

BROKER SUPERVISION — SUGGESTIONS OF THE COMMISSIONER'S TASK FORCE; PART 2

by Robin T. Wilson, Chief Counsel, Department of Real Estate

Foreword

In review of hundreds of licensee disciplinary cases, Real Estate Commissioner James A. Edmonds, Jr. discovered many involved the failure of brokers to supervise salespersons licensed to them. Each of these cases had in common the failure of brokers to design and implement a reasonable management system that would result in the salesperson's compliance with the provisions of the Real Estate Law and the regulations enacted thereunder.

A task force, established by the commissioner, reviewed the issue of broker supervision and developed practical and useful suggestions which brokers may implement to comply with the requirement that brokers exercise supervision over salespersons.

The comments and suggestions of the task force were not designed nor intended to establish standards of conduct, rather to provide concerned brokers with suggestions through which each may realize his or her supervisory responsibilities.

The following report is the second in a four-part series of the suggestions of the Commissioner's Supervision Task Force.

Hiring and Terminating Salespersons:

Effective supervision begins with the steps taken by the broker when initially contracting with a salesperson or a broker who is to act as a salesperson. Among those steps is to ensure that all requirements in the Real Estate Law and the Commissioner's regulations for the proper and effective licensing of salespersons are satisfied. Because of their importance, these statutory and regulatory requirements are set forth below in detail.

Although not required by law, each broker may want to consider information he or she feels necessary about a prospective salesperson's background, experience and knowledge prior to agreeing to employ the salesperson. This may include completion of an application detailing experience and education and/or with the consent of the prospective salesperson, personal inquiries from past employing brokers or others who may be knowledgeable about the abilities of the salesperson. This type of information may prove useful to the broker's assessment of whether or not the prospective salesperson can perform his or her duties and responsibilities as a licensee at the high level of service expected by the public, and the broker.

Once the decision has been made to allow the salesperson to work under the broker, the following requirements must be complied with before putting the salesperson to work.

Employment of Salespersons:

1. The salesperson should provide the broker with his or her license certificate (Business & Professions Code 10160).
2. The broker must retain the certificate at the main business office (B & P Code 10160 and Regulation 2753).
3. Within five days of employment, the broker must notify the Commissioner in writing on a form provided by the department (RE 214) of the employment. The form must be signed by the broker and the salesperson and include the following information:
 - a) Broker's name and principal business address;
 - b) Salesperson's residence address;
 - c) Date of employment;
 - d) Certification by the salesperson of compliance with B & P Code Section 10161.8(d) (see "4" below);
 - e) Prior broker's name, address and date of termination of the relationship;
 - f) The salesperson's certification that the former broker has notice of the termination.

Note: As an alternative to "e" and "f," the former broker may within five (5) days of termination use RE Form 214 to give the Commissioner notice of the termination.

4. The broker should check to see that the salesperson masked out the name of the former broker (if

VISUAL INSPECTION LAW MODIFIED

by Martin F. Dingman, Real Estate Counsel,
Subdivisions

Real estate brokers may not be required to perform a visual inspection of new residential subdivision properties offered for sale for the first time, under recently-enacted provisions of the Civil Code.

Effective January 1, 1989, Section 2079.6 was added to the Civil Code, thereby creating the exemption and prescribing the manner in which it may be applied.

Previously existing law clearly specifies that a real estate broker representing a seller under a written contract has the duty to conduct a reasonably competent and diligent inspection of the residential property listed for sale. Further, the broker is required to disclose to prospective purchasers all facts materially affecting the value and desirability of the property that such an investigation would reveal. The broker is responsible for disclosing facts that the broker believes are not known or readily apparent to the buyer.

The foregoing holding from the court in the case of Easton v. Strassburger, 152 CAL. APP. 3d 90 led to the 1985 enactment of Section 2079 of the Civil Code (and companion statutes) to statutorily impose the duty on the listing or cooperating real estate broker to conduct a reasonably competent and diligent visual inspection of the property offered for sale.

The broker's duty applies to all residential property containing one to four units. In the case of subdivisions which contain common area, such as a condominium, planned development, or stock cooperative, the duty only applies to the unit offered for sale and not to the common areas or other units.

The statutory real estate transfer disclosure statement, the form of which is prescribed in Civil Code Section 1102.6, provides space for both the listing and selling agents to set forth what their inspections reveal. Somewhat ironically, however, transfers requiring a Subdivision Public Report to be issued by the Real Estate Commissioner and transfers of certain city located standard subdivisions improved with residential structures (where no public report is required) are not required to be preceded by the real estate disclosure statement from the seller as prescribed in Civil Code Section 1102.6.

Hence, Section 2079.6 of the Civil Code supplies a measure of consistency in that the real estate transfer disclosure statement was intended to be utilized in connection with resales rather than the

REAL ESTATE BULLETIN
 Official Publication of the
 California Department of Real Estate

Vol. 49, No. 3 Fall 1989

STATE OF CALIFORNIA
 GEORGE DEUKMEJIAN, Governor

JAMES A. EDMONDS, JR.
 Real Estate Commissioner

EXECUTIVE OFFICE

107 South Broadway, Room 8107, Los Angeles 90012
 Consumer Information (213) 620-5903

PRINCIPAL OFFICE

2201 Broadway, P.O. BOX 187000, Sacramento, 95818-7000
 Consumer Information (916) 739-3684
 Mortgage Loan Activities (916) 739-3587

Licensing Numbers

Information/Renewals (916) 739-3758
 Broker Qualifications (916) 739-3725
 Examination Scheduling (916) 739-3726

John R. Liberator, *Chief Deputy Commissioner*
 Robin T. Wilson, *Chief Legal Officer*
 Betty R. Ludeman, *Assistant Commissioner, Regulatory*
 Robert C. Arnold, *Assistant Commissioner Subdivisions*
 Ella T. Preston, *Asst. Commissioner Administrative Services*
 Eileen E. Parker, *Manager, Legislation and Public Information Services*
 Hermie S. Briones, *Chief Auditor*
 Larry W. Smith, *Managing Deputy Commissioner IV, Mortgage Lending Activities*
 Charles W. Koenig, *Managing Deputy Commissioner IV, Education and Research Program*
 Thomas R. Hensley, *Managing Deputy Commissioner IV, Licensing and Examinations*
 Suzanne Pecci, *Deputy Commissioner III, Publications Deputy*
 George Hartwell, *Bulletin Editor*

NORTHERN REGULATORY AREA

Robert McCabe, *Managing Deputy Commissioner IV*

Regulatory District Offices

San Francisco, Room 5816, 185 Berry Street, 94107
 Consumer Information (415) 557-2136
 Edward V. Chiolo, *Managing Deputy Commissioner III*
 Sacramento, 2201 Broadway, P.O. Box 187000, 95818-7000
 Consumer Information (916) 739-3684
 Mike Pace, *Managing Deputy Commissioner III*
 Fresno, Room 3070, 2550 Mariposa Street, 93721
 Consumer Information (209) 445-5009
 Jerry Fiscus, *Managing Deputy Commissioner II*

SOUTHERN REGULATORY AREA

Randy Brenda, *Managing Deputy Commissioner IV*

Regulatory District Offices

Los Angeles, Room 8107, 107 S. Broadway, 90012
 Consumer Information (213) 620-5903
 Steve Ellis, *Managing Deputy Commissioner III*
 William Moran, *Managing Deputy Commissioner II*
 San Diego, Room 3064, 1350 Front Street, 92101-3687
 Consumer Information (619) 237-7345
 J. Chris Graves, *Managing Deputy Commissioner II*
 Santa Ana, Room 324, 28 Civic Center Plaza, 92701
 Consumer Information (714) 558-4491
 Thomas McCrady, *Managing Deputy Commissioner III*

SUBDIVISIONS

Principal Office: Sacramento, P.O. Box 187005, 95818-7005
 Robert C. Arnold, *Assistant Commissioner, Subdivisions*
 South - Los Angeles, Room 7111, 107 S. Broadway, 90012
 Consumer Information (213) 620-2700
 Mike Decker, *Managing Deputy Commissioner III*
 North - Sacramento, P.O. Box 187005, 95818-7005
 Consumer Information (916) 739-3631
 Margret Stroh, *Managing Deputy Commissioner III*

STATE REAL ESTATE ADVISORY COMMISSION MEMBERS

Anthony "Tony" Anewalt, San Diego
 Addison "Bob" Bowers, Huntington Beach
 Edward Clare, Sr., San Diego
 Leda Foncerrada-Hargrove, Long Beach
 Arthur L. Godi, Stockton
 Dr. Dorothy J. Naman, Fresno
 H. Jackson Pontius, La Jolla
 Robert J. Waller, Huntington Beach
 Hosca White, Los Angeles
 J. Carner Witt, Alamo

The REAL ESTATE BULLETIN (ISSN 07347839) is published quarterly by the State of California, Department of Real Estate, 2201 Broadway, Sacramento, CA 95818, as an educational service to all real estate licensees in the state under the provisions of Section 10083 of the Business and Professions Code.
 From the license renewal fee, \$2 is allocated to cover subscription to the BULLETIN. Second Class Postage paid at Sacramento, California. Postmaster, send address changes to REAL ESTATE BULLETIN, P.O. Box 187000, Sacramento, CA 95818-7000.

DISCIPLINARY ACTION — MARCH TO MAY 1989

- REB** — Real estate broker
RES — Real estate salesperson
PRLS — Prepaid rental listing service
REO — Real estate officer
RREB — Restricted real estate broker
RRES — Restricted real estate salesperson
RPRLS — Restricted prepaid rental listing service
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 on application are not published.

FOR YOUR INFORMATION

The following are brief summaries of the numerical code sections listed. 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. The *Real Estate Law* book is available for purchase from the Department of Real Estate for \$12.50 plus tax.

Business and Professions Codes

490	Relationship of conviction to licensed activity	10232	Failure to file threshold, broker reports
10085	Failure to submit advance fee materials	10232.2	Failure to file annual MLB reports
10130	Acting without license	10232.25	Failure to file trust fund status reports
10131(a)	Acting as a broker without a license	10232.5	Failure to file lender disclosure statement
10137	Unlawful payment of compensation	10233	Failure of MLB to have written servicing contract
10138	Unlawful payment of compensation	10234	Failure of broker to record trust deed transaction or to cause recorded assignment of trust deed in sale of note secured by trust deed
10145	Trust fund handling	10237.3	Sale of real property securities without proper license endorsement
10146	Failure to handle advance fees as trust funds or to furnish verified accounting to principal	10238.3	Failure to obtain real property securities permit
10148	Retention and availability of real estate broker records	10240	Failure to give mortgage loan disclosure statement
10159.2	Supervision of licensed acts of corporate broker	10240(a)	Failure to deliver mortgage loan disclosure form
10159.5	Fictitious name	11010	Failure to file notice of intention to sell or lease subdivision
10160	Broker possession and licensee inspection of license	11018.2	Illegal subdivision sales (sale of subdivision lots without public report)
10162	Office abandonment		
10165	Covers various violations		
10167.10(b)	Failure to refund deposit or portion thereof		
10167.12	Violation of crime by PRLS licensee		
10167.9(a)(3)	Failure to include required terms in PRLS contract		
10167.9(a)(8)	Prepaid rental contract small claims court remedy	2715	Broker's failure to maintain current address with DRE
10167.9(c)	Use of unapproved contract	2725	Failure of broker to review and initial agreements
10176(a)	Making any substantial misrepresentation	2726	Broker-salesperson agreements
10176(d)	Failure to disclose dual agency	2731	Unauthorized use of fictitious business name
10176(e)	Commingleing trust funds	2741	Acting as a REC officer without proper license
10176(i)	Fraud or dishonest dealing in licensed capacity	2752	Notice of change of broker
10177(a)	Procuring a real estate license by misrepresentation or material false statement	2753	Failure to return salesperson license certificate
10177(b)	Conviction of crime	2785(a)(9)	False representation as to deposit of receipt
10177(c)	False advertisement	2794	Failure to provide a public report
10177(d)	Violation of real estate law or regulations	2830	Failure to maintain trust fund account
10177(f)	Conduct that would have warranted denial of a license	2831	Inadequate trust fund records
10177(g)	Negligence or incompetence as licensee	2831.1	Inadequate trust fund records
10177(h)	Failure to supervise salespersons	2832.1	Broker's failure to obtain permission to disburse trust funds from an account involving multiple beneficiaries
10177(j)	Fraud or dishonest dealing not in licensed capacity	2834	Trust account withdrawals by unauthorized person
10177(k)	Violation of restricted license condition	2950(h)	Broker escrow violation
10177.5	Judgement of fraud in a civil action	2970	Misleading advance fee advertising material
10211	Operating without a designated officer	2972	Advance fee accountings
10231.2	Failure to give self-dealing notice		

Regulations

10232	Failure to file threshold, broker reports
10232.2	Failure to file annual MLB reports
10232.25	Failure to file trust fund status reports
10232.5	Failure to file lender disclosure statement
10233	Failure of MLB to have written servicing contract
10234	Failure of broker to record trust deed transaction or to cause recorded assignment of trust deed in sale of note secured by trust deed
10237.3	Sale of real property securities without proper license endorsement
10238.3	Failure to obtain real property securities permit
10240	Failure to give mortgage loan disclosure statement
10240(a)	Failure to deliver mortgage loan disclosure form
11010	Failure to file notice of intention to sell or lease subdivision
11018.2	Illegal subdivision sales (sale of subdivision lots without public report)
2715	Broker's failure to maintain current address with DRE
2725	Failure of broker to review and initial agreements
2726	Broker-salesperson agreements
2731	Unauthorized use of fictitious business name
2741	Acting as a REC officer without proper license
2752	Notice of change of broker
2753	Failure to return salesperson license certificate
2785(a)(9)	False representation as to deposit of receipt
2794	Failure to provide a public report
2830	Failure to maintain trust fund account
2831	Inadequate trust fund records
2831.1	Inadequate trust fund records
2832.1	Broker's failure to obtain permission to disburse trust funds from an account involving multiple beneficiaries
2834	Trust account withdrawals by unauthorized person
2950(h)	Broker escrow violation
2970	Misleading advance fee advertising material
2972	Advance fee accountings

LICENSES REVOKED

Name	Address	Date	Violation
Accurate Rentals Inc. (REC)	13551 1/4 Ventura Blvd, Sherman Oaks	4/11/89	10167.9(a)(3), 10167.9(a)(8), 10167.9(c), 10167.10(b), 10167.12, 10177(d)
Aguilar, Albert Talavera (RES)	297 E. Bullard, #129, Fresno	3/27/89	10137
Alan, David Jason (RES)	13343 El Rio Ln., Desert Hot Springs	5/18/89	490, 10177(b)
Alvis, Norman Foster (REB) (REO)	5439 Madison Ave., Sacramento	4/28/89	490, 10177(b)
Baghi, Jim (RES)	P.O. Box 85566, Los Angeles	3/28/89	490, 10177(b)
Balcombe, Clayton Sexton (RES)	686 N. Carmelita Way, Porterville	3/8/89	10176(c)
Balcombe, Donna Joyce (REB)	144 E. Oak, Porterville	3/8/89	10145, 10176(i), 10177(d)
Baldoni, Eugene Michael III (REB)	10314 Haledon, Downey	5/5/89	490, 10177(b)
Blyleven, Dawna Sue (RES)	c/o 1425 W. Foothill, #200, Upland	3/23/89	490, 10177(b)
Boeggeman, Charles York (REB)	7524 Leeds Ave., Cupertino	5/9/89	10177(f)
Bottenberg, Thomas Alvan (REO)	Two N. Market, #300, San Jose	5/30/89	490, 10177(b)

continued on page 3

LICENSES REVOKED

continued from page 2

Name	Address	Date	Violation
Bradley, James Hercules (REB) (REO) (Officer - Marathon Home Loans)	1759 Fulton St., # 3, Fresno	3/9/89	10177(d)(h)
Burlingame, William (REB)	20863 Stevens Creek Blvd. #330, Cupertino	3/14/89	2731, 2740, 2830, 10130, 10145, 10148, 10159.5, 10176(a)(e)(i), 10177(d), 10234
Carter, John (RRES)	10402 S. St. Andrews Pl., Los Angeles	4/6/89	490, 10177(b)(k)
Cavitt, Bettie Jo (RES)	5711 W. Ave. M, Sp. #251, Lancaster	3/23/89	490, 10177(b)
Coen, Scott Fraser (REB)	29 N. La Senda, South Laguna	5/11/89	490, 10177(a)(b)
Cohn, Cheryl Lynn (REB)	6117 Brockton Ave, Ste. 207, Riverside	4/25/89	10165, 10176(i), 10177(d)(g), 10177.5
Collins, Hayward Elisondo (RES)	10962 Wagner St., Culver City	12/20/88	10177(j)
Davis, Robert K. (RES)	1125 8th St., Hermosa Beach	5/2/89	10176(i), 10177(d)
Dawson, George Earl (REB)	3410 Lakeshore Ave., #209, Oakland	5/15/89	10145, 10176(a)(d)(e)(i), 10177 (d)(f)(j), 10231.2, 10232.5, 10234
De Anza Properties Inc. (REC)	259 University Ave., Los Gatos	4/19/89	2830, 2832, 2950(h), 10145, 10148, 10176(i), 10177(d)(j)
Dominguez, Misael (RES)	P.O. Box 3672, Huntington Park	1/11/89	10145, 10176(i), 10177(d)
Downhill, Susan Jane (RES)	P.O. Box 1717, Vacaville	4/24/89	490, 10177(b)
Doyel, John Lee (RES)	525 N. Main St., Porterville	3/7/89	490, 10177(b)
Edwards, Harvey Stuart (REB) dba Bankers Realty dba Stuart Properties	12400 Euclid, Garden Grove	4/18/89	10177(d)
Fortune, Patrick Robert (REB)	1195 W. Shaw, Ste. C, Fresno	4/24/89	10177(d), 11012
Fritz, Donald Jacob (REB)	8505 Cherry Crest Ct., Elk Grove	3/7/89	490, 10177(b)
G.K. Lambert, Inc. (REC)	3136 Via La Selva, Palos Verdes Estates	3/7/89	2830, 2832.1, 10145, 10177(d)
General Funding Corporation (REC)	799 E. Thousand Oaks Blvd., Thousand Oaks	5/10/89	2731, 2830, 2831, 2831.1, 2832.1, 2834, 10137, 10146, 10231.2, 10233, 10237.3, 10238.3, 10240(a), 10177(d)
Giordano, Bernard Anthony (RES)	1600 Sacramento Inn Wy, #109, Sac.	4/13/89	10130, 10177(d)(f)
Gorman, Mary E. (RES)	P. O. Box 529, Lake Isabella	3/7/89	490, 10177(b)
Guzzetti, Charles Jr. (REB) dba — Bankers Brokerage	3211 Crow Canyon Pl., #A-2, San Ramon	3/20/89	2785(a)(9), 2830, 2831, 2832, 10145, 10176(d)(e)(i), 10177(d)
Hansen, Ursula Maria (RES)	56089-29 Palms Hwy # 149, Yucca Valley	1/11/89	2731, 10130, 10159.5, 10177(d)
Harris, William E.L. (REB)	601 Van Ness Ave., #2050, S.F.	4/26/89	10177(f)(j)
Hexom, Stanley David (REB)(REO)	481 N Santa Cruz Ave, Los Gatos	4/19/89	2740, 2830, 2832, 10137, 10145, 10148, 10176(i), 10177(d)(j)
Hill, Ralph S., Jr. (REB)(REO)	478 Hillen Dale Dr., Big Bear City	1/11/89	2725, 2726, 2731, 10159.5, 10165, 10177(d)(g)(h)
Hodgkins, John Howard (RES)	5777 Madison Ave, Sacramento	4/13/89	10130, 10177(d)(f)(j)
Hotchkiss, Bruce Alan (RES)	4817 Pasa Robles Dr., Sacramento	3/7/89	10145(e), 10176(a)(i), 10177(d)
Huizar, Richard Reyes (RES)	P.O. Box 214643, Sacramento	4/5/89	490, 10177(b)
Hunt, Jerry Duncan (REB)(REO)	3790 El Camino, # 334, Palo Alto	3/1/89	490, 10177(b)
Keeton, Nola (RES)	c/o 7031 Village Pky., Dublin	3/1/89	490, 10177(b)
King, David John Jr. (REB)	172 Via Serena, Alamo	3/1/89	2830, 2831, 2831.1, 10130, 10145, 10162, 10165, 10176(e), 10177(d)
King, John Taylor (RES)	P.O. Box 899, Palm Springs	4/27/89	490, 10177(b)
Koerwitz, Jim Lou (RES)	P.O. Box 192, W. Sacramento	3/6/89	10145, 10176(e)
Le, Trang Doan Ton (RES)	828 Kizer St., Milpitas	5/11/89	490, 10177(a)(b)
Lefson, Gilbert (RREB)	2476 Hilton Head Pl., #1087, El Cajon	4/1/89	10130, 10177(d)(g)(h)
Lewis, Carl Richard (REB)	1515 Buchanan, Novato	4/1/89	490, 10177(b)
Lewis, Robert Dwight (RES)	1435 Butte House Rd., Yuba City	3/20/89	490, 10177(b)
Mac Donald, Brian Ronald (REB)(REO)	1562 Response Rd., Ste. 3104, Sac.	4/18/89	2830, 2832, 2831.1, 2970, 2972, 10085, 10137, 10176(a)(e)(i), 10177(d)(g)(h)
Mann, Jay Bennett (RES)	3817 S. Birch St., Santa Ana	4/25/89	490, 10177(b)
Marathon Home Loans (REC) Officer - Bradley, James Hercules	1110 Eugenia Pl., Carpinteria	3/9/89	10137, 10176(a)(i), 10177(d)(g)
Marin, Maria Mercy (RES)	3623 Highland Ave., Redwood City	3/15/89	490, 10177(b)
Matthews, Theodore Douglas (RES)	1575 Bayshore Blvd, Ste 184, S.F.	4/6/89	490, 10177(b)
McCauley, Carolyn Louise (RES)	9848 Cheyenne St., Ventura	3/23/89	490, 10177(b)
McMillan, Lydia (RES)	c/o 716 N. La Broa Ave., Inglewood	3/2/89	490, 10177(b)
Naschippour, Tania A. (RES)	3325 Newton St., Torrance	3/23/89	490, 10177(a)(b)
North Country Inc (REC)	P.O. Box 3819, Santa Rosa	5/25/89	2731, 2740, 2741, 10130, 10131(a), 10176(e)(i), 10177(d), 10211
Oceanridge Financial Services Inc. (REC)	467 N Santa Cruz Ave., Los Gatos	4/19/89	2740, 2830, 2831, 2831.1, 2832, 2970, 10085, 10137, 10145, 10146, 10148, 10176(i), 10177(d)(j), 10232, 10232.2, 10232.25, 10240
Pacific Northwest Mortgage Corp. (REC)	1545 River Park Dr., Ste. 507, Sac.	4/18/89	2830, 2832, 2831.1, 2970, 2972, 10085, 10145, 10146, 10176(a)(e)(i), 10177(h)

continued on page 4

BROKER SUPERVISION

continued from page 1

applicable) and typed or wrote his or her name on the reverse side and dated and initialed same (B & P Code 10161.8(d)).

- The broker and salesperson, including a broker who is to act as a salesperson, must enter into a written agreement concerning the material aspects of their relationship, including supervision of licensed activities, duties and compensation (Regulation 2726). (See *Real Estate Reference Book* for copies of sample broker-salesperson agreements and additional comments below.)

Note: If the salesperson is to be employed by a corporate broker, and is an officer or director of that corporation, or singly or together with other salespersons employed by the corporation own or control, directly or indirectly, the majority of outstanding shares of stock of the corporation, the salesperson may not perform any acts requiring a real estate license in the name of the corporation unless the designated officer-broker through whom the corporation is licensed is an officer and a director of the corporation and it is his responsibility to supervise the performance of acts for which a real estate license is required by those salespersons who are shareholders, officers or directors of the corporation (Regulation 2741).

After these legal requirements have been complied with, some consideration should be given to instructing the new salesperson about the broker's office policies. These policies may cover such things as preventive law practices, complaint resolution procedures, trust fund handling or any area where a broker finds it necessary to instruct a salesperson about his or her office policies and requirements.

Broker-Salesperson Agreement:

In addition to providing the department with proper notice of the employment of a salesperson, as mentioned above, a broker and every salesperson and broker who is to act as a salesperson must, before the salesperson/broker can perform any acts requiring a real estate license in the name of the hiring broker, enter into a broker-salesperson agreement.

Regulation 2726 provides that a real estate broker shall not permit a salesperson, including a broker acting as a salesperson, employed under his or her license, to perform or engage in any activities requiring a real estate license unless the broker and the salesperson have executed a written agreement, dated and signed by the parties, covering the material aspects of their relationship, including supervision of licensed activities, duties and compensation. The department suggests that at the time of employment the salesperson/broker and the broker carefully go over the terms and conditions of the agreement so that there is a clear understanding by the prospective employee of his or her role, duties and responsibilities vis-a-vis the broker. Part of the agreement may describe the activities requiring a real estate license which the salesperson/broker can perform in the name of the employing broker. This may be a part of the broker's management system. The more specific the agreement is with respect to items such as

Broker supervision, continued on page 4

BROKER SUPERVISION

continued from page 3

supervision, duties and compensation, the less likely it is that disputes on these subjects will arise in the future.

The corollary of hiring is terminating. Frequently, the failure to properly inform DRE of the termination of a relationship with a salesperson leads to unforeseen consequences, such as the broker having to defend a lawsuit because of the salesperson's activity after he or she is terminated, but official records had never been changed. The following are the required steps under the Real Estate Law.

Termination of Salespersons:

1. The broker should return the original license certificate to the salesperson (B & P Code 10160).
2. Within five days of the termination, the broker must notify the commissioner in writing of the termination. The notice should include the date of termination. This requirement can be satisfied by completing RE Form 214 and mailing it to the commissioner within five (5) days of termination (Regulation 2710).

Note: When discharging a salesperson for a violation of the Real Estate Law, a broker has a duty to submit to the department a certified statement of facts describing the violation or violations leading to the discharge (Section 10178).

Employing and Terminating Brokers who act as Salespersons:

1. The broker/salesperson must notify the commissioner in writing within five (5) days of his or her employment:
 - a) The address of the business location where he or she expects to conduct most of the activities for which a license is required;
 - b) The address of the employing broker's principal business office;
 - c) His or her current residence address.
2. There must be a written agreement with the employing broker setting forth the material aspects of the relationship between the parties including supervision of licensed activities, duties and compensation (Regulation 2726).
3. The employing broker should determine what, if any, licensed activity will be engaged in by the broker acting as a salesperson outside the scope of their relationship and determine whether or not such activities are compatible with his or her employment.

Note: Brokers may find it helpful to retain personnel files where copies of all the documents and records referred to above can be found in the event of disputes between the broker and the department and/or the broker and third parties concerning whether or not a licensee was employed by the broker during a certain period of time.

The requirements for employing and terminating salespersons and/or brokers acting as salespersons

Broker supervision, continued on page 5

LICENSES REVOKED

continued from page 3

Name	Address	Date	Violation
Pellegrino, Michael Vincent (REB)	337 N. Vineyard Ave, 3rd Fl, Ontario	4/6/89	10177.5
Perkins, Mary Constance (RES)	24702 Tabuena St., Mission Viejo	9/8/88	490,10177(b)
Pool, Gary Lee (RES)	11960 1st St., Yucaipa	3/23/89	490, 10177(b)
Pylo, Connie Jo (RRES)	5132 N. Palm, Ste. 80, Fresno	3/8/89	10130, 10137, 10145, 10176(a)(i), 10177(d)(g)
Real Estate Management Company Inc. (REC)	4010 Moorpark Ave, # 203, San Jose	4/19/89	2830, 2832, 2950(h), 10145, 10148, 10176(i), 10177(d)(j)
Reynolds, Violet Grace (RES)	2400 W. Orange Thorpe, #31, Fullerton	3/10/89	490, 10177(a)(b)
Runyon, Larry Richard (RES)	P.O. Box 3052, Visalia	3/13/89	10176(a)(b)(i), 10177(j)
Russell, Ron Edward (RES)	937 Fremont Blvd., W. Sacramento	3/7/89	490, 10177(b)
Schenk, Brent (REB)	1861 Knoll Dr., Ventura	3/28/89	490, 10177(b)
Silacci, Gary Emile (REB)	355 Woodview Dr., Morgan Hill	5/5/89	10177(j)
Silagen, Vicente Isaac (RES)	5228 E. Lyell, #104, Fresno	3/29/89	10130, 10137, 10176(a), 10177(c)(d)
Taylor, Lloyd (REB)	1255 Post, St. 621, San Francisco	4/10/89	10162, 10165, 10177(d), 10177.5
Trans-World Mortgage Corporation (REC)	199 California Dr., Ste. 218, Millbrae	4/13/89	2831, 2831.1, 2834, 10137, 10145, 10176(e)(i), 10177(d)
Utz, Jerome Carl (REB) (REO)	One Northwood Dr., # 3, Orinda	3/3/89	490, 10177(b)
Vermear, Peggy E. (RES)	P.O. Box 84, Pinon Hills	4/27/89	490, 10177(b)
Waldschmidt, Ronald Glenn (REB)	675 N. 1st St., #1108, San Jose	4/6/89	10145, 10148, 10176(a)(i), 10177(d)
Young, John Randall (REB)	3125 Belle River Dr., Hacienda Heights	4/26/89	10176(i)
Zilliox, Douglas James (REO)	199 California Dr., Ste. 218, Millbrae	4/13/89	2831, 2831.1, 2834, 10137, 10145, 10176(e)(i), 10177(d)(g)(h)

LICENSES REVOKED WITH RIGHT TO A RESTRICTED LICENSE

Name	Address	Date	Violation
Action Funding Group Inc (REC) (Right to RREC license on terms and conditions)	4405 E Olympic Blvd., Los Angeles	5/22/89	2830, 2831, 2831.1, 2832.1, 2834, 10177(d)
Ader, Royce William (RES) (Right to RRES license on terms and conditions)	13 Glen Valley Cir., Danville	5/25/89	2740, 2741, 10130, 10131(a), 10176(c)(i), 10177(d)
Aicello, Joy Beth (RES) (Right to RRES license on terms and conditions)	6406 Aldea, Van Nuys	3/29/89	490, 10177(b)
Andrade, Rene Ramon (RES) (Right to RRES license after 60 days on terms and conditions)	2702 N Tyler Ave., El Monte	4/26/89	10177(j)
Benavidez, Carol Lee (RES) (Right to RRES license on terms and conditions)	43244 51st St. West, Quartz Hill	4/6/89	490, 10177(a)(b)
Beugen, Susan Carol (RES) (Right to RRES license on terms and conditions)	375 La Questa Way, Woodside	3/14/89	490, 10177(b)
Billeter, Richard Eugene (RES) (Right to RRES license on terms and conditions)	1640 Newport Blvd., #49, Costa Mesa	4/18/89	490, 10177(b)
Bisceone, Joseph Gregory (REB) (Right to RREB license on terms and conditions)	1875 Glenridge Rd., Escondido	3/27/89	10177(g)
Brown, Connie Dee (RES) (Right to RRES license on terms and conditions)	55 Rocky Knoll, Irvine	4/11/89	10177.5
Chan, Emily J. (RES) (Right to RRES license on terms and conditions)	672 Bradshaw Ave., Monterey Park	5/10/89	490, 10177(b)
Chandler, Kathleen (RES) (Right to RRES license on terms and conditions)(RRES license to be suspended for 30 days)	5100 Moddison Ave., Sacramento	3/7/89	10130, 10177(d)
Chesnut, Wayne Dean (RREB) (Right to RREB license on terms and conditions)	6258 N. Fresno St., #102, Fresno	5/26/89	2830, 2832, 2832.1, 10145, 10177(d)
Ciesla, Tadeusz (REB) (Right to RREB license on terms and conditions)	812 Park Ave., Monterey	5/22/89	10176(f)
DiGennaro, Adam (REB)(REO) (Right to RREB license on terms and conditions)	3273 Claremont Wy., #208, Napa	3/21/89	2752, 2753, 2831.1, 10130, 10137, 10138, 10176(i), 10177(d)(g)
Emblem, Gary John (REB) (Right to RREB license on terms and conditions)	2180 Garnet Ave, #3E, San Diego	4/5/89	490, 10177(b)
Fallbrook Mortgage Corporation (REC) (Right to RREC license on terms and conditions)	6700 Fallbrook Ave, Ste 111, Canoga Pk.	5/8/89	10137
Fischer Mortgage & Investments Corp (REC) (Right to RREC license on terms and conditions)	681 Main St., #115, Placerville	5/12/89	2830, 2831.1, 2832, 2832.1, 2834, 10145(a)(c), 10177(d)(h)
Foster, Joseph William (RREB) (Right to RRES license on terms and conditions)	2054B Treat Blvd., Walnut Creek	4/19/89	10177.5
Galleon Home Loan Inc. (REC) (Right to RREC license on terms and conditions)	3737 Camino del Rio So., Ste. 310, S.D.	3/27/89	10177(g)
Golden, William Dennis (RES) (Right to RRES license on terms and conditions)	25052 Walnut St., #210, Newhall	4/20/89	490, 10177(b)
Gratzer, Joseph B. (REB)(REO) (Right to RRES license after 180 days on terms and conditions)	24200 Bessemer St., Woodland Hills	5/5/89	10177(h)
Griswold, Peter (RES) (Right to RRES license on terms and conditions)	5813 Berraud Ave., Encino	4/6/89	490, 10177(b)

continued on page 5

LICENSES REVOKED WITH RIGHT TO A RESTRICTED LICENSE continued from page 4

Name	Address	Date	Violation
Hackbarth, Guy James (RES) (Right to RRES license on terms and conditions)	321 S. San Vicente Blvd, #505, L.A.	3/29/89	490, 10177(b)
Harris, James Donavon (REB) (Right to RREB license on terms and conditions)	7411 N. Flora, Fresno	3/9/89	2794, 10177(d), 11010, 11018.2
Hooper, Foster Albert (REB) (Right to RREB license on terms and conditions)	319 Olive Ave., Long Beach	5/18/89	490, 10177(b)
Hunter, Katherine Marie (RES) (Right to RRES license on terms and conditions)	2409 Q St., Sacramento	3/21/89	490, 10177(b)
Kagaritsky, Roman (REB)(REO) (Right to RREB license on terms and conditions)	4298 Wilkie Way, #F, Palo Alto	3/30/89	2830, 2831, 2831.1, 2832, 2972, 10085, 10145, 10146, 10160, 10176(e), 10177(d)
Koerwitz, Jane Kerry (REB) (Right to RREB license on terms and conditions)	910 Jefferson Blvd., W. Sacramento	5/30/89	2725, 2831.1, 2832, 2832.1, 10137, 10145, 10176(e), 10177(d)(g)(h)
Lambert, Gerald K. (REO) Officer — G.K. Lambert, Inc. (Right to RREO license on terms and conditions) (RREO license may be suspended for 30 days)	3136 Via La Selva, Palos Verdes Estates	3/7/89	2830, 2832.1, 10145, 10177(d)
Lawrence, Eddie P. (REB) (Right to RRES license after 180 days on terms and conditions)	3321 W. 46th St., #100, Los Angeles	3/2/89	10176(a), 10177(g)
Liebman, Victor (RES) (Right to RRES license after 60 days on terms and conditions)	11667 Gorham Ave., Los Angeles	3/29/89	490, 10177(b)
Mathis, Judith Elizabeth (RES) (Right to RRES license on terms and conditions)	1418 R St., Eureka	5/9/89	10145, 10176(a)(c)(i), 10177(d)
McGuire, L. (RES) (Right to RRES license on terms and conditions)	P.O. Box 390154, San Diego	2/21/89	490, 10177(b)
Moss, Don Marshall (REB)(REO) Officer — Security National Mortgage Co. (Right to RREB license on terms and conditions)	445 S. Arrowhead Ave., Ste. B, San Bernardino	5/2/89	10159.2, 10177(h)
Olson, Henry Walter (REB) (Right to RREB license on terms and conditions)	3505 Esplanade, Chico	5/15/89	2832, 10145(a), 10176(a), 10177(d)(g)
Pacific Beach Management Company (REC) (Right to RREC license on terms and conditions)	2180 Garnet Ave, Ste 3E, San Diego	4/5/89	10176(e)
Pettyjohn, John Robert (REB) (Right to RREB license on terms and conditions)	681 Main St., #115, Placerville	5/12/89	2725(a), 10177(g)(h)
Pritchard, Arthur Lewis (REB) (Right to RREB license on terms and conditions)	424 Cavour St., Oakland	3/16/89	490, 10177(b)
Roberts, Sharon Lu (RES) aka — Bunker, Sharon Lu (Right to RRES license after 90 days on terms and conditions)	P.O. Box 1299, Phelan	8/10/88	10176(i), 10177(d)(f)(j)
Rogers, Alice (REB) (Right to RREB license on terms and conditions)	26805 Mulholland Hwy, Calabasas	5/2/89	10177(d)(j), 11010, 11018.2, 11019
Sayani, Bahram (RES) (Right to RRES license after 60 days on terms and conditions)	12021 Wilshire Blvd., #103, Los Angeles	4/20/89	10177(d)
Security National Mortgage Co. (REC) (Right to RREC license on terms and conditions)	2001 East 1st St., Santa Ana	5/2/89	2972, 10145, 10146, 10177(d)
Sosa, Gene David (REB) (Right to RREB license on terms and conditions)	2609 W. Beverly Blvd., #6, Montebello	5/22/89	2830, 2831, 2831.1, 2832.1, 2834, 10177(d)(h)
Stewart, Joann Carmen (RES) (Right to RRES license after 30 days on terms and conditions)	4656 Hackett Ave., Lakewood	3/28/89	490, 10177(b)
Tobes, Jeffrey Paul (REB) (Right to RRES license on terms and conditions)	900 College Ave., Santa Rosa	5/25/89	2725, 2740, 10148, 10177(d)(g)(h)
Valdez, Vincent Carlos (RES) (Right to RRES license on terms and conditions)	521 N Montebello Blvd., Montebello	4/11/89	490, 10177(b)
Valenzuela, Richard (RES) (Right to RRES license on terms and conditions)	461 E. Alluvial, Fresno	4/11/89	490, 10177(b)
Velican, William Paul (REB)(REO) (Right to RREB license on terms and conditions) (RREB license to be suspended for 30 days)	1329 Ponderosa Way, Weimar	3/7/89	2715, 2725, 2830, 2831, 2831.1, 2970, 2972, 10085, 10145, 10146, 10176(a), 10177(d)(h)
Wagon Train Realty Inc. (RREC) (Right to RREC license on terms and conditions)	5262 E. Harvey, Fresno	5/26/89	2830, 2832, 2832.1, 10145, 10177(d)
Ward, Teresa Marie (RES) (Right to RRES license on terms and conditions)	681 Main St., Ste 115, Placerville	5/12/89	2830, 2831.1, 2832, 2832.1, 2834, 10130, 10131, 10145(a)(c), 10177(d)(h)
Westagra Development & Farming Corp. (REC) (Right to RREC license on terms and conditions)	500 N Court St., Visalia	5/15/89	2831, 2832, 10145, 10176(a)(i), 10177(d)
Wiborg, Robert Lynn (REB)(REO) (Right to RRES license on terms and conditions)	1115 Montauk Ln., Ventura	4/11/89	2731, 2830, 2831, 2831.1, 2834, 10137, 10146, 10177(d)(h), 10231.2, 10233, 10240(a)
Willett, John Gary (REB)(REO) (Right to RREB license on terms and conditions)	3106 Sunnywood Dr., Fullerton	4/25/89	490, 10177(b)
Yamaguchi, Betty Sakaguchi (RES) (Right to RRES license on terms and conditions)	477 Ninth Ave., #110, San Mateo	3/2/89	490
Youker, Malcolm Phillip (REB) (Right to RREB license on terms and conditions)	500 N. Court St., Visalia	5/15/89	2831, 2832, 10145, 10176(a)(i), 10177(d)
Youkhana, Astor Sarkis (RES) (Right to RRES license on terms and conditions)	c/o 11611 San Vicente Bl., 9th Fl., L.A.	4/25/89	490, 10177(b)

BROKER SUPERVISION

continued from page 4

have been set forth above in detail to assist both brokers and salespersons in ensuring that licensees are effectively licensed with the department and that all other requirements for proper licensing have been satisfied. Failure to comply with these requirements can result in violation of Section 10137 of the Business and Professions Code for the illegal payment and receipt of compensation to a person not licensed under the broker. It may also result in the imposition of civil liability or substantial legal costs to the broker for acts done by the salesperson, when in fact the acts occurred at a time when the salesperson was employed by another broker. In other words, compliance with licensing requirements serves to protect the broker from possible disciplinary action by the department and civil liability or legal costs as a result of suits or complaints by third parties for activities of the salesperson.

Helpful suggestions:

Once all the required paper work and orientation have been completed, the difficult job of supervision begins. As noted in the introduction, the key to effective broker supervision is consideration of office policies to ensure compliance with the Real Estate Law.

Although the courts have not defined the extent of supervision required, it is clear that a broker must do more than simply sign and initial deposit receipts and other documents. The very word supervision connotes some positive activity on the part of the broker. As defined in *Webster's New World Dictionary*, Second College Edition, "supervise" is defined to mean "to oversee, direct or manage (work, workers, a project)." Dicta in the case of *Walters v. Marler*, 83 CA 3d 1 (1978), suggests that the duty of a real estate broker extends not to just supervision of the salesperson, but also to supervision of each transaction in the office: In this case a salesperson testified that the designated officer/broker for the listing corporation "did not assist, direct, or help in any way with the handling of the sale or escrow. Instead he confined himself to reviewing and initialing the deposit receipt after it was signed." The court in summarizing this testimony stated that it indicated that the designated officer/broker "negligently performed his supervisory responsibilities." The negligent failure to carry out the duty to provide reasonable supervision may therefore result in both civil and administrative liability. *Walters v. Marler, supra*.

To be continued in the Winter, 1989 edition of the Bulletin: File Maintenance and Trust Records.

VISUAL INSPECTION

continued from page 1

initial sale of new dwellings.

The one exception to this change is property that was previously occupied. Consequently, apartment houses which were rented and subsequently converted to condominiums or any residential property that was occupied prior to being offered as the first sale in a subdivision would still require the agent to comply with the visual inspection statutes and to complete the appropriate information in the real estate transfer disclosure statement.

NOTES FROM LICENSING

SALESPERSON EDUCATION REQUIREMENTS

by Larry Cannon,
Managing Deputy Commissioner II, Licensing

Judging from correspondence received by the Department of Real Estate in the last year, there appears to be some confusion regarding the type of education necessary to maintain a real estate salesperson license. The confusion concerns the difference between education which is required initially to obtain a salesperson license and continuing education courses required for license renewal.

Beginning January 1, 1986, individuals who submitted an application to take the salesperson examination have been required to submit evidence of completion of a three semester unit college level course in *Real Estate Principles*. In addition, evidence of completion of two, three semester unit college level courses must be submitted, 1) at the time the examination application is filed or, 2) at the time the application for an original license is submitted or, 3) within 18 months of the date of issuance of the conditional license.

An individual who does not submit evidence of completion of the two additional courses prior to application for an original salesperson license is issued a conditional license.

The conditional license certificate shows the full four-year license term, however, it also contains a statement indicating that the license will be suspended automatically if evidence of additional course completion is not submitted within the prescribed 18 month period.

Any two of the following college level courses are acceptable to meet the requirement: *Real Estate Practice, Legal Aspects of Real Estate, Real Estate Finance, Real Estate Appraisal, Economics, Accounting, Business Law, Property Management, Real Estate Office Administration, or Escrows.*

When the conditional licensee fulfills the education requirements (within 18 months of the date of license issue) a new license certificate will be issued.

The new license certificate will show the same four year original license term without the conditional license statement. If evidence of required course completion is not received by the department within the 18 month conditional licensing period, the individual will be informed, in writing from the department, that his or her license has been suspended automatically.

A conditional license which has been suspended automatically may be reinstated at any time within the remaining period of the four year license term — when evidence of satisfactory completion of the required courses is submitted to the department.

If a conditional licensee has not submitted evidence of compliance with these educational requirements within the four year term of the license, he or she will lose the right to renew the conditional license. The individual will be required to requalify through the examination process in order to obtain a new license.

The requirements to renew a salesperson license are different from those necessary to obtain an

LICENSES REVOKED WITH STAYS

Name	Address	Date	Violation
Black, Eugene Robert (RREB) (Stayed for 6 months on terms and conditions)	2233 Watt Ave., Ste. 265, Sacramento	3/7/89	10177(k)

LICENSES SUSPENDED WITH STAYS

Name	Address	Date	Violation
Asset Property Management (REC) (Suspended for 20 days — Stayed for 1 year on condition)	7969 Engineer Rd., #209, San Diego	5/3/89	10130, 10131(b), 10177(d)(f)
Cartoscilli, Virginia Milovich (REB) (Suspended for 30 days — Stayed for 1 year on conditions)	400 Aylor Ave., Yuba City	3/7/89	2830, 2831, 2831.2, 10137, 10177(d)
Hobbs, Lee Ralph (REB) (Suspended for 30 days — Stayed for 2 years on conditions)	3988 Walnut Dr., Eureka	5/9/88	10145, 10177(d)(g)(h)
Kent, Tracy Diane (RES) (Suspended for 30 days — Stayed for 1 year on condition)	11523-108 Fury Ln., El Cajon	3/27/89	10177(g)
M.J. Brock & Sons Inc (REC) (Suspended for 30 days — Stayed for 1 year on condition)	6767 Forest Lawn Dr., Los Angeles	3/29/89	10177(g), 11018.1(a), 11018.2
Nash, John Richard (REB) (Suspended for 30 days — Permanently stayed on condition)	1888 West 6th St., Ste. A, Corona	5/30/89	10177(d)
Oliver, Joseph Frederick Jr. (REB) Officer — Asset Property Management (Suspended for 20 days — Stayed for 1 year on condition)	7969 Engineer Rd., Ste. 108, San Diego	5/3/89	10177(g)(h)
Simay, Lynn (REB)(REO) (Suspended for 30 days — Stayed for 1 year on conditions)	6700 Fallbrook Ave., #100, Canoga Park	5/8/89	10137, 10177(h)

PUBLIC REPROVALS

Name	Address	Date	Violation
Reed, Donald Eugene (REB)	3350 Watt Ave., Ste. D, Sacramento	3/29/89	10159.2, 10177(h)

INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS

Name	Address	Date
Arenas, Luis (RES)	3553 Harris St., Lemon Grove	3/31/89
Black, Steven Robert (RES)	3001 Arden Way, Sacramento	3/15/89
Cappel, Harry (REB)	4010 Moorpark Ave., Ste. 113, San Jose	3/23/89
Cater, Billy F. (RES)	P.O. Box 1221, Clearlake Oaks	5/11/89
Cortes, Jose Angel (REB)	4606 S. Central Ave., Los Angeles	5/10/89
Fairfax, David Philip (RES)	3034 S. Hacienda Bl., Hacienda Heights	3/20/89
Flores, Maria H. (REB)	812 1/2 W. 40th Pl., Los Angeles	5/10/89
Fontson, John Clark (REB)	1305 Solano Ave., Vallejo	5/11/89
Goins, James Lee (RES)	330 Los Soneto Dr., San Diego	3/31/89
Hanks, Donald Anthony (REB)	2555 E. Chapman Ave., Ste. 300, Fullerton	3/20/89
Haltom, Willie Marvis (REB)	P.O. Box 21266, San Jose	5/4/89
Hickey, John Thomas, Jr. (RES)	28720 Rochelle St., Hayward	5/10/89
Janson, Nancy Lee (RES)	1451 Danville Blvd., Ste. 105, Alamo	5/11/89
Louis, George Steven (REB)	4336 Proctor Pl., San Diego	5/31/89
Mosher, George Edwin Jr. (REB)	1750 W. Citracado Pkwy, Escondido	5/1/89
Oliito, Gloria Fay (RES)	994 56th St., Oakland	5/31/89
Ostrow Winkelman & Assoc. (REC)	1905 E. 17th St., Ste. 214, Santa Ana	3/16/89
Pellegrino, Michael Vincent (REB)	337 N. Vineyard Ave., 3rd Fl, Ontario	3/9/89
Pratt, Gary L. (RES)	300 El Camino Real, San Carlos	5/10/89
Swarthout, Linda Denyse (RES)	2210 Wilshire # 884, Santa Monica	5/1/89
Ursin Realty Incorporated (REC)	500 Esplanade Dr., Ste. 1160, Oxnard	5/10/89
Ursin, Margaret Lynn (RES)	500 Esplanade Dr., Ste. 1160, Oxnard	5/10/89

original license.

The rules for renewal differ also, depending upon when the application to take the salesperson license examination was first submitted to the department.

Those salespersons who were required to complete a college level course in *Real Estate Principles* before becoming eligible to take the salesperson license examination are required only to submit evidence of completion of two approved, three clock-hour continuing education courses. The courses are *Ethics, Professional Conduct and Legal Aspects of Real Estate and Agency Relationships and Duties in a Real Estate Brokerage Practice*. It should be noted that continuing education courses are neither the same format, nor may they be interchanged with, the three college level courses an individual is required to complete for unconditional licensure as a salesperson.

After the first license renewal, and for all subsequent renewals, the salesperson will be required to submit evidence of completion of the full 45 hour continuing education requirement.

NO PUBLIC REPORT REQUIRED? MAYBE!

by Mike Decker, Managing Deputy
Commissioner III, Subdivisions
and Martin F. Dingman, Real Estate Counsel,
Subdivisions

As those who deal in the development and marketing of subdivisions well know, no person may offer to sell or lease interests in a subdivision covered by the Subdivided Lands Act without first filing a notice of intention and obtaining a public report from the Department of Real Estate (DRE).

Among several exemptions to this basic requirement are standard subdivisions which meet specified criteria.

A standard subdivision is generally one in which there are no common or mutual rights of ownership or use of the lots or parcels.

The DRE receives a substantial number of inquiries

as to the conditions for exemption that apply to metropolitan located developments in which houses are offered for sale.

A limited number of standard subdivisions are exempt from the requirement of filing a notice of intention if they meet all of the following criteria under the Business and Professions Code, Section 11010.4:

1. The developer has complied with the purchase money handling requirements of B & P Code §§11013.1, 11013.2, and 11013.4, if applicable;
2. The subdivision is not an undivided interest subdivision (B & P Code §11000.1), a land project (B & P Code §1100.5), or a common interest subdivision (B & P Code §11004.5);
3. Each lot, parcel or unit is located entirely within the boundaries of a city and;
4. Each lot, parcel, or unit is improved with a completed residential structure with all

improvements necessary for occupancy, or financing arrangements for completion have been determined by the city to be adequate.

Licensees engaged in the sale of city located residential subdivisions should pay particular attention to the above listed criteria.

Particular emphasis is placed on the need for purchaser's monies to be impounded in a neutral escrow depository under the appropriate statute (criteria number one, above) even though the subdivision otherwise qualifies as exempt.

Moreover, this exemption does not apply if the property is a condominium planned development or other type of common interest subdivision. Nor is the exemption available to standard subdivisions located in unincorporated areas of the state.

A word of advice to licensees engaged in the sale of residential subdivision properties — check and double check if your developer client tells you that no public report is required for the project!

REAL ESTATE PUBLICATION REQUEST

	DRE RE#	TITLE OF PUBLICATION, BROCHURE, REPORT OR VIDEO	COST	QUANTITY	YOUR COST
<ul style="list-style-type: none"> • Make check or money order payable to: Department of Real Estate • Mail To: Department of Real Estate Book Orders P. O. Box 187006 Sacramento, CA 95818-7006 • Do Not Send Cash • DRE Cannot Accept Returns or Make Refunds. • Prices Are Subject To Change. • Orders received with incorrect payment amounts will be returned. • Allow 4—6 Weeks For Delivery • Orders originating in California must include state sales tax. Requests and fees will be returned if the appropriate sales tax is not included. • * 1989/90 edition available 10/89; price \$15.00. • ** 1990/91 edition available 2/90; price \$15.00. 	1	1987 Reference Book*	\$12.50		
	2	1987 Real Estate Law Book (Free 1988 Supplement included)**	\$12.50		
	3	1988 Supplement to Real Estate Law (brochure)	\$2.00		
	4	Instructions to License Applicants (brochure)	Free		
	11	Consumer Protection and Licensee Liability Protection (1987; report)	\$6.00		
	12	Deregulation of Financial Institutions (1987; report)	\$6.00		
	17	Future of California Housing Resale Market (1986; report)	\$6.00		
	18	Licensee Interaction With Respect to Marketing REOs (1987; report)	\$6.00		
	19	Common Interest Homeowners' Assoc. Mgmt. Study (1987; report)	\$6.00		
	20	Payment and Interest Rate Shock (1987; report)	\$6.00		
	21	Job Analysis and Testing Procedures Study (1987; report)	\$6.00		
	22	Licensee's Role in Marketing of Housing to the Elderly (1986; report)	\$6.00		
	23	Real Estate Specialization — Need for Special Licenses and/or Educational Requirements (1987; report)	\$6.00		
	24	Reasons for Today's Foreclosures (1987; report)	\$6.00		
	25	Rental Housing Data Base (1986; report)	\$6.00		
	26	Restructuring of the Real Estate Brokerage Industry (1986; report)	\$6.00		
	27	Review of California's Continuing Education Program — including testing requirements (1987; report)	\$6.00		
	28	Supervision of the Real Estate Office (1987; video)	\$25.00		
	29	Trust Funds (1987; video)	\$25.00		
	30	Study of California's R.E. Appraisal Industry (1988; report)	\$6.00		
	32	Compliance with the Real Estate Transfer Disclosure Law (1988; video)	\$25.00		
	33	Agency Disclosures in Residential Real Estate Transactions (1988; video)	\$25.00		
	34	Mobilehome Park Purchases by Residents (1986; brochure)	\$2.00		
	35	Trust Deed Investments — What You Should Know (1989; brochure)	\$2.00		
	36	Private Mortgage Insurance: Its Effects on Real Estate Transactions and Its Benefits to Real Estate Licensees (1989; report)	\$6.00		
	38	Analysis of California's Escrow Industry (1988; report)	\$6.00		

SHIPPING NAME

SHIPPING ADDRESS

CITY

STATE

ZIP



SUBTOTAL

+ CALIFORNIA TAX

TOTAL ENCLOSED \$

DRE WARNS LICENSEES: DON'T TAKE ILLEGAL COMPENSATION FROM TITLE INSURERS!

The Department of Real Estate will pursue, vigorously, allegations against its licensees involving illegal acceptance of compensation from title insurers for business referrals, according to Real Estate Commissioner James A. Edmonds, Jr.

"The department will coordinate its investigations in such cases with the California Departments of Insurance and Corporations, when it's appropriate for us to do so," the Commissioner said.

The strong warning to licensees follows consumer complaints and title insurance industry concerns that some real estate licensees "are shaking-down" title insurance firms, the Commissioner explained.

"We have complaints that some real estate licensees have demanded compensation from title companies for business referrals ranging from outright fee payments to vacations to expensive office machines.

In two instances currently under investigation by the department, it's alleged that real estate licen-

sees demanded FAX machines in return for the referral of clientele.

"I have met with the Departments of Insurance and Corporations on this issue," Commissioner Edmonds said.

"Their resolve to stop or preclude such illegal activity is equally determined. We will work in close association with these departments whenever possible to stop what may be a growing practice among some real estate licensees and title insurance companies."

Commissioner Edmonds noted that Section 10177.4 of the Business and Professions Code clearly prohibits such activity and says, in part:

"The commissioner may...suspend or revoke the license of a real estate licensee who claims, demands, or receives a commission, fee or other consideration, as compensation or inducement, for referral of customers to any escrow agent, structural pest control firm, home protection company, title insurer, controlled escrow company, or underwritten title company."

"The law is clear on this matter," Commissioner Edmonds noted. "Violations will not be tolerated."

NARELLO *Digest* PUBLISHED

The National Association of Real Estate License Law Officials (NARELLO) has announced publication of its 1989 *Digest of Real Estate License Laws*. The *Digest* is edited for real estate executive officers, educators, attorneys, license law officials and others involved in real estate transactions.

Information contained in the *Digest* has been used extensively, according to NARELLO, in testimony and lobbying before legislative bodies throughout the United States and Canada.

The valuable reference guide contains:

- Licensing requirements-state-by-state
- Educational requirements for licensure
- Significant real estate case law summaries
- Reciprocity/non-residency information
- Legislative updates affecting licensees
- Subdivided lands and time share data
- Model state legislation related to real estate appraiser licensing and certification

The NARELLO *Digest of Real Estate License Laws* is available for \$30.00. Make checks payable and addressed to NARELLO *Digest*, P.O. Box 129, Centerville, Utah 84014-0129.



Official Publication

CALIFORNIA DEPARTMENT OF REAL ESTATE

P.O. BOX 187000

Sacramento, California 95818-7000

Second Class Postage

PAID

at
Sacramento, California