



# Real Estate Bulletin

Official Publication of the California Department of Real Estate

RONALD REAGAN, *Governor*

Fall 1970

BURTON E. SMITH, *Commissioner*

## Escrow Law Restricts Referral Fees

Anthony R. Pierno, *Commissioner of Corporations*

**EDITOR'S NOTE:** There appears to be a misunderstanding on the part of some of our licensees concerning the solicitation and receipt of certain fees from the independent escrow agents with whom they have business relations. In reading the following article prepared by Commissioner Pierno, you will see that an independent escrow agent may jeopardize his license if he consents to and pays certain amounts classified by statute as "referral fees."

\* \* \* \* \*

Independent escrow agents are licensed to do business by the Commissioner of Corporations pursuant to pertinent sections of the Financial Code. By the very nature of the type of business which they conduct, escrow licensees are subject to certain restrictions as specified in the statutes and the rules of the commissioner, which are part of Title 10 of the California Administrative Code. Of particular importance is Section 17420 of the Financial Code relating to commissions, fees or other considerations paid by escrow agents as compensation for referring escrow customers or accounts. Where a real estate broker induces an escrow agent to pay a consideration for the escrow business directed to him, regardless of the form that that consideration takes, such an act is improper. On occasion, licensed escrow agents have consented to purchase advertising in a real estate broker's listing book, or similar publication. The circumstances of such an arrangement may expressly or impliedly indicate that the purchase of such advertising is a condition to the use of the escrow agent by the broker. We have concluded that such advertising is in fact in violation of Section 17420 of the Financial Code as well as Section 1057.5 of the Civil Code.

### Release No. 14-L

When it recently came to the attention of the Department of Corporations that solicitations of this type were being made and that escrow agents were paying such charges, I caused our Release No. 14-L to be prepared and promulgated. The text of that release follows:

"Section 17420, Financial Code, provides in part, that except for the normal compensation of his own employees, it shall be a violation for any person subject to the Escrow Law to pay over to any other person any commission, fee, or other consideration as compensation for referring escrow customers or accounts.

"A practice has come to the attention of the Commissioner of Corporations by which an individual real estate broker solicits or requires licensed escrow agents to insert and pay for advertising in listing books or other publications distributed by the broker. Such publications may be for the internal use of the real estate broker and his personnel, or may be given a wider distribution. It is the position of the Commissioner of Corporations that the purchase of advertising under these circumstances constitutes payment to the broker of consideration as compensation for referring escrow customers or accounts. Such payment, therefore, is in violation of Section 17420 of the Escrow Law and provides a basis upon which the department may take disciplinary action against the escrow agent.

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## History and Development ... Education and Research Programs

The question of how to increase the competency, knowledge and skill of the real estate practitioner toward ultimate recognition as a professional has undergone thorough dissection, analysis and reconstruction during the past decade. This process has produced one answer generally agreed upon by educators and industry members. The answer is *education*.

### Real Estate Curricula

Any serious student of the real estate business will now find a real estate curriculum available in 89 of the 92 community colleges. A total of 70 of these colleges offer an associate of arts degree with a specialization in real estate. Of the 19 state colleges, 13 offer B.A. degrees with a real estate major or concentration, and 12 offer master's degrees. The University of California has Ph.D. programs in urban land economics.

How did these real estate educational programs come about? Why did the industry profess the need for educational advancement and the pursuit of additional knowledge? We may answer the first question by reviewing the history and development of real estate education in California. The second question can best be answered by the individual himself by reviewing the rapidly changing environment and needs of our society in all its perplexity.

The California Real Estate Association deserves much credit for the original inspiration to form a body of knowledgeable real estate people. The

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**REAL ESTATE BULLETIN**

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Fall 1970

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Real Estate Commissioner

JOHN E. HEMPEL  
Chief Assistant Commissioner

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**Disciplinary Action—June 15, 1970—August 1970**

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 on the disciplinary action stayed, until the stay is dissolved. Names of persons to whom licenses are denied upon application are not published.

**Licenses Revoked From June 15, 1970 Through August 1970**

Name	Address	Effective date	Violation R.E. Law/Regulations
Burton, Edward Rutledge, Jr. (RES)	336 El Camino Real, San Carlos...	6/18/70	10177(b)
(Right to RRES license on terms and conditions)			
Clark, Herbert Porter, Jr. (RES)	57 Paseo Grande, San Lorenzo...	6/23/70	10177(b)
Noft, Donovan Merle (RES)	4009 MacArthur Blvd., Oakland...	6/30/70	10177(b)
(Right to RRES license on terms and conditions)			
Ocheltree, George Roland (REB)	Hwy. 41 & County Rd. 426, Oak- hurst	7/13/70	10177(b)
Crooks, Bruce Ronald (REB)	1166 Twelfth St., San Diego	7/14/70	10177(b) (f)
Heberlee, Ronald Russell (RES)	114 E. Roosevelt, Phoenix, Arizona	7/14/70	10177(d) (f)
Jordan, James Joseph (REB)	413 E. Grand Ave., Escondido	7/14/70	10177(b) (f)
Oderio, Arthur B. (REB)	1335 Sunnyvale-Saratoga Rd., Sun- nyvale	7/14/70	10176(a) (i), 10177(f)
Treas., Pennant Realty, Inc. (REO)			
(Right to RREB licenses after 60 days on terms and conditions)			
Strand, Carl Marion (RREB)	6563 El Cajon Blvd., San Diego	7/14/70	10177(k)
Malone, Elzora Maxine (RES)	19915 Wright Dr., Los Gatos	7/15/70	10177(b) (f)
Figueroa, Dennis Charles (RES)	3055 Alvarado St., San Leandro	7/21/70	10177(b) (f)
(Right to RRES license on terms and conditions)			
Ybarra, Alec (RES)	256 E. Gail Ave., Tulare	7/27/70	10176(i)
Fox, Theodore Frank (RES)	33161 Coast Hwy., Malibu	7/28/70	10177(b) (f)
Miller, Claude James (RES)	3137 Brookdale Ave., Oakland	8/ 4/70	10177(b) (f)
(Right to RRES license on terms and conditions)			
Barrowclough, Edward Walker	2447 University Ave., San Diego	8/ 6/70	10177(b) (f)
(RES)			
Wilcox, Allen Sanford (REB)	2541 State St., Carlsbad	8/12/70	10145, 10176(c) (i), 10177(d) (f); 2831, 2831.1
Rhoades, Hubert Dean (REB)	535 S. Harbor Blvd., La Habra	8/13/70	10177.5, 10177(f)
(Stayed for a period of 3 yrs. on terms and conditions)			
Rhoades, Virginia Lee (REB)	405 W. Skyline Dr., La Habra	8/13/70	10177.5, 10177(f)
McMoyler, Richard Gerald (RREB)	2480 Whitney Dr., Mountain View	8/20/70	10145, 10176(e) (i), 10177(b) (d) (f); 2830, 2832
Lamia, Vincent Robert (REB)	17 E. Carrillo St., Santa Barbara	8/27/70	10145, 10176(i), 10177(d) (f) (j)
(Right to renew RES)			
Aguillard, Mary Jane (REB)	1858 Fulton Ave., Sacramento	8/31/70	10176(c), 10177(d)
(Right to RREB license after 45 days on terms and conditions)			

**Licenses Suspended From June 15, 1970 Through August 1970**

Name	Address	Effective date	Violation R.E. Law/Regulations
Guerrero, Mario (RREB)	14870 Dalman Ave., Whittier	6/22/70	10475
Asst. Secy., Calvestors, Inc. (REO)		Indefinitely	
Santa, Charles Paul (RES)	301 Oakdale, Folsom	6/22/70	10176(i)
		10 days	
Baranyai, Paul (RES)	2256 Valencia Ave., San Bernardino	7/14/70	10177(b) (f)
		90 days	
Dominick, William R. (REB)	337 14th St., Oakland	7/14/70	10145, 10176(a) (e) (i), 10177(d) (f)
Db a Property Mtge & Loan		6 mos.	
Bottasso, Stephen Antone (REB)	4468 Sonoma Mt. Rd., Santa Rosa	7/15/70	10176(a) (i), 10177(f)
		30 days	
Ybarra, Alec (RES)	256 E. Gail Ave., Tulare	7/27/70	10177(f) (i)
		30 days	
Archer, Frank Edward (REB)	1055 Camino Pablo, San Jose	7/28/70	10148, 10177(d); 2831
Pres., Archer & Associates, Inc. (REO)		30 days	
Pres., San Jose Mtge. Co. (REO)			
(Stayed permanently)			
Archer & Associates, Inc. (REO)	1055 Camino Pablo, San Jose	7/28/70	10148, 10177(d); 2831
(Stayed permanently)		30 days	
Hayter, Ike (REB)	1132 Yorba Linda Blvd., Placentia	8/18/70	10177.5, 10177(f)
Db a Placentia Real Estate		60 days	
(Stayed for 1 yr. on condition)			
Lamphere, Galen Thomas (REB)	1566 Nevin Ave., Ventura	8/18/70	10176(a), (i), 10177(f), (j)
(RES)		60 days	
(Stayed for 3 yrs. on condition)			
Long, John Wallace (RES)	2428 W. Whittier Blvd., Montebello	8/18/70	10177.5, 10177(f)
		60 days	
Hitt, Lawrence Clifford (RES)	6526 El Cajon Blvd., San Diego	8/25/70	10177(b) (f)
		15 days	
McNall, James Edgar (RES)	9335 Magnolia, Riverside	8/27/70	10177(b) (f)
(Stayed for 1 yr. on condition)		15 days	
Donahue, Ise (RES)	2255 N. Texas St., Fairfield	8/31/70	10177(b)
(Stayed for 1 yr. on condition)		30 days	

**STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION**

(Act of October 23, 1962: Section 4369, Title 39, United States Code)

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The *Real Estate Bulletin* is a quarterly published by the State of California, Department of Real Estate, as an educational service to all real estate licensees in the state under the provisions of Section 10083 of the California Business and Professions Code.

From the license renewal fee, \$1 is allocated to cover subscription to the *Bulletin*. Second Class Postage Paid at Sacramento, California.

## LOANS FOR DOWN PAYMENT MUST BE DISCLOSED

Some licensees are under the impression that if they make a direct, unsecured personal loan to a buyer to be used as a portion of the down payment on real property that this fact need not be disclosed to the primary lender. This is a dangerous assumption since nearly all institutional lenders; especially those who make loans insured or guaranteed by FHA and VA require full disclosure as to all aspects of a transaction. Careful scrutiny of FHA applications for credit approval, mortgage insurance and loan commitments will show that full disclosure is required concerning the nature of the down payment, assets for closing and all other settlement requirements.

To obtain an FHA insured loan, it is required that the buyers have no unpaid obligations contracted in connection with the transaction except obligations secured by property or collateral owned by the mortgagor independently of the property to be mortgaged, or obligations approved by the Federal Housing Commissioner.

Any financial obligations incurred by a buyer, whether secured or unsecured, lessens his ability to make the mortgage payments and has a direct bearing on the lender's decision to fund either a federally insured or conventional loan.

## Labor Commissioner Enforces Wage Payment Laws

All DRE district offices receive many calls on real estate commission disputes, and periodically the *Bulletin* publishes an article clarifying the Real Estate Commissioner's jurisdiction on this point.

Commission disputes are ordinarily not within the commissioner's responsibility. The Labor Commissioner is responsible for enforcement of the wage payment laws of the state.

He is empowered to accept assignments of wage claims and may bring suit when in his judgment a claim is valid and enforceable and the claimant does not have financial ability to employ counsel. The definition of wages contained in the Labor Code covers commissions or any other type of remuneration for services performed personally by an employee.

The employing broker will be notified of the claim and directed by the Labor Commissioner to make pay-

Instructions on FHA Form 2900 state that if a cash gift is to be used as a portion of the assets for closing that this must be supported by a donor's statement indicating *no repayment is expected*.

Obviously, with this requirement in effect, an undisclosed personal loan could not be approved as meeting the criteria for credit approval and loan insurance.

Nondisclosure of such material facts or the furnishing of false information to the maker, insurer or guarantor of FHA-VA loans is a violation of federal criminal statutes.

Such acts, whether involving federally insured loans or conventional loans, constitute violations of the Real Estate Law, and the perpetrators, if licensed, are also subject to disciplinary action by the Real Estate Commissioner. Several such cases have been prosecuted by the department during the past two years.

ment if he concedes that the payment is due or, if he disputes the claim, to submit a statement of facts. If the claim is disputed, a hearing will be held to determine whether an employment relationship existed (since the Labor Commissioner has jurisdiction only where there is an employment relationship), whether the evidence indicates that the compensation claimed is due, and whether there has been any violation of wage payment laws.

If it is concluded that the Labor Commissioner has jurisdiction and that the claim is valid, he will take action to enforce its payment. He may be able to resolve these disputes without the necessity of civil court suits being brought by the claimants.

Of course, a violation of the license law on the part of either the broker or the salesman should be reported to the office of the Real Estate Commissioner so the case can be assigned for investigation.

## Department Personnel Honored By Associated Home Builders

The Associated Home Builders recently honored Assistant Commissioner Thomas J. Nolan, Sacramento, and Senior Counsel W. Jerome Thom-



Thomas J. Nolan



W. Jerome Thomas

as, San Francisco, when they were given the Building Industry Advancement Award "for constructive efforts and achievements in contributing to the advancement of the building industry through cooperation and assistance given in preparing and implementing standardized legal documents, for the processing of planned-unit developments."

FHA underwriters Don Ralya and William McGonigle were given the same award.

Due to cooperation between the department's subdivision section and San Francisco legal staff, headed by Nolan and Thomas respectively, the FHA and the Associated Home Builders, the processing time of documentation required in planned developments was cut nearly in half, thereby effecting substantial savings for the homebuilding industry.

## 1970 Legislature Amends Homestead Law

The declaration of homestead applies to a special provision of the California law which provides the homeowner with the right to protect his home from sale to satisfy his debts up to specified amounts.

The 1970 Legislature amended Section 1260 of the Civil Code to increase the actual cash value which may be claimed as homestead from \$15,000 to \$20,000 for heads of family and persons 65 years of age or over, and from \$7,500 to \$10,000 for any other person. The amendment becomes effective January 1, 1971.

## DEPARTMENT AIDED BY NATIONAL GROUP

The National Association of Real Estate License Law Officials (NARELLO) helps provide solutions to the many problems of enforcing the real estate law and subdivision law. Changes must be made on a continuing basis to keep administrative costs down while maintaining effective departmental programs. Other states and provinces face similar tasks. Through NARELLO, innovative solutions can be shared.

NARELLO is the only organization with which the California Department of Real Estate has any formal affiliation. It is made up of representatives of the real estate licensing entities in all 50 states in the Union plus four provinces of Canada. **Founded 40 years ago, its most meaningful activities have begun in the last decade when full participation by all states and several Canadian provinces were obtained. Today, a genuine coast-to-coast movement to upgrade the standards of the real estate industry is underway.**

While California has been a pioneer in many real estate license law activities, the help received from NARELLO and from the individual members has been sizable. For example, through NARELLO, an agreement was reached with Nevada licensing authorities to make it easier for California real estate broker licensees to deal in the state of Nevada. An examination question bank was established in the Western District which continues to improve the real estate license examination library of questions.

In 1963, the subject of financial responsibility for licensees was under consideration. Requiring each licensee to be bonded is one method. A more efficient and less expensive approach was the "recovery fund" concept. Help from a member state of NARELLO (Arizona) that already had this law made drafting and implementing substantially easier.

Plans are now being made to keep better liaison between the license law officials and the organized real estate industry. A liaison group made up of top level representatives from NARELLO and their counterparts from NAREB meet twice each year to solve common problems of both organizations. The 1970 chairman of this important committee is Real Estate Commissioner Burton E. Smith; he also serves as a National Director.

## District Court of Appeals Affirms License Revocation

A broker can go too far in his efforts to obtain a home for a willing buyer. The district court of appeals recently upheld the commissioner's decision against a licensee who "helped" his client obtain a home.

A contract to purchase a single-family dwelling for \$20,400 was executed, subject to obtaining a first trust deed securing the balance of \$19,235, with a down payment of \$1,165. A \$100 earnest money deposit was to be increased to \$500 upon acceptance of the offer.

The evidence revealed the broker was aware the purchaser had no money and was unable to borrow any through normal, private or institutional sources, but did not communicate this information to his principal. He devised a scheme to raise the funds for the down payment and closing costs. A second trust deed was drawn for \$2,000 at 10% per annum with the broker's principal as the beneficiary. This note was sold through another broker at face value with the maker (purchaser of the home) receiving \$1,600. No loan statement, as required by Section 10240 of the Business and Professions Code, was delivered to any party in the transaction.

The court concluded that the \$1,600 received by the maker was in fact a loan—not a purchase money deed of trust—and thus subject to laws governing usury. As such, the interest on the amount received was in excess of the legal limit of 10% interest. Also, the broker failed in his obligation to furnish a detailed statement of the expenses of securing the loan.

The court found that the selling broker made substantial misrepresentations; failed to comply with the law in providing a mortgage loan statement to the maker of the note and second trust deed; gave false information to a cooperating broker and ne-

### TIME IS RUNNING SHORT!

Completion of Real Estate Finance and Appraisal courses will be a requirement of law on January 2, 1972. In other words, completion of these two additional subjects at the college level will be required before an applicant can qualify for the broker license examination. Although this seems to be somewhere in the far distant future, it is only a relatively few months and classes in the spring and fall of 1971 may be crowded; so we suggest that candidates contact their local colleges soon and make arrangements.

### Examinee Copies Questions—Discipline Meted Out

What happens to a license examinee who is caught taking notes during an examination? A recent example (unfortunately, not an isolated case) involved an examinee whose background suggests he may never have been caught up in such a practice were it not for his zeal to remember some of the questions given and to *return this information to the private-school instructor with whom he had received preparation advice for the examination.*

Carrying this a step further, the examinee copied four questions verbatim. His actions were noticed by an examination proctor; subsequently the notes were surrendered to one of the commissioner's deputies and further inquiry was made after the examination session.

This resulted in a formal hearing. The examinee's only defense was that he was copying the questions "for the benefit of other future examinees."

The hearing officer decided that the examinee's conduct reflected upon his honesty, and the commissioner denied his license for 30 days—after which time he was allowed a license on a restricted basis only.

Here was another case which was deemed to be a violation whether for the personal benefit of the examinee or another party.

gotiated a loan at usurious interest rates.

The order revoking the broker's license was affirmed by the court.

## REAL ESTATE ENROLLMENTS QUADRUPLE IN 10-YEAR PERIOD

The number of California community colleges offering real estate courses has nearly quadrupled. In 1960-61, there were 20 community colleges offering real estate courses to some 10,341 students. A recent survey shows that nine years later real estate courses were given in 85 community colleges to 39,804 students, a student increase of almost 300 percent.

To assist in meeting the needs for instructors to handle this dramatic increase, the Department of Real Estate during the past 10 years has sponsored 28 separate teacher workshops, which have assisted 819 part-time teachers in obtaining their teaching credentials from the California Community Colleges Board of Governors.

The increase in the number of offerings and students is due, in part, to two factors: First, the department, from a portion of each license fee, gives financial support for the expansion of the real estate curriculum to 80 of the 92 existing community colleges. Secondly, Real Estate Commissioner Burton E. Smith, in cooperation with the industry, sponsored Senate Bill 253 in 1968 which, by January 1, 1972, makes four college-level courses prerequisites for real estate broker license applicants. These factors, plus the real estate industry's own desire to upgrade the level of competency of licensees, contributed toward the greatly increased activities in real estate educational programs.

## Brief Subdivision Reports Proved Effective

In an attempt to make the final subdivision public reports more meaningful to subdivision lot purchasers as well as effecting economies within the department, the Commissioner has authorized the briefing of all subdivision reports.

In subdivisions where department subdivision personnel have determined that the subdivider has completely complied with the law and the subdivision has no unusual characteristics in the physical or legal set-up, the final subdivision report may encompass only one page.

## A Real Estate Broker Profile

Earlier this year, the department conducted a broker applicant survey to gather information on the applicant's age, qualifications, educational background and other pertinent data.

At test sessions in five different areas, those taking the examination were asked to fill out a questionnaire. A total of 489 examinees completed or partially completed the form, and from their responses, the following conclusions have been drawn.

The composite picture of the average broker showed that he is 43½ years of age; graduated from high school, has completed one year of college courses and believed that the industry will be completely professionalized within a few years.

### *Earnings, Educational and Exam Preparations*

The survey showed three-fourths were male and married and 25 percent earned between \$10,000 and \$20,000 per year. Only 9 percent of the respondents earned over \$20,000 per year. High school graduates totaled 60 percent and 30 percent had completed four years of college.

In preparing for the broker examination, 67 percent used a combination of study methods and resources. They took courses at community colleges and private schools and many completed university extension courses plus home study. An overwhelming majority indicated they would continue taking college-level courses and planned to participate in educational seminars sponsored by organized industry.

### *Broker License Prerequisites*

Most of the examinees concurred that the two-year, full-time employment requirement as a salesman is a valid prerequisite for the broker license; 87 percent favored the required course in Real Estate Law and Practice; 68 percent of those who had taken the courses felt their teachers had not been properly prepared, but 11 percent did not reply to this question. Most respondents felt the Legal Aspects and Real Estate Practice courses would help them to be a better broker and nearly all agreed the law requiring completion of these college-level courses as well as those in Real Estate Finance and Appraisal (effective January 2, 1972) will upgrade the standards of the industry. Over 75 percent replied that a written employment contract should be required between brokers and their salesmen.

### *Trust Account and Educational Comments*

These prospective brokers seemed to favor even tighter regulation of trust accounts and 64 percent believed that brokers should be required to maintain a trust account even though it was their usual practice to deposit all trust moneys directly in escrow.

Comments on education totaled 104. These represented a wide variety of opinions and ideas, and ranged from the examinee who believed completion of eight college courses in real estate should be required to qualify for the broker examination to the respondent who merely stated "the examinations are too difficult."

Interestingly, three-fourths believe that real estate practitioners can reach a professional status similar to that of a doctor or lawyer.

Readers should realize that a survey taken at a different time could have elicited enough dissimilar responses to all questions to change the statistics somewhat; however, these are the result of what we believe to be a reasonable random sample of broker license candidates as taken in a statewide poll. We appreciate the cooperation of the examinees who participated in the survey.

Regardless of the length or brevity of the report, the same in-depth investigation into all legal and physical aspects is performed as has always been the department's practice.

Sales crews and purchasers report that the shorter, more readable reports are actually more effective as well as offering the same protection to the purchasing public.

## Education and Research Programs Show Substantial Progress

### History and Development

*(Continued from Col. 3, Page 913)*

CREA also deserves much credit for continually leading the real estate licentiate toward uniformity of operation and ethical standards which is undoubtedly a vital part of knowledge.

About 20 years ago, some of the leading real estate people in California recommended the development of real estate education and research programs at the University of California. To implement this recommendation, the State Legislature authorized the appropriation of \$50,000 from the Real Estate Fund.

### Real Estate Education Programs

The university began by offering off-campus extension courses in real estate, while at the same time fostering real estate research. Today the university is recognized as probably the leading real estate research institution in the country, having completed over 100 research studies and it is nationally involved in solutions for urban growth, planning, environment and housing needs for the rapidly expanding population.

With this pioneering effort by the university, the industry and the Legislature in 1956 recognized the need to include community and state colleges within the law which provided that a portion of all license fees be applied toward "advancement of education and research."

The Real Estate Commissioner and the university formed advisory committees to assist the development and execution of real estate programs in all institutions of higher learning. These committees were composed of the leaders of the real estate industry and the most qualified educators. The dedication of these committees resulted in great strides being taken quickly toward preparing a formula to provide the needed education and research programs.

In December 1959 a conference of industry members, educators and specialists in related activities were assembled at Lake Arrowhead for the purpose of "upgrading the real estate industry toward professionalization." The formalized recommendations,

plans and policies resulting from this conference were used as educational and professionalization guide posts for the next several years.

As funds for education and research were made available by allocation of a portion of all license fees, the Real Estate Commissioner employed a full-time education coordinator to implement course curriculum. Literally, a sales campaign was started. Colleges were solicited to institute real estate curricula. Although there were at that time a few scattered real estate courses throughout the colleges, they were proliferating without uniformity. The demand was there, but guidance was needed.

A Junior College Advisory Committee was formed and this committee recommended the establishment of a uniform series of courses leading to an associate of arts degree. The California Real Estate Certificate Program was established in 1961.

At this point, there was a demonstrated lack of quality and uniformity in the courses offered and qualified instructors were scarce. The community colleges relied principally on part-time teachers recruited from the real estate industry and allied occupations and each college applied its own standards of qualification.

Growing out of the need for uniformity and communication, "teacher workshops" were developed; again, with guidance from the advisory committees. Workbooks and teachers' guides for each of the so-called six basic real estate courses were developed through joint efforts of the collegiate instructors, industry and the department. These teaching aids gave assurance of uniformity of course content for real estate offerings throughout the state and also assisted in attracting the successful practitioner of law, finance, appraisal and real estate into the classroom to serve as instructors. The program continued its expansion with upper division courses then being offered in the state colleges. Professors of business became enthusiastic about instructing real estate courses. The university extension offering of the basic real estate courses gave way to the community colleges,

while the extension concentrated on advanced, specialized courses.

Under current real estate education and research contracts, the Department of Real Estate offers assistance to community colleges by providing moneys for film, books, visual aids, travel moneys for teacher workshops and release time for real estate coordinators.

The department coordinates and pays for teachers' seminars each year, thereby providing the part-time community college instructor with the opportunity of obtaining the necessary courses to obtain his permanent lifetime teaching credential.

Because of the direction and leadership given by Real Estate Commissioner Burton E. Smith with the support of organized industry, Senate Bill 253 was passed in 1968. As a result, by 1972 four college-level courses in real estate will have been added to the license requirement for real estate broker applicants. Most of these courses will be given at the community colleges—approximately 39,000 course enrollments in real estate this year.

In 1968, the commissioner introduced the Revised Blueprint for Professionalization. This blueprint emphasizes education as the means toward professionalization.

California is currently recognized as one of the most prominent leaders in real estate education in the United States and Canada.

Through its membership in the National Association of Real Estate License Law Officials much has been done in the distribution of educational information and material to assist other states in their development of real estate education. California has, in return, received a wealth of ideas, information and stimulation from those states who are also members of the NARELLO.

### Research Programs

The long-term objective of educational and research efforts in California as in the rest of the states is the development of the most highly competent and, hopefully, professional practitioners to assure the utmost in the protection of the public in their

*(Continued, Col. 2, Page 919)*

## **Salesmen**

### **DO NOT DELAY IN OBTAINING BROKER'S CERTIFICATION**

The department receives numerous letters from salesmen stating "I can't locate my former broker," or "I don't remember the date I started working—how do I prove my employment?"

The typical applicant for the real estate broker examination has worked for at least two different brokers within a two-year period. Department records show over 50,000 transfers and changes by real estate salesmen in the past fiscal year. Although many of these result from changes in the broker's status, some salesmen worked for as many as five or more brokers during the year.

Most salesmen anticipate qualifying for the broker examination shortly after gaining the requisite two years' full-time employment. The task of obtaining the needed verification of salesman employment becomes difficult and particularly acute when the former broker has retired or "moved away."

Here's a solution. Both the broker and the salesman should maintain a record of the starting and ending date of employment. Upon leaving employment of the broker, the salesman should ask the broker to completely fill in Form 226-DRE, Verification of Employing Broker. These forms are available from any DRE office. Fill in all entries of transactions and commissions paid, have it signed and retain the completed signed form for future submission with the application for the broker examination.

If the form is properly completed, it will serve as evidence of employment. The salesman will not need to reestablish or verify past work experience at a later date.

In short, keep a record of the employment date and "on the spot" have the broker fill out the verification form.

### **Survey Shows Compliance With Regulation 2725**

Recent office surveys conducted by department regulatory personnel indicate substantial compliance with Regulation 2725. A number of real estate broker offices were inspected at random. Three percent of those surveyed disclosed a lack of knowledge of the regulation and the need for brokers reviewing and initialing all real estate agreements prepared or signed by their salesmen. Corrective action was taken in each case.

### **Deputy Commissioner Roth Retires From DRE**

After 18 years of cracking some of the toughest investigations the department has experienced, Herman Roth, Senior Deputy Commissioner in the Los Angeles office, announced his retirement from state service effective November 1, 1970.

Roth, a graduate of Ohio University and Western Reserve Law School, practiced law in Cleveland, Ohio for a number of years. He came to California in 1945 and was engaged in the real estate business until 1952 when he was employed by the department as a deputy real estate commissioner.

In the early part of his career with the department, he was assigned to advance fee rental operations. Many of the current laws and regulations governing advance fee rental operations can be attributed to his exemplary work. Roth was the investigating deputy on one of the leading cases concerning advance fee rental and unlicensed activity a number of years ago (*Grand vs. Griesinger*). Although assigned to a variety of the more complicated "special investigations" of late, Mr. Roth had worked primarily in the mortgage loan field, being assigned to investigate some of the most complicated mortgage loan cases in the state. These investigations often resulted in criminal prosecutions, license disciplining and more than one occasion to new laws and regulations governing the mortgage loan field.

Roth will take a long-planned and extended vacation trip to Australia and New Zealand.

### **Escrow Law Restricts Referral Fees**

*(Continued from Col. 1, Page 913)*

"Nothing in this release is intended to preclude advertising by licensed escrow agents in the publications of broadly based organizations of licensed real estate brokers, such as local real estate boards or multiple listing services."

#### **Preferential Referrals**

You will note that it was not, and is not, my intention to preclude advertising by licensed escrow agents in publications distributed by broadly based organizations of real estate brokers, such as local real estate boards or multiple listing services. On the other hand, we do consider that advertisements placed by escrow agents in publications issued by an independent real estate broker, which are not intended for general dissemination to the industry, are within the scope of activities prohibited by Section 17420. Where this type of advertising is contracted and paid for by the escrow licensee, it then raises the presumption that the consideration tendered is an attempt to obtain pref-

### **Education and Research Programs**

*(Continued from Col. 3, Page 918)*

real estate transactions.

The real estate industry and the general public have realized tremendous benefits from the money expended for education and research in the past decade. Hundreds of research studies have provided a bank of information where 10 years ago little information existed. Hundreds of real estate course offerings are now being given to thousands of individuals who are both real estate practitioners and students wishing to increase their knowledge in the field. The education fund has provided the vehicle to fill an immediate void in the area of real estate knowledge and will continue to serve as the tool to implement the goal of the professional development of the real estate industry in California.

erential referrals of escrow customers or accounts. This then provides grounds for disciplinary action against the escrow agent. **We welcome your cooperation in helping to eliminate such practices, which are detrimental to the integrity of both the real estate and the escrow industries.**

## Education Is a Continuing Process

Many candidates for the broker examination are disappointed to learn that the department will not accept college business law courses as a substitute for the statutory requirement of a course in legal aspects of real estate.

Although business law, commercial law and other generalized business courses are excellent background courses, they do not sufficiently satisfy the detailed and comprehensive subject matter normally found in a course of legal aspects of real estate.

The combination of a course in business law and a course in real estate law would give the student a good business sense as well as orientation in the legal concepts involved in real estate transactions. The applicant would be well advised to take a business law course in addition to the statutory required courses in real estate.

While on the subject of business law as distinguished from real estate law, the wise student would additionally consider a course in accounting. So much of his brokerage experience will involve accounting for "trust moneys"—which requires a considerable amount of time and business acumen—that he should not neglect this part of his early educational training. Despite the fact that the law does not compel him to complete the course as a prerequisite to licensure, he should consider fulfilling the voids neglected in earlier educational pursuits.

This is just good common business sense if the well-informed broker candidate expects to offer a complete service to his clientele. Since the law suggests only minimum requisites for qualification, education, be it through self-study or formal training, shouldn't stop merely because the law doesn't require it—education is a continuing process—throughout a lifetime.

### EXAMINATION VOLUME AT ALL-TIME HIGH

A total of 52,038 license examinations were administered during fiscal year 1969-70. This total included 33,245 salesmen, 8,538 basic broker and 10,733 finance, appraisal, law and practice supplementary broker exams.

This was a 54.1 percent increase over the previous 1968-69 fiscal year. It accounted for 837 examination sessions conducted in five locations: San Diego, Los Angeles, San Francisco, Sacramento and Fresno. Of the salesmen who took the test, 50 percent passed, whereas 54 percent of the brokers passed their basic examination.

### *In Memoriam*

Walter J. Miller, who recently retired from the Department of Real Estate, passed away on August 10, 1970, at the age of 63. He was a World War II veteran who had served the department for over 24 years. At the time of his retirement he was Assistant Commissioner of Education and Publications.

He was instrumental in the inauguration of the real estate education and research program and was in charge of its administration from its inception in 1958 to his retirement. He will be remembered for his many contributions to real estate education in California, and more particularly for his relationship with the academic community leading to the present liaison between the academicians, the industry and the department.

## Training Programs Are Essential

A review of a substantial number of disciplinary actions taken by the commissioner involving real estate salesmen revealed that most of the licensees were short on training and experience.

Fortunate is the salesman who begins his real estate career with a broker who recognizes that he is responsible for the salesman's acts, conduct and representations. This type of broker feels obligated to provide a sound training program for his sales force, and sees to it that they are adequately trained in real estate procedures and ethics. Working and learning under such a broker's careful guidance enables the salesman to develop latent abilities and potentials.

Too often a broker's "sink or swim" attitude in managing a new salesman has the effect of complete discouragement and causes loss to the industry of a potentially fine practitioner.

When an owner lists his property with a broker, he has the right to assume that he has engaged the services and advice of a professional. If the broker's salesman handles any phase of the transaction, his client should be able to expect the salesman to display a substantial measure of competency.

In the industry's drive toward professionalism, it is obvious that the creation of a better collective image in the eyes of the public depends upon the performance of individual offices and firms throughout the state. The industry's professional growth will be expedited if every office adopts appropriate training procedures, and insists on high standards of performances.