where the time of termination is set by relating it to a time which cannot be known when the contract is written.

Orders for 1950-51 Directory Of Licensees

In the July *Bulletin*, it was announced that real estate brokers, who, under the law are entitled to free copies of the directory upon request, must place orders prior to the directory's printing to insure obtaining a copy.

If you are a licensed real estate broker and want a copy of the 1950-51 Directory of Licensees, **send a postcard or letter before September 15 asking that a copy be reserved for you and give your main business address and license number.** Send your request to the Division of Real Estate, 1021 O Street, Sacramento 14.

NOTE: If you have already asked that a copy be reserved for you, please disregard this notice.

● **During 1949-50, 6,560 individuals took real estate broker examinations, and 52 percent passed; 6,572 persons took regular real estate salesman examinations and 79 percent passed.**

Status of Licensees Entering Military Service

Once again many of our real estate brokers and salesmen are being called into active military service. The provisions of the license law which were inserted during the late war still remain in effect and afford these licensees certain protection against loss of license while they are on extended military duty.

Again the problem arises as to what provision a broker in military service may make for the continuation of his business at home.

The commissioner has been advised by the Attorney General's office that it was apparently the intention of the Legislature not to penalize a broker entering military service in time of war, and that the military license privilege as set forth in Chapter 6 of the Real Estate Law preserves his status while in the armed forces even though no renewal fees are paid.

There are two possible solutions: (1) to arrange with another broker to carry on his office activities during his absence; and (2) to exercise such supervision as is possible while allowing a licensed salesman in his employ to oper-

ate the business in the name of the broker.

If the second of the above possibilities is followed, it must be noted that a salesman can operate only in the broker's name and can receive or pay out commissions only through a broker. Arrangements, therefore, must be made for the payments of money into and out of the broker's account. *Furthermore, brokers are cautioned again that they may incur civil liabilities through the acts of their salesmen.*

The commissioner's policy is to be friendly and helpful in dealing with servicemen's problems and aid them in any manner possible not contrary to law or public policy.

A Check Is Not "Cash"—Broker Must Disclose Material Facts

In the May *Bulletin*, an article appeared discussing a First District Court of Appeals decision upholding the Real Estate Commissioner's action in suspending a broker's license in a case where a "nonnegotiable note" had been received by the broker as a deposit, and the implied representation made to the principal that the deposit was cash. Supplementing that discussion, it should also be understood that a "personal check" is not cash.

An important difference between a note and a personal check is that a note is a promise to pay, at a given time in the future, money which the promisor may not have at the time the note is executed; whereas, a check indicates that the amount is available in the bank at the time the check is written.

Branch Offices in Tract Developments

It has become a fairly common practice for real estate brokers to work for the developers of tract building projects on weekends and holidays, assisting in the sale of the residences as they are built.

Often such brokers are licensed in surrounding communities, but take this opportunity to pick up a few extra dollars. They work under the supervision of the tract sales manager and make the tract office their headquarters during the working period.

Purchasers calling at those tract offices believe they are dealing with licensed salesmen of the developer and do not know they are dealing with individual brokers.

A broker who operates weekends, out of the office of another broker or organization, must obtain a branch office license for that address and maintain his branch office license and sign at said address. The only procedure necessary to obtain a branch office license is a request from such broker, supplying the address and sending a \$1 fee. *The request should be made directly to the Sacramento Office of the Division of Real Estate.*

However, a check is not "cash" until it is paid. The broker is obliged to disclose to his principal, on the deposit form he offers to the seller for acceptance, the kind of deposit received. Is it a note, a personal check, or cash?

Caution: Subdividers

Because of the Korean situation and general uncertainty about the future, subdividers have been in a great hurry to place their subdivisions on the market even though the map may not have been filed and the Commissioner's Public Report issued.

The commissioner wishes to emphasize the rule that the report of the Division of Real Estate must be issued and must be given to prospective purchasers before parcels in a subdivision may be offered for sale. A violation of this provision by a licensee may be grounds for the revocation or suspension of his license. There are also criminal penalties for a violation of the subdivision provisions of the law and the Rules and Regulations of the Real Estate Commissioner.

The division is prepared to give prompt service when all of the necessary documents relative to a new subdivision are filed. Every endeavor is made to simplify the procedure and still comply with the law's requirements. It is obvious that when conditions are uncertain, the buying public needs greater protection. We earnestly request the cooperation of the subdividers and licensees in complying with the intent of the law.

Your Office Secretary

Your office secretary, clerk, or secretary-stenographer is undoubtedly one of your greatest assets, particularly if she is capable. She can take care of numerous business details, perhaps better than you could yourself. **There is, however, a limit to her activities in a real estate office if she is not licensed as a real estate salesman.** Many brokers license the office secretary so that they need not be constantly concerned as to whether or not she is acting as a salesman in dealing with office callers.

It is probably proper for an unlicensed secretary to answer questions propounded to her in a factual manner. People come to your office during your absence to answer advertisements concerning real estate, leave listing information, and for many other real estate matters. The law defines a real estate salesman as one who sells, leases, lists, etc., etc., for others for a compensation. **The compensation may be a stated salary and not a commission.** Therefore, your unlicensed secretary is limited in dealing with the public.

Secretaries are often tempted to take prospects to a property and point out its good points when no one else is available for that duty. They are tempted to present reasons why a caller should list his property with their firm. The secretary may be tempted to recite the advantages of a certain property and induce the caller to make a deposit. Undoubtedly in these cases she has gone too far, unless licensed.

The exact line which she must not cross in performing her office duties would depend upon circumstances. Therefore, it is suggested if you suspect your secretary, or such other employees, may *occasionally* be doing the acts of a salesman as defined by law, take no chances—see that they are properly licensed.

