

REAL ESTATE BULLETIN

Official Publication of the California Division of Real Estate

GOODWIN J. KNIGHT, *Governor*

Sacramento, September, 1955

D. D. WATSON, *Commissioner*

LEGISLATION AFFECTING

Mortgage and Trust Deed Sales

Real estate brokers who deal in mortgage and trust deed notes "when such note is not sold to an underwriter or is not one of a series of notes" are specifically exempted from the necessity of licensing under the Corporate Securities Law by the terms of a new section added to the Corporations Code.

This legislation was welcomed by many real estate brokers who had been accustomed to negotiating the sale of notes secured by trust deeds as part of their normal business. The industry was disturbed, when last year, the Attorney General held that such dealings probably required a license under the Corporate Securities Law as the law was then written. The new legislation relieves real estate brokers from the possibility of needing dual licenses when handling their normal transactions in trust deed notes.

LICENSE REQUIRED FOR AGENT SELLING TRUST DEED NOTES

While the real estate license law for many years has required anyone negotiating new loans on real estate to hold a real estate broker or salesman license, the law did not require a license in order to sell, for a compensation, existing notes secured by mortgages or trust deeds on real property.

This situation has been changed by legislation effective July 7 and September 7, 1955, and now anyone who acts as an agent for the sale of a mortgage or trust deed note is required to hold a real estate license.

Securities Brokers

To avoid possible hardship cases, companion legislation provides that a person who held a securities broker

license on September 7, 1955, might, *under certain circumstances*, obtain an original real estate broker license, renewable for two consecutive years before he would be required to pass a qualifying examination for original real estate broker license.

To be eligible for this privilege a person must (1) have held an unrevoked and unsuspended license as a securities broker for at least three months prior to the effective date of the act; (2) have been engaged in the business of buying, selling or exchanging promissory notes secured by liens on real property; and (3) make application and pay fee not later than 60 days after the effective date of the act.

REALTY LOAN BROKERS REGULATED

On October 1, 1955, Civil Code provisions regulating loan brokers went into effect. The law, passed by the Legislature and signed by Governor Knight, as Assembly Bill 3192 (Stats. 1955, Ch. 1791), remains in effect until the ninety-first day after adjournment of the 1959 Regular Session of the Legislature, which can extend the provisions if felt necessary.

Several principal procedures are outlined in the new law. **First, it requires any agent who, for compensation, negotiates a loan to be secured by real property, to deliver to the borrower a statement in writing, containing all the information in connection with the charges to be made, the interest rate to be paid, and vari-**

ous other items of importance to the borrower. The borrower must personally sign the statement, also the person negotiating the loan or his authorized representative.

An exact copy of this statement must be delivered to the borrower at the time it is signed. The agent must keep a copy on file for a period of three years after the date of signing. This requirement is for the purpose of acquainting the borrower fully with the terms of the transaction he is entering into. Note that the requirement pertains to an agent, *and does not include a lender who personally handles the lending of his own money.*

Provisions of the Statement

The statement just discussed must set forth separately the following items: the estimated maximum costs and expenses of making the loan, which are to be paid by the borrower, including but not limited to insurance premiums other than fire insurance, appraisal fees, escrow fees, notary and recording fees and credit investigation fees.

In addition to the foregoing charges, the statement shall set forth any charges for bonuses, brokerage, or commissions contracted for or to be received by any person for negotiating, procuring, arranging, or servicing such a loan. It shall also set forth any liens against the property to be borrowed upon, as disclosed by the borrower.

The statement shall show the estimated balance of the loan funds after deducting the total of items mentioned above, which are to be received by the borrower.

Information concerning the note shall be given, including the principal

(Cont. Page 203, Col. 2)

APPLICANT'S PHOTOGRAPH

After October 1, 1955, each applicant for original license must submit a passport type photograph with his application or he will not be scheduled for examination.

ON THE INSIDE

For important changes in subdivision law, see article starting on page 205.
Loftus appointed to State Real Estate Board—picture and story, page 203.

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Sacramento, September, 1955

Published Bimonthly by the
DIVISION OF REAL ESTATE

STATE OF CALIFORNIA
GOODWIN J. KNIGHT, Governor

D. D. WATSON
Real Estate Commissioner

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**Duties Go With Privileges
In Exclusive Listings**

Owners sometimes complain that they do not get good service after they have given an exclusive listing, and the Commissioner's office frequently gets calls such as: "How can I cancel my exclusive listing. . . I am not getting the promised action. . . They haven't shown the property in a month. . . They never phone me. . . They do not cooperate with other brokers." Some of these would-be sellers conclude with the remark that they will never sign another exclusive listing.

These contracts are not one-sided. Often the complainant fails to recognize his own obligations to the broker

DISCIPLINARY ACTION—JUNE AND JULY, 1955

NOTE: Any person whose license has been suspended or revoked, or whose license application has been denied, has the right to seek a court review. This must usually be done within 30 day after the effective date of the commissioner's decision.

Therefore a list of actions is not published in this *Bulletin* until the period allowed for court appeal has expired; or if an appeal is taken, until a final determination of the court action. A list of persons to whom licenses are denied upon application is not published.

LICENSES REVOKED DURING JUNE AND JULY, 1955

Name	Address	Effective date	Violation
Bunker, Richard Mayo dba Richards' Realty Real Estate Broker	217 Sheridan Rd., Oakland	6/ 1/55	Sec. 10177 (b), (f)
Henderson, Harry William Real Estate Salesman	1251 Westwood Blvd., Los Angeles	6/ 7/55	Secs. 10140; 10177 (c), (d), (f); 11010; 11012; 11013; 11020; Secs. 2794 & 2795 of R. E. Comm. Rules and Regulations
Johns, Wilhelm Harry Real Estate Broker	2548 Judah St., San Francisco	6/ 7/55 (Granted right to restricted license)	Secs: 10176 (a), (g), (i) & 10177 (f)
Guthrie, Wayne Allen Real Estate Salesman	9631 E. Center, Bellflower	6/ 7/55	Secs. 10140; 10177 (c), (d), (f); 11010; 11020; Secs. 2794 & 2795 of R. E. Comm. Rules and Regulations
Mack, Bruce Stilson Real Estate Salesman	118 Willow Rd., Menlo Park	7/ 6/55	Secs. 10176 (e), (i) & 10177 (f)
Timmons, Ida Jane dba Pacific Coast Realty Co. Real Estate Broker	16319 Avalon Blvd., Gardena	7/13/55	Sec. 10177.6
Chascain, Charles Ruford Business Opportunity Salesman	712 Larkin St., San Francisco	7/20/55	Sec. 10302 (b), (e)

LICENSES SUSPENDED DURING JUNE AND JULY, 1955

Name	Address	Effective date and term	Violation
Church, Geneva Doris Real Estate Broker	700 N. Dwight St., Compton	6/17/55 5 days	Secs. 10176 (i) & 10177 (d), (f)
Bradley, John Joseph, Jr. Restricted Real Estate Broker	19301 Ventura Blvd., Tarzana	6/23/55 (Indefinitely)	Sec. 10156.7
Superior Mortgage Co. Real Estate Broker	9010 Wilshire Blvd., Beverly Hills	6/25/55 10 days	Secs. 10137; 10163; 10177 (d) & Sec. 2741 of R. E. Comm. Rules and Regulations
Superior Mortgage Co. dba Calhoun Realty Co. Real Estate Broker	9010 Wilshire Blvd., Beverly Hills	6/25/55 10 days	Secs. 10137; 10163; 10177 (d) & Sec. 2741 of R. E. Comm. Rules and Regulations
Gluskin, Harry John Real Estate Broker	8909 Wilshire Blvd., Beverly Hills	6/25/55 10 days	Secs. 10137; 10163; 10177 (d) & Sec. 2741 of R. E. Comm. Rules and Regulations
Calhoun, Robert Milton Real Estate Salesman	9010 Wilshire Blvd., Beverly Hills	6/25/55 10 days	Secs. 10137; 10163; 10177 (a), (d) & Sec. 2741 of R. E. Comm. Rules and Regulations
Rose, Robert Curtis Real Estate Broker	Curry Lane & Hwy. 101, Sausalito	7/19/55 5 days	Secs. 11012; 11020 & 10177 (d), (f)
Hammill, Joseph B. Real Estate Broker	888 Geneva Ave., San Francisco	7/31/55 60 days	Secs. 10177.5 & 10177 (f)

under the exclusive listing contract. On the other hand, the broker agrees to use due "diligence in procuring a purchaser." **The broker who ignores or avoids his proper obligation to those clients who place their business with him not only does a great disservice to his fellow brokers, but may jeopardize his right to a license.**

Code of Ethics, Article 19, says: "The acceptance by a realtor of an exclusive listing imposes the obligation of rendering skilled and conscientious service; when a realtor is unable to render such service either himself or with the aid of fellow realtors, he should not accept the listing."

Approved Form to Be Used by Realty Loan Agents

(Cont. from Page 201, Col. 3)

sum of the note, rate of interest, the term of the note, the number of installments, and the amount of each installment; also the approximate balance, if any, due at maturity. The terms of prepayment privileges, if any, shall be set forth.

The name of the person negotiating the loan, his license number and his licensed place of business shall be shown on the statement.

(See approved statement form, page 204.)

Processing Costs Limited

The total amount of processing costs mentioned above, other than commissions to the agent, which the borrower agrees to pay cannot exceed 4 percent of the principal amount of the note, or \$120, whichever is greater, but in no event can it exceed \$250. If the total amount of these costs and expenses actually exceeds the estimated amount set forth in the statement discussed above, the agent must inform the borrower in writing, and the borrower may withdraw from the transaction. Withdrawing, he is, however, obligated for costs and expenses incurred or paid to persons other than the person negotiating the loan.

Commissions Also Limited

The law places a limit on the amount of commission the broker can charge for negotiating a loan. These rates are different in the case of first and second loans, and also vary depending upon the length or term of the loan.

Los Angeles; member of Federal Housing and Veterans Administration Advisory Committee; Life Director of California Real Estate Association; and for many years has been Chairman of Home Builders and Subdividers Committee, California Real Estate Association, etc. He is also a member of numerous other associations and fraternities connected with his business activities.

His hobbies are golf and deep sea fishing, and he is a member of Wilshire and the Clock Country Clubs.



EDWARD M. LOFTUS
New Member, State Real Estate Board

Governor Knight Names Loftus to State Board

Governor Goodwin J. Knight has appointed Edward M. Loftus of Los Angeles as a member of the State Real Estate Board (Commission) to succeed Leland P. Reeder, deceased, for a term ending January 15, 1956.

Mr. Loftus has been identified with real property sales, development and home building in Los Angeles County since moving there in 1914 upon graduation from the University of Maine with a degree in chemical engineering.

The new board member has developed tracts totaling more than 10,000 lots, has built about 1,500 homes in Los Angeles and nearby cities and has new projects going forward. He has been active in water problems, and his early engineering training helped to make him an acknowledged authority in the field. He is president of a public utility water company and serves as Director of the California Water Association and of the Central Basin Water Authority.

Mr. Loftus has held many official positions in building and real estate organizations and is presently Director of the Home Builders Institute of

On first mortgages and trust deeds, a maximum commission of 5 percent may be charged for making a loan for less than three years, or 10 percent where the loan is for three years or more.

For negotiating any loan other than a first mortgage or trust deed, the commission is limited to 5 percent on loans running less than two years, 10 percent where the term of the loan is for a period of two years but less than three years, and 15 percent where the term of the loan is for a period of three years or more.

If, during the term of the loan, a borrower gets additional funds secured by the note from the lender, the allowable charges on the additional sum shall not exceed the charges applicable to a new loan for the remainder of the term of note or any extension thereof.

Borrower Must Reveal Liens

If the borrower fails to disclose to the agent making the loan all outstanding liens on the property, and as a result the loan is not consummated, the borrower is liable for the costs and expenses incurred and for up to one-half of the estimated processing charges.

Installments Must Be Equal

Any loan for less than three years, which provides for installment payments, must provide for substantially equal installment payments over the period of the loan, with the final payment not payable until the maturity date. No installment, including the final one, shall be greater than twice the amount of the smallest installment.

Refinancing Cost

If any loan for a period of less than three years is refinanced, the total amount of charges to be paid on both the original obligation and the balance of the obligation, as renewed or refinanced, shall not in the aggregate exceed the limits previously mentioned (4 percent of the principal amount of the note—or \$120, whichever is greater—up to a maximum of \$250). The total amount of costs in

(Cont. next page)

Real Estate Loan Agents

(Cont. from preceding page)

such cases shall not exceed the estimated cost set forth in the statement previously discussed.

If the property borrowed upon is sold at a foreclosure sale and is acquired by the lender or the agent who arranged the loan, and the property is resold to the borrower, purchase price cannot exceed the amount due at foreclosure, plus accrued interest together with reasonable costs of foreclosure.

Exemptions From the Law

The law provides that many persons, firms and organizations are exempt from its provisions; however, exemptions do not include the average agent who negotiates loans as between private parties. Certain banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, insurance companies, etc., are not included; also any loan insured by an agency of the Federal Government is exempt. Lawyers who are not actively or principally engaged in the business of negotiating loans on real estate are exempt, when the negotiations are part of the legal services. Licensed personal property brokers are exempt.

Large Loan Not Affected

The law just discussed does not apply to any bona fide loan secured by a first mortgage or trust deed, the principal sum of which amounts to more than \$10,000; nor to loans secured by real estate, other than first loans, which amount to more than \$5,000.

Excess Charges Can Be Recovered

If any amounts in excess of those previously discussed are charged to a borrower, the borrower may recover three times the amount of any portion of the entire charge which has been paid, through civil suit. The borrower shall also be entitled to a reasonable attorney's fee. Any such action shall be brought within two years from the date of the loan, or time when the charge was paid, whichever is the later date.

(Cont. next page, Col. 1)

MORTGAGE LOAN BROKERS STATEMENT *

NOTE: This statement must be delivered by broker or his authorized representative to borrower before borrower is obligated to complete the loan. It must be signed by borrower and broker or his authorized representative. A copy must be furnished to borrower at the time it is executed, and a copy retained in the broker's office for inspection by authorized representatives of the Division of Real Estate.

DO NOT SIGN IN BLANK NO MATTER WHAT STATEMENTS MAY BE MADE

Description of property involved: _____

Statement of all liens against property:

	Present balance due	Amount to be paid from loan proceeds
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

1. Description of loan to be secured
 Principal sum of the note..... \$ _____
 Rate of interest and/or total amount of interest..... \$ _____
 Term of the Note: _____
 Number of installments..... \$ _____
 Amount of each installment..... \$ _____
 Approximate balance due at maturity..... \$ _____
 Terms of prepayment privilege if any.....

2. Cost, expenses and charges
 (a) Estimated maximum costs and expenses
 1. Any premium or other charges for insurance, other than fire insurance..... \$ _____
 2. Appraisal fees..... \$ _____
 3. Escrow fees..... \$ _____
 4. Notary and recording fees..... \$ _____
 5. Credit investigation fees..... \$ _____

GIVE BELOW ANY OTHER COSTS AND EXPENSES

6. _____
 7. _____
 8. _____

Total..... \$ _____

(b) Total charges, other than above, including bonuses, brokerage or commissions for negotiating, procuring, arranging or servicing loan to be paid to broker..... \$ _____
 Must be specified and described.....

3. Estimated amount of loan funds to be paid to prior lien holders or borrowers' creditors..... \$ _____
 Names and addresses of persons to be so paid, with amounts.....

4. Balance to be delivered to borrower..... \$ _____

5. Name of person negotiating loan.....
 License address of person negotiating loan.....
 License number of person negotiating loan.....

I certify that this loan is being made in compliance with the provisions of Sections 3081.1-3081.93 of Chapter 8 of Title 14 of Part 4 of Division 3 of the Civil Code, State of California.

 Signature of broker or his authorized representative

I understand that if this loan is not completed because I have not disclosed all existing liens on this property, I may have to pay (a) the costs and expenses that have been incurred and (b) one-half of the charges.

I also understand that if the actual costs and expenses are more than those estimated in paragraph (a) above, I may withdraw from the transaction but may have to pay the costs and expenses already incurred.

Signed at _____
 Street address

City or Town State

Signed on _____
 Date

Proposed borrower

Proposed borrower

Proposed borrower

* This statement is approved by the State Real Commissioner pursuant to Chapter 8, Title 14, Part 4, Division 3 of the Civil Code.

Realty Loan Brokerage

(Cont. from Page 204, Col. 1)

Subterfuge Covered

If there is an attempt to involve a third party as a purported lender, or any other subterfuge is resorted to, provisions of the law and the penalties provided shall apply.

Every person who, for a compensation, to be received directly or indirectly, sells, offers to sell, purchases for resale, or offers to purchase for resale, or who negotiates, or arranges for the purchase or sale or exchange of a promissory note secured by a lien on real property, may receive only the maximum total charges permitted as commissions, as previously set forth.

Purpose of Regulations

These regulations were enacted as a result of certain agents' failure to reveal to borrowers the approximate amount of costs involved, and also because in some instances exorbitant commissions were charged for very short term loans.

REGULATIONS ON LOAN BROKERAGE

The new loan brokerage act specifically empowers the Real Estate Commissioner to adopt rules and regulations to enforce its provisions and purposes. It also provides that the statement previously discussed shall be on a form approved by the commissioner.

Article 16—Mortgage Loan Brokers—of the Real Estate Commissioner's rules and regulations became effective October 1, 1955. Following are the regulations comprising Article 16 of Title 10 of the California Administrative Code. **On the preceding page is reproduced the approved form mentioned in Regulation 2840.**

Article 16. Mortgage Loan Brokers

2840. Approved Form. The following form is approved by the State Real Estate Commissioner for use as the statement required by Civil Code Section 3081.1. (Chap. 1791 of Cal. Stats. 1955)

2841. Type Size for Form. The type size used in reproducing the form specified in Rule 2840 shall not be smaller than 10 point type.

2842. Approval of Submitted Form. Any form of statement to be used pursuant to

Subdivision Laws Are Clarified

Subdividers Given Wide Choice of Methods for Handling Deposits Other Legislation Affecting Tract Development and Sale Adopted

Subdividers now have a choice of a number of alternative methods in handling deposits accepted from purchasers in new tracts. This results from the adoption by the Legislature of Senate Bill 1147 (Stats. 1955, Ch. 1863), amending Section 11013 of the Business and Professions Code, relating to the Real Estate Commissioner's jurisdiction over subdivision offerings.

The bill was a direct outgrowth of the work of the Senate Interim Committee on Subdivision Development and Planning. Leaders of the subdivision and building industry, title men, government agencies, and others interested cooperated fully in the committee's work, and the bill passed both houses and was signed by Governor Knight, becoming effective September 7, 1955.

PROCEDURE WHEN SUBDIVIDED LAND SUBJECT TO BLANKET ENCUMBRANCE

Under the terms of the newly effective legislation, a subdivider has a choice of several procedures when developing land subject to a "blanket encumbrance"—that is, where more than one lot in the subdivision is made security for the payment of a trust deed note or other lien or encumbrance to be satisfied with the payment of money.

Where there is no agreement for unconditional release of individual parcels to the purchaser free and clear of the "blanket encumbrance," the owner or subdivider cannot sell or release lots in a new subdivision

Civil Code Section 3081.1 other than the form specified in Rule 2840 must be submitted for approval to the Commissioner at least 30 days prior to its expected use. The commissioner's approval in writing must be received prior to use.

2843. Costs, Expenses, and Charges. The costs, expenses and charges specified in Section 3081.3 are the maximum rates chargeable and are to be levied only when such costs, expenses, and charges can be supported in fact.

2844. Charges Not To Include Compensation to Lender. The charges of the broker as specified in Sections 3081.2(b) and 3081.3(b) shall not include any form of compensation paid or to be paid to the lender of the transaction. No portion of any such charges that are collected may be paid to such lender.

unless he complies with one of several conditions described below.

Impound of Deposit Moneys

He may agree to an impound of deposit moneys, or at least such portions as the commissioner determines is sufficient to protect the interest of the purchaser or lessee. The escrow depository selected must be acceptable to the commissioner and the money so deposited or impounded must remain untouched until (1) a proper release is obtained from the "blanket encumbrance," or (2) default by one of the parties with determination as to the disposition of impounded moneys, or (3) the owner or subdivider orders the return of such moneys to the purchaser or lessee.

Placing Title In Trust

A second alternative where the title to the subdivision property is subject to a "blanket encumbrance" is for title to be placed in trust under an agreement of trust, acceptable to the commissioner, until a proper release from the blanket encumbrance is obtained.

May Furnish Bond

The new law permits a third alternative: the subdivider may furnish a bond to the State of California, the bond to be in an amount and subject to such terms as may be approved by the commissioner. The bond would provide for the return of moneys paid or advanced by purchasers or lessees if proper release from the "blanket encumbrance" is not obtained.

Alternatives May Be Approved

Realizing that numerous plans are used to finance homebuilding projects and understanding the many complications which may arise, the Legisla-

(Cont. next page)

Important Changes In Subdivision Law

(Cont. from preceding page)

ture made general provision that the commissioner may approve other alternative requirements or methods. These he must deem acceptable to carry into effect the intent of the law, which is to protect tract purchasers' deposits and payments made prior to receipt of title or other interest contracted for.

WHEN TRACT NOT SUBJECT TO BLANKET ENCUMBRANCE

Even though the subdivision is not subject to a "blanket encumbrance," the subdivider is still regulated as to the handling of deposit money.

In those cases where there is no blanket loan, the deposit money of the purchaser must still be impounded unless the subdivider elects one of the other alternatives discussed below. It may be placed in an escrow depository acceptable to the commissioner, as in the case of tracts subject to a blanket encumbrance, or be put in an approved trust account. The money in either event must be held in the escrow depository or trust account until the title or other interest contracted for is delivered.

If either the owner or subdivider, or the purchaser defaults under the sale contract, the money is to be held until a determination is made as to its disposition. The subdivider, of course, can order return of the deposit to the purchaser or lessee at any time.

Other Alternative Methods

Where there is no "blanket encumbrance" involved, there are several ways in which the subdivider can proceed which do not involve the impoundment of deposit moneys. He may furnish a bond to the State of California, subject to approval by the commissioner, to assure return of the deposit money to the buyer if the seller does not deliver title or other agreed interest within the time specified in the contract.

Or, if the tract builder belongs to an approved association, a blanket bond covering its members may be furnished by the association. Such bonds, to comply with the provisions

of the law, must meet specifications and are subject to approval of the commissioner.

Or the subdivider or tract builder may furnish satisfactory proof to the commissioner that he has secured certain lien and completion bonds issued by a corporate surety company, which reasonably guarantee completion of the subdivision work, without liens being filed. This provision applies only to subdividers who propose to improve the lots with residential structures.

Or tract builders, under certain conditions, may place deposits in escrow to be disbursed in payment for the construction of buildings on the subdivision lots. In other words, this alternative permits the making of progress payments on homes being built in a particular tract. The details are subject to approval by the commissioner and must comply with the several official rules and regulations which have been adopted in this connection after consultation with interested subdivider-builder groups and the California Attorney General. (See below.)

As in the case of tracts subject to "blanket encumbrances," the commissioner is given discretionary power to approve other alternative plans submitted by subdividers and home builders, when adequate protection of the purchasers' deposits is assured.

CHANGES IN SUBDIVISION DEFINITION

The definition of a subdivision in Section 11000 of the Business and Professions Code has been clarified to guard against the possibility that leasing of apartments, offices, stores, or similar space within an apartment building, industrial building, or commercial building might legally be defined as a subdivision. Such projects have never been considered as subdivisions, and the law now specifically exempts them.

Community Apartments

On the other hand, community apartment projects are now expressly covered by the law. The sale of com-

munity apartments in which an undivided interest in the land is coupled with the right of exclusive occupancy of any apartment located in the building is subject to the subdivision laws administered by the commissioner. This control was previously exercised under the authority of a ruling by the Attorney General.

Agricultural Subdivisions

Now exempted from the commissioner's regulation are those subdivisions where the newly created parcels contain 20 acres or more and are to be sold or leased for commercial, agricultural purposes. Formerly, any division of land into five or more parcels, regardless of size or proposed use, constituted a subdivision except when the parcels were 160 acres or larger and were not sold for oil, gas or mineral speculation.

SUBDIVISION LAW VIOLATIONS

Section 11021 of the Business and Professions Code has been broadened. This section establishes the statutory period in which an action, either criminal or civil, can be brought by the commissioner in court in connection with subdivision violations.

NEW RULES AND REGULATIONS AFFECTING SUBDIVISIONS

It was recognized as necessary to adopt new rules and regulations to implement the provisions of amended Section 11013 and added Sections 11013.1, 11013.2, 11013.3, 11013.4 and 11013.5 of the Business and Professions Code. The commissioner, after extended consultation with representatives of the real estate and building industry and with the California Attorney General, adopted the following new rules and regulations effective September 7, 1955.

2810. Requirements on Leases. The requirements of Sections 11013.2 and 11013.4 in regard to leases will be determined in each case.

2811. Amount To Be Impounded. The amount of the money that must be impounded in escrow under Section 11013.2(a) of the Business and Professions Code shall be the entire amount in the case of a purchase and sale.

2812. Authorized Trustees. The trustee under Section 11013.2(b) of the Business and

(Cont. next page)

Oregon License Law

Constructive Changes Made; Educational Fund Provided

In Oregon, as in most states, the real estate industry has been pressing for a stronger and more effective license law. Recently legislation was enacted making significant changes in the Oregon license law and some of the new provisions are probably of interest to real estate licensees in California.

Subdivision Regulations

(Cont. from preceding page)

Professions Code shall be a bank and trust company or title insurance and trust company authorized or admitted to do business in California, unless another trustee is approved in writing by the commissioner.

2813. Amount of Bond. The amount of the bond that is required under Section 11013.2(c) of the Business and Professions Code shall be 100 percent of the money paid or advanced by any purchaser on the purchase of any lot or parcel for which a release is not obtained.

2814. Impound Requirement. In the case of a purchase and sale the amount of the money that must be impounded in an escrow or trust account under Section 11013.4(a) of the Business and Professions Code shall be the entire amount until any applicable mechanic's lien period has expired. The requirement after any applicable mechanic's lien period has expired, and the requirement in case no such lien period is applicable, shall be the same unless the commissioner approves a lesser amount in writing.

2815. Bond When No Blanket Encumbrance Involved. The amount of the bonds required under Sections 11013.4(b) and 11013.4(c) of the Business and Professions Code shall be 100 percent of the moneys paid or advanced by any and all purchasers, unless the commissioner shall approve a lesser amount in writing.

2816. Lien and Completion Bonds. The amount of the lien and completion bond required under Section 11013.4(d) (2) of the Business and Professions Code shall be 100 percent of the cost of the improvements unless the commissioner approves a lesser amount in writing.

2817. Progress Payments. In case the subdivider elects to comply with Section 11013.4(e) of the Business and Professions Code, the escrow instructions may provide that the escrow holder may disburse to the owner or his authorized agent money paid or advanced by the purchasers upon receipt of paid bills, or certified copies thereof, together with an affidavit from the owner or his authorized agent, in an amount equal to the amount of such paid bills. Such affidavit shall state that such paid bills cover labor or materials actually performed or used in the construction of residential or other structures built on lots or parcels within the subdivision.

For some time the Office of the Oregon Real Estate Commissioner has audited real estate brokers' trust fund accounts on a comparatively small scale. The "test run" proved so successful in the reduction of "commingling" and defalcation cases that sufficient funds have been budgeted for systematic audit of trust fund accounts.

Oregon Real Estate Commissioner Ragnor O. Johnson reports proponents of the auditing plan pointed out that real estate brokers often handle and are responsible for very large sums of money, and have been subject to little or no supervision in this respect. **The Oregon auditing program was successful in not only reducing instances of "misappropriation," but has been welcomed by most brokers as a practical lesson in acceptable methods of trust fund accounting.**

"Active" and "Inactive" License Fees

Another major change in the Oregon real estate licensing law relates to fees. The yearly license fee for a real estate broker was raised from \$10 to \$25; for licensed salesmen from \$7.50 to \$15.

The new legislation also made provision for inactive license fees, which are set at \$10 per year for the inactive broker and \$7.50 a year for the inactive salesman.

Real Estate Education

An interesting addition to the Oregon law provides means for offering specialized real estate education to the practicing broker and salesman. From each license fee, \$3.50 is to be deposited in a special, perpetuating account earmarked for an educational program. An education supervisor, directly responsible to the Oregon Real Estate Commissioner, will be retained and paid from the educational fund. The University of Oregon School of Business Administration will cooper-

Torrens Title System Dies

The so-called "Torrens Title Law" of California is no more. It was repealed when the Governor signed Senate Bill 19 on April 30, 1955. As the bill was an urgency measure, it became effective immediately (Stats. 1955, Ch. 332).

All of the Torrens title records for registration of land maintained under the provisions of the Land Title Law have become a part of the regular records of the office of the county recorder of the county in which the office of the registrar of titles was maintained. They will be treated, for all general purposes, as though they had from their inception formed an integral part of the records of the county recorder. Title companies in making a title search will, as a matter of routine, search these records along with other official county records.

Land to be Conveyed by Deed

Henceforth, all persons who own land which was formerly registered under the Torrens system will convey land by deed which can be recorded with the county recorder in the usual manner, and with the same effect as though title to the land had never been registered. Recorded documents affecting the land will be considered along with all instruments, documents, and papers registered by the registrar of titles, the latter being considered to form a part of the record chain of title to the land, affording constructive notice of their contents to the same extent as though they appeared of record in the office of the county recorder.

An attorney versed in title matters should be consulted in any case where the change in law may seem to complicate the condition of title.

ate with the Oregon Real Estate Commissioner in the promotion of not less than 32 real estate educational forums, each of three days' duration, to be held in different parts of the state.

The new legislation also provides that the applicant for real estate broker license must have had two years' full time experience as a licensed real estate salesman, or the equivalent, instead of the one year previously required.

Brokers Working as Salesmen License Law Makes Provision for Broker Employed by Another Broker

Many qualified licensed real estate brokers do not operate their own businesses, but are working out of other real estate brokers' offices in the capacity of salesmen. The question is often asked as to how this can be accomplished within the framework of the license law without jeopardizing any license status.

One way is for the prospective employee to cancel his broker license, at the same time sending in an application for real estate salesman license filled out completely on pages 1 and 3 only. **The fee for this new salesman license would be \$2. Thus the individual could work as a salesman and still retain the right to reinstate his broker license at any time, without examination or delay, by renewing his broker license each year. As long as he works as a salesman, that license would have to be renewed also.**

The commissioner's rules and regulations provide another way in which a broker may work on another broker's staff, to all intents and purposes as a salesman. A broker may become an employee of another broker if **the terms of the employment are covered by written agreement, which includes the provision that the broker-employee is not to engage in any real estate transaction as an agent independent of his employer.**

Under these conditions, the broker-employee need merely post his license on the premises and need not display a sign announcing that he is a licensed real estate broker.

Unemployment Insurance Law

No longer will real estate, business opportunity, mineral, oil and gas, or cemetery brokers and salesmen be subject to the provisions of the Unemployment Insurance Code if they are in the employ of another broker on a commission basis.

This stipulation became effective September 7, 1955, as a result of passage of Senate Bill 384, signed by the Governor (Stats. 1955, Ch. 811).

It has long been contended that real estate and business opportunity salesmen on a commission basis could not benefit by contributions for unemployment insurance, because they were not technically unemployed as long as they held licenses and were working at the business, even though their income might be little or nothing. Note this exemption applies to licensed brokers as well as licensed salesmen, if they are in the employ of another broker. Hundreds of licensed brokers in this State work as employees of another broker.

Property Value Ceilings Raised on State Loans

The Legislature removed restrictions on the amount of real property a veteran may own and still purchase a home or farm with "Cal-Vet" financing. The legislation also permits the State Department of Veterans Affairs to invest in veterans' homes valued as high as \$17,000 and in farms up to \$30,000 in value.

Not increased are amounts the department may advance to a veteran, which remain \$8,500 for a home and \$15,000 for a farm.

Many Show Interest in Real Estate Education

More than 12,000 persons have enrolled in University Extension courses since 1950, according to a report recently presented to the Real Estate Advisory Committee meeting in Berkeley.

The report stressed that courses will be given in any area of the State in which sufficient interest is displayed by the local real estate people. At the present time real estate classes are being offered in 26 urban centers throughout California.

There were approximately 1,600 persons enrolled in Real Estate Certificate Program courses in the spring of 1955. Approximately 77 percent of the total were licensed to engage in the real estate business. Licensed salesmen constituted 47 percent of the enrollment, 30 percent were licensed brokers.

Three-quarters of the persons enrolled in spring classes announced they planned to complete enough courses to entitle them to award of the Certificate in Real Estate.

Peak Month for Examinations

An average of 1,835 persons took license examinations each month during fiscal 1954-55.

However, in June, 1955, 2,206 candidates for license took examinations—almost 400 more than the average for the year—and almost 600 more than the corresponding month last year.

In the 12 months ending June 30th, 22,020 persons appeared for examination, surpassing the previous year by about 17 percent.