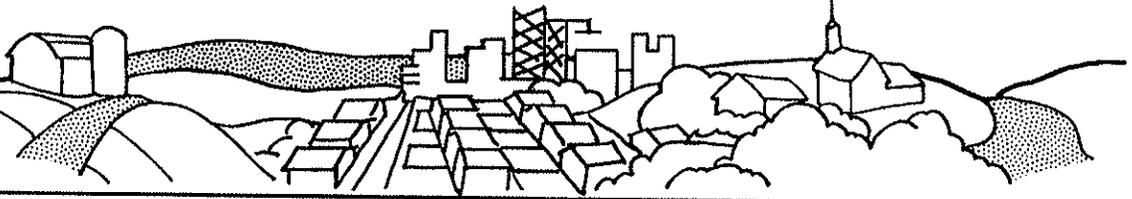




REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate



EDMUND G. BROWN JR., Governor

Fall 1980

DAVID H. FOX, Commissioner

ENFORCING CALIFORNIA NOTARY LAW

by
March Fong Eu
Secretary of State

The services of a notary public are utilized in nearly all real property transactions in California. To meet that need, I commission nearly 37,000 notaries each year, and there are over 135,000 notaries public who currently provide notarial services throughout the state.

In order to ensure the availability of a pool of competent notaries, I initiated a concerted effort to upgrade the professional standards of notaries when I first assumed office in 1975. That effort has taken a two-pronged approach. First, I sponsored the first major revision of California's notary law since the program was established in 1850. That legislation became effective January 1, 1978. Second, I gave long-overdue priority to enforcing notary laws by adding a full-time investigator. This enforcement program has resulted in over 422 commission revocations, suspensions, and denials since 1975.

A significant percentage of notaries public are directly involved with the real estate business as agents, brokers, or escrow officers. As a class, these notaries routinely perform their duties in accordance with the high degree of competence which the law requires and the public has the right to expect. However, even some of these notaries occasionally neglect to maintain properly the required notary journal or fail to notify my office of an address change. Such conduct has resulted in disciplinary action.

A relative few notaries or notary applicants in California have been guilty of far more serious misconduct, including forgery, concealing information, certifying to statements known to be false, and the like. An all too common practice, for example, is the completion of a certificate of acknowledgment notwithstanding the failure of the client to appear and acknowledge execution before the notary.

The "false certification" problem often arises when a friend or business associate "vouches" for the unappearing signer, and the agent, broker, or escrow officer—eager to close the deal—notarizes a document. This is

(Continued on Page 5)

CHANGES IN COMMISSIONER'S REGULATIONS

To implement, interpret or make specific certain portions of the Real Estate Law, Commissioner Fox has adopted, amended or repealed various sections of the Commissioner's Regulations.

The changes are set out in full text below.

AMENDS SECTION 2716 OF ARTICLE 3 TO READ:

2716. License Fees. All license fees shall be the maximum set forth in the Real Estate Law. The late renewal fee referred to in Section 10201 of the Code shall be one and one-half times the renewal fee but the amount in excess of the renewal fee shall not exceed \$25.

This section shall become effective September 1, 1980.

REPEALS SECTION 2724 OF ARTICLE 4; ADOPTS NEW SECTION 2743 OF ARTICLE 6 TO READ:

2743. Assignment of Supervisory Responsibility.

(a) A resolution assigning supervisory responsibility over salespersons licensed to a corporate broker is in compliance with Section 10159.2 of the Code if the assignment is made by reference to a specified business address or addresses of the corporate broker rather than by the listing of the names of salespersons subject to the supervision of the broker officer.

(b) In filing the resolution with the Department, the following information shall be furnished on a form prescribed by the Department:

(1) Name, business address and license number of the corporate broker.

(2) Name of the individual broker licensee who was responsible for supervision of the salespersons in question immediately preceding the effective date of the resolution.

AMENDS SECTION 2792.4(2) OF ARTICLE 12 TO READ:

2792.4. Special Provision for Enforcement of Bonded Obligations. (2) A special meeting of members for the purpose of voting to override a decision by the governing body not to initiate action to enforce the

obligations under the Bond or on the failure of the governing body to consider and vote on the question. The meeting shall be required to be held not less than 35 days nor more than 45 days after receipt by the governing body of a petition for such a meeting signed by members representing 5% or more of the total voting power of the Association.

Unless otherwise indicated, they became effective August 8, 1980. A public hearing on these changes was held in Los Angeles on June 5, 1980.

All references to "of the code" refer to the Business and Professions Code.

obligations under the Bond or on the failure of the governing body to consider and vote on the question. The meeting shall be required to be held not less than 35 days nor more than 45 days after receipt by the governing body of a petition for such a meeting signed by members representing 5% or more of the total voting power of the Association.

REPEALS SECTION 2792.6(l) AND RENUMBERS SECTIONS 2792.6(m) AND 2792.6(n) OF ARTICLE 12 TO READ:

2792.6. Required Documents for Condominium and Planned Development Public Report Application.

(l) A detailed pro forma budget reflecting estimated costs of ownership, operation and maintenance expenses and reserves for the subdivision project with comparative or other data supporting estimates of expenses.

(m) Such other documents as the commissioner may require.

REPEALS SECTION 2792.11(k) AND RENUMBERS SECTIONS 2792.11(l), 2792.11(m), 2792.11(n) AND 2792.11(o) OF ARTICLE 12 TO READ:

2792.11. Undivided Interests Subdivisions—Required Documents.

(k) Where applicable, copies of the subscription, membership and/or occupancy agreements to be executed by the purchaser of a subdivision interest.

(l) Where applicable, a copy of any regulatory agreement with a governmental agency affecting the ownership and operation of the subdivision project.

(m) A copy of any proposed management agreement between the owners' association and a management agent.

(n) Such other documents as the Department may require.

(Continued on Page 6)

REAL ESTATE BULLETIN

Official Publication of the
California Department of Real Estate
Member, National Association of Real Estate
License Law Officials

Vol. 40, No. 3

Fall 1980

STATE OF CALIFORNIA
EDMUND G. BROWN JR., Governor
DAVID H. FOX
Real Estate Commissioner

PRINCIPAL OFFICE

1719-24th Street, Sacramento 95816
Telephone (916) 445-3995

W. JEROME THOMAS, Chief Legal Officer
WILLIAM A. WIGGINS, Assistant Commissioner
Administration Division, Licensing
HENRY H. BLOCK, Assistant Commissioner
Education and Research, Course Approvals
and Continuing Education
LARRY W. SMITH, Real Estate Manager III,
Licensing and Examinations
RUTH M. FENNELL, Real Estate Specialist III,
Publications—Editor

NORTHERN REGULATORY AREA

JOHN R. LIBERATOR, Assistant Commissioner

District Offices

San Francisco, Room 5816, 185 Berry Street, 94107

Telephone 415-557-2136

WILLIAM O. KEWLEY, Real Estate Manager III,
Regulatory

Sacramento, 1719-24th Street 95816

Telephone 916-445-6776

BETTY R. LUDEMAN, Real Estate Manager III,
Regulatory

Fresno, Rm. 3084, 2550 Mariposa St. 93721

Telephone 209-445-5009

ROBERT E. MCCABE, Real Estate Manager II,
Regulatory

SOUTHERN REGULATORY AREA

LEIGHTON J. PEATMAN, Assistant Commissioner

District Offices

Los Angeles (Main Office, Southern Area)

Rm. 8107, 107 S. Broadway 90012

Telephone 213-620-5903

ROBERT C. ARNOLD, Real Estate Manager III,
Regulatory

San Diego, Rm. 5008, 1350 Front St. 92101

Telephone 714-237-7345

CARL LEWIS, Real Estate Manager II,
Regulatory

Santa Ana, Rm. 324, 28 Civic Center Plaza 92701

Telephone 714-558-4491

LINDA R. KATZMAN, Real Estate Manager III,
Regulatory

SUBDIVISIONS

RICHARD D. CARLSON, Assistant Commissioner

RAYMOND M. DABLER, Assistant Commissioner

Sacramento Hdqtrs: 1719-24th Street 95816

FRANK J. RYAN, Real Estate Specialist IV

Los Angeles, Room 8107, 107 S. Broadway, 90012

RANDOLPH BRENDIA, Real Estate Manager III

Sacramento, Suite 250, 4433 Florin Road 95823

DUANE AASLAND, Real Estate Manager III

San Francisco, Room 5816, 185 Berry Street 94107

The Real Estate Bulletin (USPS 456600) 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. Postmaster, send address changes to Real Estate Bulletin, 1719 24th Street, Sacramento 95816.

Disciplinary Action—March—May 1980

REB—Real estate broker RES—Real estate salesperson
RREB—Restricted real estate broker RRRES—Restricted real estate salesperson
REO—Real estate officer REC—Real estate corporation

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.
* Not previously published

FOR YOUR INFORMATION

The following are brief summaries of the numerical code sections listed after each licensee's name. The full context of the various sections is found in the Business and Professions Code and the Regulations of the Real Estate Commissioner, both of which are printed in the Real Estate Law book available for purchase from the Department of Real Estate at \$3.00 plus tax. Code sections summarized will vary from issue to issue as they will correspond with the particular disciplinary listings.

Business and Professions Code

490	relationship of conviction to licensed activity	10176(g)	secret profit or undisclosed compensation	11013.2	sale of subdivided lands subject to blanket encumbrance without compliance with conditions
10130	performing acts for which a license is required without the appropriate license	10177(a)	procuring a real estate license by misrepresentation or material false statement		
10131.7(a)	unlawful sale of mobilehome	10177(b)	conviction of crime		
10137	unlawful payment of compensation	10177(d)	violation of real estate law or regulations		
10145	trust fund handling	10177(f)	conduct that would have warranted denial of a license	2725	failure of broker to review agreements
10148	retention and availability of real estate broker records	10177(g)	negligence or incompetence as licensee	2830	failure to maintain trust fund account
10176(a)	making any substantial misrepresentation	10177(h)	failure to supervise salespersons	2832	improper handling of earnest money deposit
10176(b)	making false promise	10177(i)	fraud or dishonest dealing not in licensed capacity	2902	failure to furnish copy of instrument
10176(c)	commingling trust funds	10177(k)	violation of restricted license condition	2905	delivery of pest control documentation
10176(f)	fraud or dishonest dealing in licensed capacity	11013.1	sale of subdivided lands under blanket encumbrance	2950(g)	broker controlled escrow violation

Regulations

LICENSES REVOKED

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
*Fritzen, Paul Henry (RES)	2707 Mira Vista Dr., Glendale	2/19/80	490, 10177(a)
*Ceresino, Ramo (RES)	22968 Victory Blvd., Woodland Hills	2/20/80	490, 10177(b)(f)
*Hommel, Ray Lloyd Jr. (RES)	404 E. Mission, #14, Escondido	2/20/80	10177(b)(f)
*Matthews, Edward Dewey III (REB)	4423 W. Slauson Ave., Los Angeles	2/21/80	10176(a)(b)(c)(i), 10177(d)
Dbas—Brokers Unlimited			
Chernow, Edward Frank (RES)	19461 Brookhurst St., Huntington Beach	2/22/80	490, 10177(a)(b)
*Aunow, Jerry Andrew (RES)	1500 El Camino Dr., Clayton	2/25/80	10176(a)(i)
*Potash, Jordan Arlen (REB)	3745 Lowry Rd., Los Angeles	2/29/80	490, 10177(b)(f)
Dbas—United American Realty			
Jacobs, Joseph O. (RES)	14536 Roscoe Blvd., Panorama City	3/ 4/80	490, 10177(b)
Walter, Thomas Roger (RES)	1901 S. Bascom, #1050, Campbell	3/ 5/80	490, 10177(b)
Traitl, John Collins (RREB)	21 Leslie Ln., Oroville	3/11/80	10177(g)
Burt, Violet R. (REB)	2121 Parkwood Way, San Jose	3/12/80	490, 10177(b)
Double, Walter John Jr. (RES)	3849 Castro Valley Blvd., Castro Valley	3/19/80	10176(i), 10177(f)(g)
Robinson, Mildred B. (REB)	1196 Willow Glen Way, San Jose	3/19/80	10177(f)(g)
Sheehan, Michael Patrick (REB)	123 E. San Marino Ave., Alhambra	3/20/80	490, 10177(b)(i)
Velkoff, Michael Alan (RES)	2534 Lake St., San Francisco	3/24/80	490, 10177(b)
Henderson, John Anthony (RES)	1515 S. Whitemarsh Ave., Compton	3/26/80	490, 10177(b)
Rhodes, Donald Cecil (RES)	42 South 6th St., San Jose	3/26/80	490, 10177(b)
Flasher, Maurice (RES)	17514 Ventura Blvd., Ste. 104, Encino	4/ 1/80	490, 10177(b)
Meyerson, Morton S. (RES)	13900 Pansy Way, #DS4, Marina Del Rey	4/ 1/80	10177(b)
Scribner, Kathy M. (RES)	1090 S. La Brea Ave., Ste. 17, Los Angeles	4/ 1/80	10177(b)
Amaro, Linda Faye (RES)	2506 Armstrong Pl., Santa Clara	4/ 2/80	490, 10177(b)
Lewis, Bill (RES)	7731 Oakport St., Oakland	4/ 2/80	10176(a)(i), 10177(g)
Perikli, George Kosta (RES)	1335 N. Poinsettia Pl., Los Angeles	4/ 8/80	490, 10177(b)
Sinacori, Paul Joseph (RRES)	1336 Cuite Gomer, Thousand Oaks	4/10/80	10177(b)(f)(k)
Aibrigt, Patricia Jean (REB)	13738 E. Artesia Blvd., Cerritos	4/15/80	490, 10177(b)
Bailey, Sharon Kay (RES)	1079 Essex St., Livermore	4/24/80	490, 10177(b)
Spears, Ernest James (RES)	11445 Acacia St., Inglewood	4/24/80	2832, 10130, 10137, 10145, 10176(e)(i), 10177(d)(g)
McKaba, Bruce Robert (RES)	P.O. Box 2236, Santa Barbara	4/24/80	490, 10177(b)
Tarantino, Melissa Susan (RES)	5705 Josephine, San Diego	4/24/80	490, 10177(b)
Castillo, Scott Christopher (RES)	625 Pueblo Dr., Monterey Park	5/ 1/80	490, 10177(b)
Roche, Lorenzo Ariza (REB)	5023 S. Passons Blvd., Pico Rivera	5/ 1/80	490, 10177(b)(f)
Nelles, Robert A. (REB)	4 Whitewater Dr., Corona Del Mar	5/27/80	490, 10177(b)
Scharff, Robert Thomas (RES)	27241 Camp Plenty Rd., Canyon Country	5/28/80	490, 10177(b)

LICENSES REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
*Lerma, Arthur (RES)	11828 Washington Blvd., Whittier	2/13/80	10176(i)
(Right to RRES license on terms and conditions)			
*Alexander, John Davis (REB)	21731 Sherman Way, Canoga Park	2/26/80	490, 10177(b)
(Right to RRES license on terms and conditions)			
Stansky, Paul Michael (REB) (REO)	4807 Clayton Rd., Ste. 201, Concord	3/ 3/80	10176(e)(i), 10177(d)(f)(g)
(Right to RREB license on terms and conditions)			
Curo, Janis Teresa (REB)	5311 Shendoash Ave., Los Angeles	3/ 4/80	490, 10177(b)
(Right to RREB license on terms and conditions)			
Williams, Edward (REB)	820 San Fernando Rd., #G, San Fernando	3/11/80	490, 10177(b)
(Right to RREB license after 30 days on terms and conditions)			
Aleem, Mahir (REB)	3355 Pine Forest Dr., Atlanta, GA	3/11/80	490, 10177(b)
aka—Charles, Edward Louis			
(Right to RRES license on terms and conditions)			
Jones, Margaret Kasiohelo (RES)	8939 Villa La Jolla Dr., Ste. 203, La Jolla	3/20/80	2832, 10145, 10176(e), 10177(d)
(Right to RRES license on terms and conditions)			

(Continued on Page 3)

LICENSES REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Nation, John Robert (REB) (Right to RREB license after 30 days on terms and conditions)	North Peareh Creek, East Hwy 96, P.O. Box 311, Orleans	3/22/80	10131.7(a), 10176(a)(i), 10177(g)
Plumlee, Lowell Eugene (REB) (Right to RREB license after 15 days on terms and conditions)	2006 W. Olive Ave., Porterville	3/24/80	10177(f)(g)
Plumlee, Susan Gail (RES) (Right to RRES license after 15 days on terms and conditions)	2006 W. Olive Ave., Porterville	3/24/80	10177(f)(g)
Goodwin, Jo Ann (RES) (Right to RRES license on terms and conditions)	10320 Leicesterford, Downey	3/28/80	2832, 10145, 10177(d)
Trujillo, Nick O. (RES) (Right to RRES license on terms and conditions)	3579 Mt. Diablo Blvd., Lafayette	4/10/80	490, 10177(b)
Orzoff, Sidney Raymond (RES) (Right to RRES license on terms and conditions)	11701 Long Beach Blvd., Lynwood	4/15/80	490, 10177(b)
Hillyer, Beverly Jean (RES) (Right to RRES license on terms and conditions)	4605 Lankershim Blvd., Ste. 400, North Hollywood	4/15/80	490, 10177(b)
Savant, Leonard (RES) (Right to RRES license after 60 days on terms and conditions)	9314 S. Figueroa St., Los Angeles	4/16/80	490, 10177(b)(f)
Jenkins, Franklin Benjamin (REB) (Right to RREB or RRES license after 90 days on terms and conditions)	462 E. Carson St., Carson	4/18/80	2830, 2832, 10145, 10176(a)(e)(i), 10177(d)
Marshall, Erma (RES) (Right to RRES license on terms and conditions)	5478 Wilshire Blvd., Los Angeles	4/24/80	490, 10177(b)
Settles, Judy (REB) (Right to RREB license on terms and conditions)	3044 Olive Hwy, Oroville	4/28/80	10176(a)
Jones, Arnetta Lynn (RES) (Right to RRES license after 30 days on terms and conditions)	2076 N. Lake Ave., Altadena	4/29/80	10177(b)(i)
Tesoro, Joseph (RES) (Right to RRES license on terms and conditions)	11117 Inglewood Ave., Inglewood	5/ 6/80	490, 10177(b)
Sullen, Anjeter (RES) (Right to RRES license after 30 days on terms and conditions)	5407 Florin Rd., Sacramento	5/ 8/80	2832, 10145, 10176(a), 10177(d)(g)
Ordaz, Armando Noriega (REB) (Right to RREB license on terms and conditions)	1550 Webster St., Fairfield	5/13/80	10176(a)(i)
Morrill, Charles Alfred (RES) (Right to RRES license on terms and conditions)	1488 Reed Ave., San Diego	5/14/80	490, 10177(b)
Augustine, Eileen Joyce (RES) (Right to RRES license on terms and conditions)	3914 Lena Wee, #31, Culver City	5/14/80	490, 10177(b)
Adams, Arthur Adrian (RES) (Right to RRES license on terms and conditions)	910 Jergins Trust Bldg., 100 E. Ocean Blvd., Long Beach	5/15/80	490, 10177(b)
Gunderson, Howard Glenn (RES) (Right to RRES license on terms and conditions)	23210 S. Crenshaw Blvd., Torrance	5/22/80	490, 10177(b)
Salford, Julian Vaughn Jr. (RES) (Right to RRES license on terms and conditions)	P.O. Box 10060, 1136 East 17th St., Sama Ana	5/28/80	490, 10177(b)
Cowan, Ronald Arthur (REB)(REO) (Right to RREB license after 15 days on terms and conditions)	125 Pleasant View Dr., Pleasant Hill	5/28/80	10145, 10176(e)(g), 10177(d)

LICENSES SUSPENDED

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Allen, LARRY DONNED (RES)	18206 Towne Ave., Carson	3/20/80 (60 days)	10176(a)(i)
Springman, Bradley Steven (RES)	9915 Fair Oaks Blvd., Fair Oaks	4/ 1/80 (60 days)	10176(a)(i), 10177(g)

LICENSES SUSPENDED WITH STAYS

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
*LaRue, Gary (REB) Dba--L & M Real Estate (Stayed for 1 year on terms and conditions)	11828 E. Washington Blvd., Whittier	2/13/80 (45 days)	10177(h)
*Jara, Iona (REB)(REO) Dba--Century 21 Mountain Realty Off--Atil Investments, Inc. (All but 5 days stayed for 2 years on terms and conditions)	541 W. Baseline Dr., Glendora	2/26/80 (30 days)	2832, 2905, 2950(g), 10145, 10176(e), 10177(d)(g)
Riley, Sandra Jean (RES) (All but 15 days Stayed for 1 year on condition)	5845 Rich Hill Dr., Orangevale	3/13/80 (60 days)	490, 10177(a)(b)
Burris, Bette (REB) (Stayed for 1 year on terms and conditions)	835 E. Fern Ave., Fresno	3/20/80 (30 days)	10176(a)(i)
Burris, John Deroy (REB) (Stayed for 1 year on terms and conditions)	835 E. Fern Ave., Fresno	3/20/80 (30 days)	10176(a)(i)
Hinkson, Park Elmont (REB) (All but 30 days Stayed for 1 year on terms and conditions)	74 Carreta Ln., Rancho Murietta	4/ 8/80 (90 days)	10176(a), 10177(g)
Herrington-Lacy, Bette Deane (RES) (Stayed for 1 year on conditions)	655 Skyway, Ste. 230, San Carlos	4/21/80 (30 days)	10145, 10177(g)
Iless, Beverly Mae (RES) (Stayed for 1 year on condition)	780 N. State St., Ukiah	4/23/80 (10 days)	10175, 10177(g)
Nix, Gary Leonard (REB) (Stayed for 1 year on condition)	528 N. State St., Ukiah	4/23/80 (10 days)	10175, 10177(g)

INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS

Name	Address	Date
Moore, Robert William (REB)	241 S. San Mateo Dr., San Mateo	4/ 9/80
Boyle, Malcolm Joseph (REB)	3145 Geary Blvd., San Francisco	4/23/80
Mullen, Alvin Matthew (REB)	2521 W. Manchester Ave., Inglewood	5/ 5/80
DaSilva, Reinaldo Manuel (RES)	52 Dubost Court, San Ramon	5/19/80

PUBLIC REPROVALS

Name	Address	Effective date	Violation Business and Professions Code/Commissioner's Regulations
Hawn, Mary Jane (REB)	3580 Christian Valley Rd., Auburn	4/ 2/80	495, 2725, 10145, 10177(d)(h)
Higgins, Harold Wayne (RES)	18171 Jayhawk Dr., Smartville	4/ 2/80	495, 10145, 10177(d)

THE CORPORATE BROKER

In the past several months, DRE has received many inquiries from salesperson licensees and their attorneys on the subject of incorporation. These inquiries appear to stem from the desire of salespersons to obtain income tax benefits through incorporation.

The question most often posed is whether DRE will license a corporation as a real estate salesperson if the corporation is wholly owned by an individual who is licensed as a salesperson or qualified for that license. Issuance of a salesperson license to a wholly-owned corporation is regarded as the simplest and most direct means to obtain the desired tax benefits.

The answer to this question is NO. Under existing law which defines a real estate salesperson as "... a natural person ... employed by a licensed real estate broker ...", DRE cannot and does not issue salesperson licenses to corporations.

The subject of issuing a salesperson license to a corporation should not be confused with the subject of the ownership of a broker corporation by one or more salespersons. There is no provision of the Real Estate Law which prohibits a real estate salesperson from owning some or all of the shares of a broker corporation. DRE Regulation 2741 prohibits a real estate salesperson from being licensed to, or from performing acts on behalf of, a corporate broker licensee if the salesperson, singly or in combination with other salespersons licensed to the corporation, owns a majority of outstanding stock of the corporation, but even this proscription does not apply if the designated broker for the corporation is an officer and director of the corporation. To put it conversely, a salesperson who owns some or all of the shares of a corporate broker may be licensed to the corporation and may perform acts on behalf of the corporation for which a real estate license is required if the designated broker for the corporation is an officer and director. Regulation 2741, however, is not intended to, and does not, permit a salesperson to evade the requirement of broker supervision through the hiring of a dummy broker for a corporation owned wholly or in part by salesperson.

Another question frequently asked is whether it is a violation of Section 10137 of the Real Estate Law for a broker to pay commissions earned by a salesperson to a corporation that is wholly owned by the salesperson. Section 10137 states in part that it is "... unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not ... a real estate salesman licensed under the broker employing or compensating him ...".

A careful analysis of Section 10137 has led the Department to conclude that it is not a

(Continued on Page 5)



Almos From Continuing Education

prepared by
Real Estate Specialist Janet Saunders

Here are some frequently asked questions and answers regarding Real Estate Continuing Education and licensing.

Q. I have a corporate real estate broker license as well as an individual real estate broker license. One license expires in November 1980, the other early in 1982. Do I have to take real estate continuing education courses to meet the expiration date in 1982 since I will have renewed for another four years the license which expires in 1980?

A. Yes. You have to meet continuing education requirements, i.e., 45 hours of approved continuing education offerings, for the renewal of the real estate license that expires in 1982. It does not matter whether it is the corporate or individual broker license. Continuing education courses are required for *all* license renewals on and after January 1, 1981.

Q. I have an individual broker license renewable in 1981 and a corporate broker license renewable in 1983. Can the same continuing education classes be used for each license?

A. Maybe. You may submit the same real estate continuing education evidence for each license as long as the hours of education certified were within the four-year period prior to the renewal date of the license being renewed.

Q. If I renew my license late, within the grace period provided by law, what date is used to determine if my completed classes were within the four-year period, the actual renewal date or the earlier date of license expiration?

A. The actual renewal date is used for the purpose of meeting continuing education requirements. All classes must be taken within four years of the actual renewal date.

Q. I have an inactive salesperson license. I understand that licenses are no longer issued in inactive status. What must I do if I want to keep my license but do not want to work at this time?

A. It is true that as of January 1, 1981, licenses will no longer be *categorized* as active or inactive. Individuals will simply be licensed. They will either work in real estate or not work in real estate, as they choose.

Let's say you received your license in 1978, placed it in inactive status and now are concerned about what to do for your 1982 renewal.

You will have to complete continuing education courses; they are required for all renewals on and after January 1, 1981. When you finish the renewal process by 1982 and file the appropriate application and pay the proper fee, you will receive a new license certificate. Keep the license certificate in a safe place in your possession until you decide to begin work. Then you will enter into an employment agreement with the broker of your choice and notify the Department of Real Estate, using Salesperson Change Application (RE Form 214). It is not necessary for you to be employed and under contract with a broker if you are not actively working in real estate and using your real estate license.

Q. Does the foregoing also apply if I am a licensed real estate broker?

A. Yes, except if you are a real estate broker entering into an agreement to work for another real estate broker, you must notify DRE by submitting a Broker Change Application (RE Form 204), primarily for a change of address. If you are a broker and working on your own, you may or may not need to notify DRE depending on whether there is an address change.

DRE

potential risks and drawbacks in the use of such financing devices. Licensees advocating the use of creative financing plans which have not been extensively used should be prepared to explain these risks to their sophisticated as well as unsophisticated clients.

A person using the services of a real estate licensee is entitled to expect the benefit of the agent's knowledge and expertise in areas that are foreign to him or her. Creative financing is such an area. It is not something that the licensee and his principal should be learning together through a trial and error process.

QUARTERLY EXAM RESULTS 1980

	SALES		BROKERS	
	TOOK	PASSED	TOOK	PASSED
April	7,475	3,141	1,723	810
May	6,673	2,749	1,622	732
June	4,523	1,929	1,501	776
TOTAL	18,671	7,819	4,846	2,318

MULTIPLE LISTING SERVICES AND THE CARTWRIGHT ACT

California's anti-trust law is known as the Cartwright Act (Business and Professions Code Section 16,700, et seq.) and it applies to such service-oriented businesses as real estate brokerages.

The purpose of the act is to maintain "free, unlimited and unfettered" business competition and is designed to aid the consumer while insuring competitors a fair opportunity in the marketplace. It makes unlawful partial restrictions and limitations on competition as well as those which result in its complete absence, but economic considerations may justify restraints of trade in certain circumstances. Thus by fostering competition—contest for trade—restraints/monopoly in business can be prevented.

The 1976 California Supreme Court decision in *Marin County Board of Realtors, Inc., v. Palsson*, 16 C 3d 920 and the 1977 Court of Appeal holding in *Glendale Board of Realtors v. Hounsell*, 72 CA 3d 210, dealt with anti-trust principles applicable to Multiple Listing Services activities.

A multiple listing service, or MLS, is an association of real estate agents providing a confidential system for pooling of each participating member's listings in a central registry and the sharing of commissions on a specified basis when the listed properties are sold by member agents. The first case concerned a non-member real estate salesman denied access to a Board's MLS; the second case concerned a non-member broker similarly denied.

In *Palsson*, a licensed part-time real estate salesman, employed by a real estate broker who was an active member of the Marin County Board of Realtors, was denied membership in the Board because he was not "primarily engaged in the real estate business." This provision was part of the Board's bylaws and was enforced through sanctions against broker members who employed part-time salespersons. Thus a denial of membership equated to a denial of employment not only with the salesman's employing broker but also with the 75% of Marin County brokers who were Board members.

The California Supreme Court held that the Board of Realtors had violated the Cartwright Act

- by limiting its membership to persons primarily engaged in the real estate business and
- by denying non-members access to its multiple listing service.

The Court directed the trial court to order the Marin County Board to discontinue each practice. The Court concluded that a Board can set reasonable standards for admission, but when membership in an association is a practical economic necessity, judicial review is available to examine bases for exclusion from membership. Further, the Court specified that non-members using a Board's multiple listing service may be "charged a

(Continued on Page 5)

FINANCING ALTERNATIVES

In this period of tight mortgage money, nearly everyone with the slightest knowledge of real estate financing has a creative financing plan for marketing residential real property, new and used.

Licensees should go slow however in advocating the use of these innovative financing techniques by their clients. A temporary solution to a financing problem may turn out to be a long-term headache to buyer, seller or both. Many if not most financing plans that involve devices such as balloon payments, interest reset options, all-inclusive deeds of trust, real property sales contracts and lease options have ramifications that are not readily apparent to unsophisticated buyers and sellers.

It is therefore of paramount importance that licensees who recommend such plans to their clients have a good understanding of the

Multiple (Continued from Page 4)

reasonable fee for use of the service consistent with the per-capita costs of operation."

In *Hounsell*, the anti-competitive economic effects of denying a broker access to an MLS operated by the Glendale Board of Realtors because the broker was not a member of the Board was considered by a Court of Appeal. The Court pointed out that in the earlier *Palsson* case the Supreme Court had declared the rationale expressed there would apply in a future case involving a similar rule in a comparable industry having like economic effects. Therefore, on the authority of *Palsson* the Court of Appeal held that the Glendale Board of Realtors had violated the Cartwright Act by generally denying non-members of the Board access to its multiple listing service. The Supreme Court later denied the Board's petition for a hearing.

While it is lawful for a realty board to condition access to its listing service to those who are appropriately licensed and on the payment of reasonable charges for the use of the service, it is clear in light of the cited cases that anti-competitive practices will not be condoned. Anti-trust laws are based "on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions." (*Northern Pac. R. Co. v. United States* (1958) 356 U.S. 1, 4 [2 L.Ed. 2d 545, 549].)

Thus are homeowners and homebuyers protected and served while licensees enjoy fair opportunities to compete. **DRE**

Corporate (Continued from Page 4)

violation of that section for a real estate broker to pay commissions earned by a salesperson to a corporation in accordance with the salesperson's instructions to the broker.

The purpose of Section 10137 is to preclude a broker from employing or paying compensation to an unlicensed person for that person's performance of acts for which a license is required and also to preclude a broker from directly compensating a salesperson for his or her acts for which a license is required while not licensed to the broker-payer. Neither of these purposes would be subverted by the broker's remitting of commissions earned by a salesperson directly to a person designated by the salesperson, in this case a corporation wholly owned by the salesperson. As the equitable owner of the earnings in the custody of the broker, the salesperson is entitled to control the actual disbursement of the funds, and the broker is not in violation of the law in allowing the salesperson's directions for disbursement.

The Department cannot offer advice as to whether a salesperson may legitimately claim income tax benefits through the device of having earnings paid to a wholly-owned corporation or on related questions involving taxation of licensees' income. For guidance in this area, licensees should seek the advice of an attorney or accountant who is well versed in income taxation. **DRE**

Notary (Continued from Page 1)

precisely what happened recently in San Bernardino where a notary notarized the acknowledgment of the execution of a quitclaim deed at the request of an office colleague in order to close escrow notwithstanding the failure of the purported grantors to appear before the notary. This notarial misconduct resulted in a six-month suspension of the notary's commission.

A real estate salesperson in Long Beach was less fortunate. In that case the salesperson-notary, having seen two out of three of the purported signers in his office, agreed to certify to the acknowledgment of the execution of a lease assignment after an office colleague represented that the three signatures were authentic. As it turned out, one signature was a forgery. This misconduct resulted in my filing of an action to revoke the notary's commission.

A related problem occurs when an impostor appears before the notary public claiming to be one of the grantors indicated on a deed. Frequently the impostor purports to be the spouse of the other grantor, and the notary unwittingly assumes that the transaction is a simple sale of the jointly owned family property. Believing that the impostor is indeed the spouse of the client who is known to the notary, the notary notarizes the impostor's signature without establishing the requisite identity. Only when the bona fide spouse later appears does the notary realize the error.

This situation is not just television drama. Recently I revoked the commission of a notary in Oakland for notarizing the execution of a deed of trust based on a client's representation that the man appearing with her was her husband. As it turned out, he wasn't, and the notary—by neglecting his duty to establish identity—permitted the real spouse's property to be refinanced without his knowledge or approval.

In these circumstances, the errant notary is

not only liable criminally and civilly, but his or her notary commission and other professional credentials will almost certainly be suspended or revoked. My advice to notaries is to avoid taking the risk. It just isn't worth it.

Incidentally, notaries public are presumed to be of stern enough stuff to withstand the temptation to round corners in order to clinch the deal. But in order to protect the weaker souls from overzealous clients or bosses, the revised notary law makes it a misdemeanor to solicit, coerce, or in any manner influence a notary public to perform an improper notary act knowing said act to be improper.

Probably the single most prevalent reason for denying notary public applications is the failure to disclose information fully and accurately on the notary application. For example, applicants often fail to disclose prior criminal convictions or professional license disciplinary actions. Ironically, the application would often be granted were the information disclosed. The failure to disclose fully and accurately, however, is itself viewed as a significant index of the applicant's lack of professional integrity and is itself grounds for denial or revocation or suspension of an already granted commission. Applicants should be on notice that prior criminal conviction and professional license disciplinary actions are apt to be discovered by routine screening procedures and should, therefore, be disclosed on the application.

In closing, it should be emphasized that the primary thrust of the notary division enforcement program is not to annoy, harass or embarrass notaries. They perform essential services and, with few exceptions, are to be commended for the excellent job they do. On the other hand, those notaries who abuse or neglect their office have no business being commissioned, and I will continue to screen applicants and weed out the unethical and malfasant to maintain the California notary program's reputation as the finest in the nation. **DRE**

JOHN A. DIBETTA RETIRES

John A. DiBetta, one of the Department of Real Estate's (DRE) top administrators, retired recently after more than sixteen years of outstanding service to the department.

DiBetta began his career with the DRE in September 1964 as a deputy commissioner in the Los Angeles District Office. During his tenure with the DRE, he worked in the Southern Regulatory, Northern Regulatory and Sacramento Headquarters Offices.

In 1969 he was appointed Chief Deputy in charge of the San Francisco District Office. He returned to the Los Angeles District Office in 1972, having been promoted to Assistant

Commissioner of the Southern Regulatory Area. DiBetta's final departmental move was to the Sacramento Headquarters in 1977 when he was appointed to Career Executive Assignment—Chief of Transaction Activities Division. He also served as Chief of Policy and Planning for the two years preceding his retirement.

A native of Los Angeles, he attended local schools and continued his education by completing police administration courses at USC, Los Angeles State College and Southwestern Law School.

Prior to joining the DRE he worked for the Los Angeles Police Department, sixteen years being spent as a detective in the BUNCO Division. He was a frequent speaker on radio and television, presenting educational programs on BUNCO frauds.

Retirement for DiBetta and his wife, Alberta, means making a new home in Little Rock, Arkansas to be near his daughter and family. Farewell. **DRE**

Notes from Licensing

by Larry W. Smith
Real Estate Manager III
Licensing and Examinations

Effective September 1, 1980, real estate license fees were increased by regulation to the maximum allowed under present law. These new fees apply to both broker and salesperson original applications for license and to all licensees renewing existing licenses with an effective original issuance or renewal date of September 1, 1980, or later.

The following will illustrate the various new fees.*

ORIGINAL LICENSE FEES

Salesperson		Broker
\$60.00	Active	\$85.00
30.00	Inactive	42.50

* A \$6.00 fingerprint processing fee is required in addition to original license fee unless already licensed by the Department of Real Estate.

RENEWAL LICENSE FEES

Salesperson		Broker
\$60.00	Active on-time	\$ 85.00
85.00	Active late	110.00
30.00	Inactive on-time	42.50
45.00	Inactive late	63.75

Regulations (Continued from Page 1)

AMENDS SECTION 2792.13 OF ARTICLE 12 TO READ:

2792.13. Undivided Interests Subdivisions—Impound of Funds. All funds received from prospective buyers to be applied to the purchase of undivided subdivision interests, including community apartment projects, stock cooperatives and limited equity housing cooperatives, shall be deposited and held in tact in an escrow depository acceptable to the Real Estate Commissioner until bona fide offers have been obtained for the purchase of a prescribed percentage of all of the interests being offered for sale.

In the event that the prescribed percentage of offers have not been obtained within two years from the date of the issuance of the public report, or such other period as the Commissioner may approve, all funds theretofore collected shall be promptly returned by the escrow depository to owners without deduction.

The prescribed percentage shall be determined by the Commissioner based upon the facts and circumstances of each such offering. Ordinarily this percentage shall be not less than 60% of the interests being offered for sale provided, however, that the Commissioner may prescribe a lesser percentage if the plan of the offering includes other financial arrangements to lessen the possibility of foreclosure of a nondelinquent interest on account of the delinquencies of other owners.

Licenses bearing expiration dates of August 30, 1980, and earlier were governed by the prior set of license fees of \$75.00 (Broker) and \$45.00 (Salesperson) and the corresponding late and inactive fees.

R-E-M-I-N-D-E-R-S—January 1, 1981 and after.

Effective January 1, 1981, the inactive license fee will be eliminated, meaning that all original and renewal licenses will then be subject to the full on-time and late fees. Even though a licensee is not actively engaged in the business of real estate at the time the license is originally applied for or renewed, the full fee will be required as shown below:

ORIGINAL LICENSE FEES

Salesperson	Broker
\$60.00	\$85.00

RENEWAL LICENSE FEES

Salesperson		Broker
\$60.00	On-time	\$ 85.00
85.00	Late	110.00

Of course, salespersons can only be licensed to and act on behalf of the broker, and a Salesperson Change Application RE Form 214 is to be submitted to the Department when any change of broker is made. A broker will still be required to notify the Department in writing whenever a salesperson is terminated. These types of requirements will not change.

AMENDS SECTION 2792.19(b)(1) OF ARTICLE 12 TO READ:

2792.19. Reasonable Arrangements—Election of Governing Body. (b)(1) Voting for the governing body shall be by secret written ballot. Cumulative voting in the election of governing body members shall be prescribed for all elections in which more than two positions on the governing body are to be filled subject only to the procedural prerequisites to cumulative voting prescribed in Section 7615(b) of the Corporations Code.

ADOPTS NEW SECTION 2792.20(e) OF ARTICLE 12 TO READ:

2792.20. Reasonable Arrangements—Governing Body Meetings.

(e)(1) The governing body may take actions without a meeting if all of its members consent in writing to the action to be taken.

(2) If the governing body resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the common area within three days after the written consents of all governing body members have been obtained.

ADDS SUBDIVISION (b)(6) TO SECTION 2792.21 OF ARTICLE 12 TO READ:

2792.21. Reasonable Arrangements—Governing Body Powers and Limitations.

(6) In the case of a limited equity housing cooperative, using the corporate equity for any purpose permitted under Section 33007.5(d)(1) of the Health and Safety Code without the vote or written consent of a bare majority of the stock or membership interests of resident owners.

Continuing education requirements become effective commencing with licenses expiring December 31, 1980. To renew licenses with an effective date of January 1, 1981, and after, the licensee must submit evidence of having completed 45 hours of approved continuing education offerings.

To accomplish this, a newly devised DRE special form will be included with each renewal application mailed out by DRE to renewal applicants. This special form must be completed in full and returned by the renewal applicant with the renewal application, evidencing the required 45-hour attendance.

DO NOT submit the certificate awarded by the offering entity unless specifically requested to do so by DRE, as the pertinent information appearing on the certificate(s) will be transferred by applicant to the special form. The certificate is to be retained by the licensee. (See newly amended Regulation 3013, page 8.) **DRE**

THREE NAMED TO REAL ESTATE ADVISORY COMMISSION

Commissioner David H. Fox recently appointed Dorothy Colton and Gary W. Lefkowitz of Beverly Hills and Donald E. Werby of San Francisco to serve on the Advisory Commission.

Other members are: Clark E. Wallace, Ray C. Carlisle, Alberta (Peppy) Mayer, Emmette T. Gatewood, Jr. and George M. Marcus.

AMENDS SECTION 2792.24 OF ARTICLE 12 TO READ:

2792.24. Reasonable Arrangements—Governing Instruments Amendments.

(a) In a single-class voting structure, amendments of the CC&R's may be enacted by requiring the vote or written assent of members representing both:

(1) A majority of the total voting power of the Association which is at least a bare majority and not more than 75%; and

(2) At least a bare majority of the votes of members other than the subdivider.

The percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. For example, if the CC&R's expressly state that 75% of the voting power must agree to an increase in the maximum annual assessment, then 75% of the voting power is necessary to amend this provision regardless of the percentage prescribed in the general provision pertaining to amendments of the CC&R's.

(b) Amendments of the Articles or Bylaws shall require the vote or written assent of members as follows:

(1) An owners association other than for a limited equity housing cooperative.

(A) Articles

(i) At least a bare majority of the governing body; and

(ii) At least a bare majority of the voting power of the association; and

(Continued on Page 7)

Regulations (Continued from Page 6)

(iii) At least a bare majority of the votes of members other than the subdivider.

(B) Bylaws

(i) At least a bare majority of a quorum, but not more than a bare majority of the voting power of the association; and

(ii) At least a bare majority of the votes of members other than the subdivider.

(2) An owners association for a limited equity housing cooperative.

(A) Articles

(i) At least a bare majority of the governing body; and

(ii) At least 66-2/3 percent of the resident-owner members or shareholders.

(B) Bylaws

(i) At least 66-2/3 percent of the resident-owner members or shareholders.

(c) Notwithstanding the provisions of (b) above, the percentage of a quorum or of the voting power of the Association or of members other than the subdivider necessary to amend a specific clause or provision in the Articles or Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(d) If a two-class voting structure is provided and is still in effect in the Association, none of the governing instruments may be amended without the vote or written assent of a prescribed percentage of the voting power of each class of membership or a prescribed percentage of a quorum of members of each class.

(e) If a two-class voting structure was originally provided in the governing instruments, but is no longer in effect because of the conversion of one class to the other, the provisions for amending the governing instruments set forth in subdivisions (a) and (b) above shall be applicable.

AMENDS SUBDIVISION (a) OF, AND ADDS SUBDIVISION (c) TO SECTION 2792.25 OF ARTICLE 12 TO READ:

2792.25. Reasonable Arrangements—Restrictions Upon Alienation.

(a) Except as provided in subdivision (c), any provision which purports to restrict or abridge, whether directly or indirectly, the right of an owner to sell or lease his subdivision interest must include uniform, objective standards for invoking the restrictions upon sale or lease, none of which shall be based upon the race, color, creed, national origin or sex of the vendee or lessee.

(c) In a limited equity housing cooperative, the purchase and sale of the stock or membership interest of a resident-owner shall be controlled by the Association as prescribed in Section 33007.5 of the Health and Safety Code.

ADDS SUBDIVISION (c) TO SECTION 2792.29 OF ARTICLE 12 TO READ:

2792.29. Reasonable Arrangements—Distribution in the Case of Condemnation or Destruction.

(c) Upon the dissolution of a limited equity housing cooperative, the sale of the property comprising the subdivision, or the occurrence of any condition requiring termination of the cooperative, the corporate equity shall be

paid out in accordance with Section 33007.5(d)(2) of the Health and Safety Code.

ADOPTS NEW SECTION 2794 OF ARTICLE 12 TO READ:

2794. Use of Final Public Reports.

(a) No person shall take a written offer to purchase or lease an interest in subdivided lands nor solicit nor accept money or other consideration toward purchase or lease until the prospective purchaser has received, and has had an opportunity to read, a copy of the final public report for the subdivision.

(b) A subdivider may make copies of the subdivision public report issued by the Department for use in solicitations and sales of subdivision interests provided that a true copy of the reproduced public report has been filed with the Department before it is used.

REPEALS SECTION 2795 OF ARTICLE 12. ADOPTS NEW SECTION 2795 OF ARTICLE 12 TO READ:

2795. Preliminary Public Report.

(a) If a subdivider makes application and pays the appropriate fee, a preliminary subdivision public report may be issued by the Department in advance of satisfaction of all requirements for issuance of a final public report when in the judgment of the Commissioner it is reasonable to expect that all of the requirements for the issuance of a final public report will be satisfied in due course.

(b) A subdivider and persons acting on his behalf may solicit and accept reservations to purchase or lease subdivision interests under authority of a preliminary public report if there is compliance with each of the following:

(1) The person making the reservation (potential buyer) has been given a copy of the preliminary public report and has executed a receipt for a copy before any money or other thing of value has been accepted by or on behalf of the subdivider in connection with the reservation.

(2) A copy of the reservation instrument signed by the potential buyer and by or on behalf of the subdivider, along with any deposit taken from the potential buyer, is placed into a neutral escrow depository acceptable to the Commissioner.

(3) The reservation instrument used is a form previously approved by the Department with at least the following provisions:

A. The right of either subdivider or potential buyer to unilaterally cancel the reservation at any time.

B. The payment to the potential buyer of his total deposit on cancellation of the reservation by either party.

C. The placing of the deposit into an interest bearing account for the benefit of the prospective buyer at the prospective buyer's request and upon the prospective buyer's agreement to pay any charges of the escrow depository for this service.

(c) The initial term of a preliminary public report shall not exceed one year from the date of issuance. The authority to use a preliminary public report shall automatically terminate with respect to those subdivision interests covered by a final public report which is issued before the scheduled termination date of the preliminary report.

AMENDS SECTION 2795.1 OF ARTICLE 12 TO READ:

2795.1. Receipt for Final or Preliminary Public Report.

(a) A receipt on the form specified herein shall be taken by or on behalf of the subdivider from each person executing a reservation agreement under authority of a preliminary public report and each person who has made a written offer to purchase or lease a subdivision interest under authority of a final subdivision public report.

(b) The subdivider or his agent shall retain each receipt for a public report for a period of three years from the date of the receipt and shall make the receipts available for inspection by the Commissioner or his designated representative during regular business hours.

(c) The form approved by the Commissioner for the acknowledgment of receipt of a final or preliminary public report as follows:

RECEIPT FOR PUBLIC REPORT

The Law and Regulations of the Real Estate Commissioner require that you as a prospective purchaser or lessee be afforded an opportunity to read the public report for this subdivision before you make any written offer to purchase or lease a subdivision interest or before any money or other consideration toward purchase or lease of a subdivision interest is accepted from you.

In the case of a preliminary subdivision public report, you must be afforded an opportunity to read the report before a written reservation or any deposit in connection therewith is accepted from you.

DO NOT SIGN THIS RECEIPT UNTIL YOU HAVE RECEIVED A COPY OF THE REPORT AND HAVE READ IT.

I have read the commissioner's public report on _____

(File No.)

(Tract No. or Name)

I understand the report is not a recommendation or endorsement of the subdivision, but is for information only.

The date of the public report which I received and read is:

(Date Issued)

(Date Amended)

Name

Address

Date

Subdivider Is Required to Retain this Receipt for Three Years.

AMENDS SECTION 2830.1 OF ARTICLE 15 TO READ:

2830.1. Interest Bearing Account. A real estate broker who receives funds in trust from or on behalf of an obligor for the payment of property taxes, assessments, or insurance relating to real property containing only a one to four family residence shall not be precluded by the provisions of Section 2830 from depositing and maintaining said funds in an interest-bearing account in a bank, savings and loan association or other financial institution provided that the account is one

(Continued on Page 8)

Regulations (Continued from Page 7)

that is insured by an agency of the Federal government.

None of the interest earned on funds deposited into an interest bearing account by a real estate broker pursuant to this section shall inure to the benefit of the broker.

AMENDS SECTION 2831 OF ARTICLE 15 TO READ:

2831. Records to Be Maintained. Subject to Inspection by Commissioner or His Deputies. Every broker shall keep a record of all trust funds received by him, including uncashed checks held pursuant to instructions of his principal. Said record, including records maintained under automated data processing systems, shall set forth in columnar form:

- (1) date funds received;
- (2) from whom received;
- (3) amount received;
- (4) with respect to funds deposited to trust bank account, date of said deposit;
- (5) with respect to funds previously deposited to trust bank account, check number or date of related disbursement;
- (6) with respect to funds not deposited in trust bank account, nature of other depository and date funds were forwarded;
- (7) daily balance of trust bank account.

Each broker who maintains a formal trust cash receipts journal and a formal cash disbursement journal or other similar records or uses an automated data processing system, in accordance with sound accounting principles, shall be deemed to have complied with the above.

All records and funds shall be subject to inspection by the Commissioner or his deputies.

AMENDS SECTION 2831.1 OF ARTICLE 15 TO READ:

2831.1. Separate Record for Each Beneficiary and Transaction. Each broker shall keep a separate record for each beneficiary or transaction, accounting for all funds therein which have been deposited to the broker's trust bank account. These separate records shall set forth information sufficient to identify the transaction and the parties thereto. Each such record, including

records maintained under automated data processing systems, shall set forth in columnar forms:

- (1) date funds deposited;
- (2) amount deposited;
- (3) the date of each related disbursement;
- (4) the check number of each related disbursement;
- (5) the amount of each related disbursement.

Each broker who maintains a formal trust ledger or similar record or uses an automated data processing record system, in accordance with sound accounting principles, shall be deemed to have complied with the above.

REPEALS SECTION 2845 OF ARTICLE 16. ADOPTS NEW SECTION 2845 OF ARTICLE 12 TO READ:

2845. Lending of Broker Controlled Funds. A real estate broker who holds himself out to the public as an agent for the negotiation of loans secured by real property shall not lend broker-controlled funds in a real property loan transaction without the express written consent of the borrower.

The term "broker-controlled funds" means funds owned by the broker, funds of a person related to the broker by blood or marriage and funds of an entity in which the broker has an ownership interest of 10 percent or more.

The provisions of this section shall not be applicable in the case of a transaction which is subject to Section 10241(j) of the code.

AMENDS SUBDIVISION (d) OF SECTION 2852 OF ARTICLE 17 TO READ:

2852. Contract With Prospective Tenant.

(d) The prospective tenant's specifications for the rental property, including but not limited to:

- (1) Type of structure, e.g., detached single family apartment, duplex, etc.
- (2) Location by commonly-accepted residential area name, by designation of boundary streets or in any other manner affording a reasonable means of identifying locations acceptable to the prospective tenant.
- (3) Furnished or unfurnished.
- (4) Number of bedrooms.
- (5) Earliest occupancy date desired.
- (6) Maximum acceptable monthly rental.

AMENDS SECTION 2856 OF ARTICLE 17 TO READ:

2856. Authorization Required. No advance fee rental agent shall furnish a prospective tenant with the address of a prospective rental unless the advance fee rental agent has received specific authorization to offer said property for rent from the owner or his authorized agent.

An advance fee rental agent shall not refer a prospective tenant to a rental listing unless the availability of the listing has been verified within three business days of the referral.

AMENDS SUBDIVISION (c) OF SECTION 3000 OF ARTICLE 24 TO READ:

3000. Criteria for Courses of Study. (c) Instructors must have credentials issued by the Board of Governors of the California community colleges or comparable California credentialing agency, or meet the criteria for obtaining such credentials, or in the judgment of the Commissioner is otherwise qualified by education or experience, or both.

AMENDS SUBDIVISION (b)(2)(G) OF SECTION 3006 OF ARTICLE 25 TO READ:

3006. Criteria For Course Approvals. (G) Record of pass or fail, if applicable. The offering entity shall certify the items enumerated above on paper not greater in size than 8½ x 11 inches nor lesser in size than 3½ x 5 inches and shall, within a reasonable time after completion of the offering, furnish a copy of the certificate of the attendee.

AMENDS SUBDIVISION (a) OF SECTION 3013 OF ARTICLE 25 TO READ:

3013. License Renewal Procedure. (a) A license renewal application on a form prescribed by the Real Estate Commissioner shall be filed not earlier than 60 days preceding license expiration date. Applicants must list all courses meeting continuing education requirements taken in compliance with Article 2.5 and the hours of attendance at each. Lists of courses furnished by the applicant at the time of renewal must show a total of no less than 45 clock hours. Certificates of attendance shall be retained by the licensee for a period of three years from the latest renewal date of the license. **DRE**

Official Publication

CALIFORNIA DEPARTMENT OF REAL ESTATE
1719-24th Street
Sacramento, California 95816

Second-Class Postage
paid at
Sacramento, California