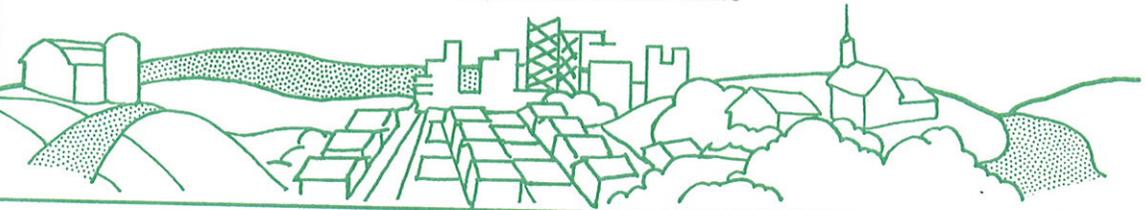




REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate



EDMUND G. BROWN JR., Governor

Winter 1981

THE TIME-SHARE

prepared by

Christopher J. Winberg, Legal Counsel

On January 1, 1981, changes in the Subdivided Lands Law became effective which significantly expanded DRE's jurisdiction over the sale of time-share interests in California. A time-share project of twelve (12) time-share estates (periodic use rights coupled with estates in the time-shared property) or twelve (12) time-share uses (use rights not coupled with an estate in the property) with durations of five or more years is defined as a subdivision and is subject to the provisions of the Subdivided Lands Law and the regulations adopted under authority of that law. The only exception to DRE jurisdiction is a project involving the sale of time-share uses in real property that does not include a structural living unit, e.g., a time-share campground offering.

The most significant requirement under the Subdivided Lands Law is that the sale of interests be authorized by DRE through the issuance of a public report (for an in-state subdivision) or a permit (for an out-of-state subdivision). Many of the specific requirements for the issuance of a public report or permit for a time-share project are found in regulations that predate the inclusion of time-share offerings. Under the Subdivided Lands Law, a new series of regulations specifically applicable to time-sharing became effective on August 16, 1981.

(Continued on page 4)

How the Economic Recovery Tax Act of 1981 Affects Real Estate

by

Richard A. Goodman
Attorney at Law
Oakland, California

The Economic Recovery Tax Act of 1981 (the "Act") contains numerous provisions which benefit taxpayers in their real estate transactions. This article will attempt to highlight the major changes.

The most important provisions directly affecting real estate are those dealing with depreciation. The Act introduces an entirely new depreciation system called the "Accelerated Cost Recovery System" ("ACRS"). ACRS permits the owner of depreciable real property to utilize a fifteen (15) year, or, in certain circumstances, a ten (10) year cost recovery period, rather than the 40-60 year period previously allowed by the Internal Revenue Service. Moreover, the owner may use the 175% declining balance method for either residential or non-residential property, although the depreciation recapture provisions of the Act will discourage use of the declining balance method for nonresidential real property. Under ACRS, disputes between taxpayers and the IRS regarding useful life and salvage value will be eliminated. Furthermore, questions regarding valuation of components will disappear, since ACRS does not permit the use of component depreciation.

ACRS does not entirely supersede the old depreciation system inasmuch as ACRS is to be utilized only for real property acquired by the taxpayer after 1980. Thus, a taxpayer owning properties which he acquired both before and after December 31, 1980 will use two different depreciation systems. Furthermore, for real property acquired after 1980 in a tax deferred exchange, ACRS may only be utilized for the portion of the new property which represents a "trade-up" from the original property. In that situation, therefore, both the old depreciation system and ACRS must be utilized for different portions of the same property.

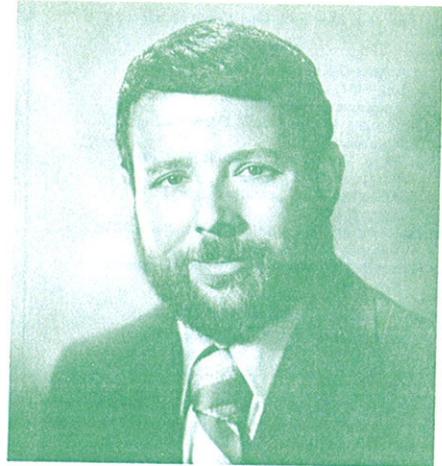
Another significant change directly

(Continued on page 5)

COMMISSIONER FOX'S FAREWELL MESSAGE

As I leave office after five years as Real Estate Commissioner, I feel very good knowing that most of you are doing a fine job providing important services to the public lawfully and competently as real estate professionals.

Although the Department has pursued a vigorous enforcement program, it is very significant to note that formal actions have been filed against less than two-tenths of one percent of all licensed brokers and salespersons annually! I congratulate you on your outstanding record of compliance with the law in the conduct of your chosen profession.



As I look back over the accomplishments of the past five years, I deeply appreciate all of your help, and the tremendous leadership and support of the California Association of Realtors® and the California Association of Real Estate Brokers. Together we have taken great strides forward in increasing our own competence and the quality of our services to the public. Some of the major highlights include:

- Adopting the Code of Ethics and Professional Conduct.
- Creating the best real estate continuing education program in the country.
- Streamlining and modernizing the DRE's licensing and subdivision programs.

(Continued on page 4)



REAL ESTATE BULLETIN

Official Publication of the
California Department of Real Estate

Vol. 41, No. 4

Winter 1981

STATE OF CALIFORNIA
EDMUND G. BROWN JR., Governor

WILLIAM A. WIGGINS
Chief Executive Officer

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

W. JEROME THOMAS, Chief Legal Officer
RICHARD D. CARLSON, Assistant Commissioner,
Policy, Planning and Transaction Activities
RAYMOND ROYCE, Assistant Commissioner,
Subdivisions
HENRY H. BLOCK, Real Estate Manager IV,
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, Real Estate Manager IV

District Offices

San Francisco, Room 5816, 185 Berry Street, 94107
Telephone 415-557-2136
EDWARD V. CHIOLO, Real Estate Manager III,
Regulatory
Sacramento, 1719-24th Street 95816
Telephone 916-445-6776
DUANE AASLAND, Real Estate Manager III,
Regulatory
Fresno, Rm. 3070, 2250 Mariposa St. 93721
Telephone 209-445-5009
ROBERT E. MCCABE, Real Estate Manager II,
Regulatory

SOUTHERN REGULATORY AREA

LEIGHTON J. PEATMAN, Real Estate Manager IV

District Offices

Los Angeles (Main Office, Southern Area)
Rm. 8107, 107 S. Broadway 90012
Telephone 213-620-5903
RANDOLPH BRENDIA, 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
THOMAS MCCRADY, Real Estate Manager III,
Regulatory

SUBDIVISIONS

Sacramento Hdqtrs: 1719 24th Street 95816
RAYMOND M. DABLER, Real Estate Manager IV
FRANK J. RYAN, Real Estate Specialist IV
Los Angeles, Room 8107, 107 S. Broadway 90012
ROBERT C. ARNOLD, Real Estate Manager III
Sacramento, Suite 250, 4433 Florin Road 95823
BETTY R. LUDEMAN, Real Estate Manager III
San Francisco, Room 5816, 185 Berry Street 94107
WILLIAM O. KEWLEY, Real Estate Manager III

**STATE REAL ESTATE ADVISORY
COMMISSION MEMBERS**

RAY C. CARLISE Berkeley	CLARK WALLACE Moraga
EMMETTE T. GATEWOOD, JR. Los Gatos	DONALD E. WERRY San Francisco
GEORGE M. MARCUS Palo Alto	DOROTHY COLTON Beverly Hills
ALBERTA (PEPPY) MAYER Fremont	GARY W. LEFKOWITZ Beverly Hills
TONG S. SUHR Alhambra	PAUL SEPULVEDA Santa Ana

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—June-August 1981

REB—Real estate broker
RREB—Restricted real estate broker
RES—Real estate salesperson
RRES—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.

<i>Business and Professions Code</i>	10176(i)	fraud or dishonest dealing in licensed activity	10237.3	acting as real property securities dealer without endorsement	
490	relationship of conviction to licensed activity	10177(a)	procuring a real estate license by misrepresentation or material false statement	10238.3	real property securities permit
10130	performing acts for which a license is required without the appropriate license	10177(b)	conviction of crime		
10137	unlawful payment of compensation	10177(d)	violation of real estate law or regulations	2731	unauthorized use of fictitious business name
10145	trust fund handling	10177(f)	conduct that would have warranted denial of a license	2831	inadequate trust fund records
10176(a)	making any substantial misrepresentation	10177(g)	negligence or incompetence as licensee	2832	improper handling of earnest money deposit
10176(b)	making false promise	10177(h)	failure to supervise salesperson	2834	trust account withdrawals by unauthorized person
10176(d)	failure to disclose dual agency	10177(i)	improper use of governmental employment	2901	modifications to contract by licensee
10176(e)	commingling trust funds	10177(j)	fraud or dishonest dealing not in licensed capacity	2905	delivery of pest control documentation
10176(g)	secret profit or undisclosed compensation				

Regulations

LICENSES REVOKED

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
*Messineo, Peter Wayne (REB)	924 E. Green St., Ste. 200, Pasadena	8/10/77	490, 10177(b)
*Copeland, Harold Collins (RES)	107 Iris Lane, San Rafael	4/21/81	490, 10177(a)
Gough, Ronald Lee (REB) (REO)	3630 Millbrae, Shingle Springs	6/1/81	10176(a)(g)(i), 10177(j)
Off—Eldo Properties, Inc. Eldo Properties, Inc. (REC)	3031 Alhambra, #103, Cameron Park	6/1/81	10176(a)(g)(i), 10177(j)
Off—Gough, Ronald Lee Stenger, Arthur Allan (RES)	8334 Amigo Ave., #5, Northridge	6/16/81	490, 10177(b)
Kaye, Victor Paul (RES)	P.O. Box 688, Laguna Beach	6/16/81	10176(a)(i), 10177(g)
Butler, Irvin Laverne (RES)	10749 Esther Ave., Los Angeles	6/23/81	490, 10177(b)
Luther, Lawrence O'Neal (RES)	24105 Alpine, Crestline	6/23/81	490, 10177(b)
Rooney, Robert Ray (RES)	3340 McCaw Ave., #212, Santa Barbara	6/23/81	490, 10177(b)
Aebi, Harold Lee (RES)	1309 University, Bakersfield	6/29/81	490, 10177(b)
Erickson, Sharon Joanne (RES)	8812 Santa Inez Dr., Buena Park	7/1/81	10145, 10176(a)(b)(i), 10177(d)
Rodgers, Edward Milton (REB)	4772 Oasis Rd., Redding	7/2/81	490, 10177(a)
	P.O. Box 1465, 1458 Monterey St., San Luis Obispo	7/6/81	10145, 10177(d)
True, Gordon Lynn (RES)	2804 The Strand, Manhattan Beach	7/8/81	10176(a), 10177(g)
Savant, Wiley (RES)	3948 Palm Ave., Lynwood	7/8/81	490, 10177(b)
Umagat, Randolph Gregory (RES)	4605 Lankershim Blvd., North Hollywood	7/14/81	490, 10177(b)
Witherspoon, Dolores Carmen (RES)	625 Shelter Creek Ln., #202, San Bruno	7/20/81	490, 10177(b)
Mulford, James Logan (REB)	4630 Geary Blvd., San Francisco	7/20/81	10176(a)(i), 10177(j)
Bravo, Frank (RES)	724 S. Main St., Santa Ana	7/21/81	490, 10177(b)(f)(g)
Sacre, Vickie R. (RES)	2304 W. St. Anne Pl., Santa Ana	7/28/81	490, 10177(b)
Hurt, Otis Allen (RES)	212 Park Ct., Ukiah	8/10/81	490, 10177(b)
Gibson, Tommy Paris (RRES)	3469 W. Benjamin Holt Dr., #433, Stockton	8/11/81	490, 10177(b)
Nocera, Santo Joseph (RES)	5142 Bela Dr., San Jose	8/11/81	490, 10177(b)
Mulrenin, Patricia Louise (RES)	3177 Lincoln, #A, Carlsbad	8/11/81	10130, 10176(a)(i), 10177(d)
Couture, Kay Venice (RES)	4301 Rand Ln., Sacramento	8/12/81	10130, 10131, 10137, 10145, 10161.7, 10176(d)(g)(i), 10177(d)
Spies, Dudley Steven (RES)	4973 Morse Rd., Woodbridge	8/12/81	490, 10177(b)
Chuchian, Dennis Arek (RES)	271 Las Flores Dr., Bakersfield	8/12/81	490, 10177(b)
Aalpa Mortgage & Investment Co., Inc. (REC)	434 S. San Vicente Blvd., Los Angeles	8/12/81	10177(d), 10237.3, 10238.3
DbA—Aalpa Realty Co. DbA—Aalpa Mortgage Co., Inc. DbA—Aalpa Mortgage Company DbA—Aalpa Home Loan Co.			
Ord, Olga Jo (RES)	4250 Park Newport, #209, Newport Beach	8/13/81	490, 10177(b)
Cochran, John Ogle Jr. (RES)	39 Bush St., Willets	8/14/81	490, 10177(b)(f)
Berger, Susan Marie (RES)	1025 Hillcrest Dr., Laguna Beach	8/18/81	2901, 10176(a)(b), 10177(d)
Crabtree, Sharyn B. (RES)	110 Raposa Vista, Novato	8/18/81	490, 10177(b)(f)
Guerrero, Edward O. (RES)	2104 Miramonte Ave., #13, San Leandro	8/18/81	490, 10177(b)(f)
Neumeier, Richard Maximilian (RES)	8018 37th Ave., Sacramento	8/19/81	490, 10177(b)
Woodard, Sharon Ann (RES)	4301 Rose Ave., Long Beach	8/20/81	490, 10177(b)
Podesta, Joyce Annette (RES)	829 Miller Ave., South San Francisco	8/31/81	490, 10177(b)(f)
Peil, William Robert Jr. (RES)	349-C Los Gatos Blvd., Los Gatos	8/31/81	490, 10177(b)(f)
Camp, Kenneth Allen (RES)	1534 Las Tranpas Rd., Alamo	8/31/81	490, 10177(b)(f)

Statement on Real Estate Bulletin issued quarterly was filed with postmaster on September 21, 1981. Location of office of publication and headquarters of publisher is 1719 24th Street, Sacramento, California 95816. Publisher: David H. Fox, Commissioner, State of California; Editor: Ruth M. Fennell, Department of Real Estate, Managing Editor: William A. Wiggins, Assistant Commissioner, Department of Real Estate; all with offices at the address given above. Owner: Department of Real Estate, State of California, 1719 24th Street, Sacramento, California 95816. Bondholders, mortgagees and other security holders: none. Average number of copies each issue during preceding 12 months: 370,288; paid circulation through dealers, etc. none; mail subscriptions, 367,788; total paid circulation, 367,788; free distribution: 1,517; total distribution: 369,305; office use, left over, etc.: 983; total press run: 370,288. Actual number of copies of single issue published nearest to filing date: 353,120; sales through dealers and carriers, etc.: none; mail subscription: 350,620; total paid circulation: 350,620; free distribution: 1,601; total distribution: 352,221; office use, left over, etc.: 899; total press run: 353,120.

LICENSES REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
*Sereni, William Sam (RES) (Right to RRES license after 30 days on terms and conditions)	850 Patrol Rd., Woodside	4/29/81	10176(a)(i)
Durso, John (REB) (Right to RREB license on terms and conditions)	19457 Merridy St., Northridge	6/4/81	490, 10177(b)
etula, Gene Ray (RES) (Right to RRES license on terms and conditions)	6780 Friars Rd., Apt. 361, San Diego	6/9/81	490, 10177(b)
Cries, Robert Stephen (REO) (Right to RREB license after 30 days on terms and conditions)	1961 Ardith Dr., Pleasant Hill	6/16/81	10145, 10176(c), 10177(d)(i)(j)
Covington, Michael James (RES) (Right to RRES license on terms and conditions)	11612 Peach St., Lynwood	6/17/81	490, 10177(b)
Covington, Linda Jeraldine (RES) (Right to RRES license on terms and conditions)	11612 Peach St., Lynwood	6/17/81	490, 10177(b)
Berendowsky, Sandra Kay (RES) (Right to RRES license on terms and conditions)	23210 Crenshaw Blvd., Torrance	6/19/81	490, 10177(b)
Ross, Irving (RES) (Right to RRES license on terms and conditions)	4338-4 Glencoe Ave., Marina Del Rey	6/30/81	490, 10177(b)
Flanagan, Raymond Joseph (RES) (Right to RRES license on terms and conditions)	2397 Forest Ave., San Jose	7/1/81	490, 10177(b)
Perkins, Judith Anne (RES) (Right to RRES license on terms and conditions)	1129 Magnolia Ave., Larkspur	7/1/81	490, 10177(b)
Townsend, Maria Caroline (RES) (Right to RRES license on terms and conditions)	2904 State St., Santa Barbara	7/2/81	490, 10177(b)
Cornette, Billy Kinneith (RES) (Right to RRES license after 60 days on terms and conditions)	33151 Elisa Dr., Dana Point	7/8/81	10176(a)(i), 10177(j)
Hindiye, Omar M. (RES) (Right to RRES license on terms and conditions)	4325 Moorpark Ave., San Jose	7/20/81	490, 10177(b)(f)
Combs, Joe (REO) Off-Combs Kids Corral, Inc. (Right to RREB license on terms and conditions)	4318 5th Ave., San Diego	7/21/81	10145, 10176(a)(f), 10177(d)(j)
Young, Gregory Martin (RES) (Right to RRES license on terms and conditions)	4638 Montgomery Dr., Santa Rosa	8/10/81	490, 10177(b)(f)
Glaude, Lovenia Ann (RES) (Right to RRES license on terms and conditions)	8529 Seneca, Oakland	8/10/81	490, 10177(b)(f)
Noble, Leland Donald (RES) (Right to RRES license on terms and conditions)	203 Mountain Springs Dr., San Jose	8/10/81	490, 10177(b)(f)
Mogannam, Diane Esa (RES) (Right to RRES license on terms and conditions)	265 Joost Ave., San Francisco	8/10/81	490, 10177(b)(f)
Mark, Harry (RES) (Right to RRES license on terms and conditions)	1235 Gilcrest Ave., Sacramento	8/11/81	490, 10177(b)
Rochestie, Howard Maury (REB) (Right to RREB license after 180 days on terms and conditions)	1774 Union St., San Francisco	8/11/81	10176(a), 10177(f)
Thomas, Dorothy Ann (RES) (Right to RRES license on terms and conditions)	355 Main St., Vacaville	8/18/81	490, 10177(b)
Landman, Willem Richard (REB) (Right to RREB license on terms and conditions)	4624 Union St., Eureka	8/18/81	490, 10177(b)
Watson, Jeanne Josette (RES) (Right to RRES license on terms and conditions)	29708 Zuma Bay Way, Malibu	8/31/81	10137, 10177(d)
Silveira, Randall Jerome (RES) (Right to RRES license on terms and conditions)	1625 E. Santa Clara St., San Jose	8/31/81	490, 10177(b)

NOTICES

DRE has recently learned of the marketing by a Los Angeles firm of a handbook called *Flat Fee Real Estate Agency* which purportedly provides "all of the details you need to know . . . to operate a [real estate] business legally even though you do not have a real estate license."

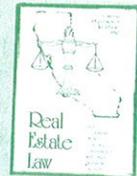
While the promotional material seeks to create the impression that a person carrying on a business as outlined in the manual would not be performing acts for which a real estate license is required, the specifics of the advertisement strongly suggest the solicitation of listings and the entering into negotiations between the parties. Both of these are acts for which a real estate license is required in California.

DRE is not empowered under the law to do anything about the advertising of this manual. It is empowered however to investigate and to take administrative action where appropriate against nonlicensees performing acts for which a real estate license is required. Anyone knowing of nonlicensees conducting a real estate business in accordance with the *Flat Fee Real Estate Agency* handbook should notify the nearest DRE office.

Stock Cooperatives

The Summer 1981 *Real Estate Bulletin* contained an article entitled "Stock Cooperatives." On page 5, second column, of that issue, it was stated that the Department of Corporations asserts jurisdiction over stock cooperatives with four (4) or fewer shareholders. The Department of Corporations has since reconsidered its position and has issued an opinion which exempts stock cooperatives of four or less shareholders (members) from the qualification requirements of the Corporate Securities Law, unless offered or sold with an investment contract.

1981 *Real Estate Law* book is now available at any office of the Department of Real Estate for \$5.00 (plus 6% sales tax if purchased in California).



It is recommended that all licensees keep the most recent edition of the *Real Estate Law* book and the *Reference Book* (also \$5.00 plus 6% tax) on their desks at all times for reference purposes.

The law book can be obtained in person or by mail. If ordered by mail, send check or money order payable to Department of Real Estate, P.O. Box 160009, Sacramento, CA 95816, ATTENTION: Law Book.

WORTH REPEATING

Many *Real Estate Bulletins* are returned to DRE by the post office as being nondeliverable. DRE must pay the substantial cost for this return postage. Beginning with the Summer 1981 issue of the *Bulletin*, the names and mailing addresses of

(Continued on page 6)

LICENSES SUSPENDED

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
Delafield, Howard Irving (REB)	1450 Tartan Trail, Hillsborough	6/1/81 (30 days)	10177(g)
Bartleson, Bruce Edwin (RREB)	P.O. Box 402, Hwy. 49 at 16, Plymouth	7/28/81 (30 days)	10176(a), 10177(g)

LICENSES SUSPENDED WITH STAYS

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
*Hirsch, Kenneth Steven (REB) (All but 30 days stayed for 1 year on terms and conditions)	322 Deertrail Ln., Mill Valley	4/29/81 (60 days)	10177(b)(j)
Burden, Billy Don (RES) (All but 30 days stayed for 1 year on condition)	1844 Jaques Rd., Palm Springs	6/2/81 (90 days)	10176(i)
Van Rossum, Jacob J. II (REB) (All but 45 days stayed for 1 year on condition)	468 Manzanita Ave., Ste. 1, Chico	7/20/81 (90 days)	2905, 10176(a), 10177(d)(g)
Webber, Gene Norbert (RES) (Stayed for 2 years on condition)	3977 Aladdin Dr., Huntington Harbour	8/12/81 (30 days)	490, 10177(b)
Beardon, Ovid (RES) (All but 15 days stayed for 2 years on terms and conditions)	17720 Rayner St., Northridge	8/19/81 (30 days)	2831, 2832, 10145, 10177(d)(g)
arker, Geneva I. (RRES) (Stayed for 1 year on terms and conditions)	111 Sacramento St., Auburn	8/31/81 (30 days)	10176(a), 10177(g)

INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS

Name	Address	Date
Simpson, Gale James (RES)	4800 Marconi Ave., #216, Carmichael	6/23/81
Lookingland, David Borchard (REB)	2001 East 4th St., Ste. 104, Santa Ana	8/7/81

Legislative Summary

Here is DRE's summary of 1981 legislation passed by the California Legislature which should prove to be of particular interest to real estate licensees. Unless otherwise stated, the operative date of these bills is January 1, 1982. **References to the Code sections amended are to the Business and Professions Code, unless otherwise indicated.** A copy of any bill may be obtained by writing direct to the Legislative Bill Room, State Capitol, Sacramento, CA 95814.

DEPARTMENTAL SPONSORED LEGISLATION

Real Estate License Renewal. AB 588 (Farr), Chapter 93. (Amends Business and Professions Code Section 10201). Deletes the requirement that a late renewal license applicant file an application at least 30 days prior to the expiration of the late renewal period. **Converted Units: Intent to Purchase.** AB 745 (Ryan), Chapter 519. (Adds Business and Professions Code Section 11010.7). Expressly authorizes persons seeking to convert residential properties to condominiums, community apartment projects or stock cooperatives to obtain, from the tenants, nonbinding expressions of intent to purchase their units when such expressions are required by the local government. **Real Estate Recovery Fund.** AB 1096 (Sher), Chapter 445. (Amends Business and Professions Code Section 10473; repeals and adds Section 10473.1). Clarifies that a licensee/judgment debtor may not relitigate the issue of fraud, misrepresentation, deceit or conversion of trust funds in a recovery fund action and that the prior adjudication of the fraud issue is conclusive. **Mortgage Loan Brokers.** SB 391 (Watson), Chapter 530. (Amends Business and Professions Code Section 10248.7; adds Sections 10232 and 10232.1; repeals Section 10248.8). Requires a real estate broker, who negotiates or intends to negotiate any combination of new loans and sales or exchanges of existing promissory notes and real property security contracts aggregating more than \$1,000,000 in any successive 12 months, to submit mortgage loan and trust deed advertising to DRE for approval. Urgency statute—TAKES EFFECT IMMEDIATELY. *NOTE: AB 1212, Chapter 1117, next below, which takes effect on January 1, 1982, will chapter out this legislation on that date.* **Mortgage Loan Brokers.** AB 1212 (McAlister), Chapter 1117. (Amends Business and Professions Code Sections 10131.1, 10231 and 10237.2; adds 10231.2, 10232, 10232.1, 10232.2, 10232.4, 10232.5 and 10236; repeals 10248.7, 10248.8 and 10248.9; repeals and adds 10230). Requires a real estate broker who negotiates or intends to negotiate 20 or more new loans and sales or exchanges of contracts or notes aggregating \$2,000,000 or more per year to: 1) annually submit an independent public accountant's report of the broker's trust fund accounts; 2) submit proposed mortgage loan and trust deed advertising to DRE for approval; and 3) furnish a prospective lender or purchaser with a disclosure including information regarding the loan terms, the borrower and the property securing the note. Requires any broker who is self-dealing to provide a specified disclosure to prospective purchasers/lenders and the Department of Real Estate at least 24 hours prior to accepting any funds from persons solicited. Clarifies the terms "sale," "resale" and "exchange" for purposes of defining the role of a real estate broker. (Takes effect January 1, 1982, chaptering out SB 391 above on that date.) **Continuing Education: Ethics Course.** SB 951 (Carpenter), Chapter 179. (Adds section 10170.5 to the Business and Professions Code). Requires as part of the existing continuing education requirement for renewal of license that a real estate licensee complete a three-hour course in ethics, professional conduct and legal aspects of real estate. Operative only for licenses being renewed on or after January 1, 1983. **License, Examination and Subdivision Fee Increases.** AB 1500 (Vicencia), Chapter 848. (Amends Business and Professions Code Sections 10208.5, 10209.5, 10210, 10213.5, 10214.5, 10215, 10222, 10249.2, 10249.3, 10249.4, 11011, 11011.05, 11011.1, 11011.12, 11015 and 11017; adds Sections 11011.06 and 11011.13). Increases the statutory maximum fees which may be charged by DRE as follows:

1.	Examination	License
Broker	\$50	\$110
Salesperson	\$25	\$80
2.	Subdivisions	
Standard	\$500 + \$10 per lot	
Common Interest	\$1600 + \$10 per lot/unit	
Preliminary	\$500	
Amended	\$300 (No Change)	
Renewal	\$500	

Time-Share Rescission Right. SB 355 (Sieroty), Chapter 381. (Adds Section 11024 to the Business and Professions Code). Provides purchasers of time-share interests with a 72+ hours rescission right. Requires time-share sponsors to inform purchasers of this right. Urgency statute—TAKES EFFECT IMMEDIATELY.

DRE OPERATIONS

Real Estate Fund. AB 1157 (Filante), Chapter 768. (Repeals and adds Section 10450.6 to the Business and Professions Code). Decreases the percentage of license fees allocated to the separate account in the Real Estate Fund for the purpose of real estate education, research and recovery to twenty percent. Of this amount, seventy-five percent will be used for education and research and twenty-five percent will go to the recovery fund separate account. **Continuing Education Exemption.** SB 781 (Mello), Chapter 118. (Adds Section 10170.8 to the Business and Professions Code). Exempts from continuing education requirements, real estate licensees who are 70 years of age or older who have been continuously licensed in this state for 30 years and have not had the license suspended, revoked, or restricted as a result of disciplinary action. Urgency statute—TAKES EFFECT IMMEDIATELY.

MOBILEHOMES

Termination of Tenancy. AB 2095 (Elder), Chapter 458. (Amends Civil Code Section 798.56). Requires the management to give six or more months written notice of termination of tenancy after all required permits have been approved if termination of tenancy is due to a change of use of the mobilehome park, or a portion thereof. **Mobilehomes.** SB 1193 (Craven), Chapter 975. (Various Business and Professions, Civil, Civil Procedure, Health and Safety, Penal and Revenue and Taxation Codes). Repeals and reenacts with various substantive

FAREWELL (Continued from page 1)

- Eliminating "inactive licensee" licensing.
- Regulating time-share offerings.
- Enacting major mortgage loan broker reform legislation.

I am also very grateful to the hard-working dedicated and very effective staff of the DRE. They have served your interests well, and deserve great credit for all we have achieved. I will miss working with them.

Although I am returning to the private sector, I still feel a compelling desire to serve your profession. Therefore, I plan to teach continuing education seminars covering the new course on "Ethics, Professional Conduct and Legal Update" and a course on "How to Stay Out of Trouble with the DRE."

I will also be acting as a public advocate for the real estate profession letting as many people as possible know what a fine job you are doing for them.

It has been said that people leaving high public office go overnight from "Who's Who" to "Who's he?" And that's o.k. because to me the accomplishments are far more important than who fashioned them into realities.

So as I leave office, I am most proud of the positive new steps we have taken together. The benefits they bring to all of us and to our clients throughout California will travel far into the future.

David H Fox

TIME-SHARE (Continued from page 1)

These 29 regulations are contained in Section 2810 through 2813.8 of Title 10 of the California Administrative Code.

The new regulations parallel in many ways those regulations applicable to other types of common-interest subdivisions such as condominiums. There are, however, several of the new regulations which are peculiarly applicable to time-sharing.

Among those unique regulations is a requirement that title to most time-share projects be transferred to a trustee to be held for the benefit of the time-share owners. Regulation 2812.2 calls for the conveyance of the time-share dwelling unit to a trustee in the case of every time-share use project and in the case of those time-share estate projects which are subject to a monetary encumbrance, i.e., a mortgage or deed of trust. The trust arrangement for a time-share use project is for the purpose of assuring that no subsequent transfer or encumbrances can be made which will adversely affect the rights of time-share owners. Where there is an existing mortgage or deed of trust against the time-share property, the trust not only protects against subsequent transfers or encumbrances, but also provides some degree of protection to time-share owners from foreclosure of the underlying encumbrance. It does this by requiring that receivables in the form of promissory notes or purchase contracts equal

(Continued on page 5)

(Continued on page 7)

SUMMARY (Continued from page 4)

changes, provisions of law relating to mobilehomes including provisions regulating sales and distribution, occupational licensing, registration, titling, and penalties related thereto. The Department of Housing and Community Development is empowered to collect fees and is required to refund any excessive or improperly collected fees. Provides HCD with the authority to enact regulations pertaining to mobilehomes to carry out legislative intent during the implementation of the Governor's Reorganization Plan #1. Expressly authorizes real estate agents to sell mobilehomes installed on permanent foundations (B & P Code Section 10131.6). Removes prohibition against accelerating loans in the absence of default for sale or encumbrance of a mobilehome or commercial coach and the requirements for reinstatement of the loan contract after default in specified circumstances.

**ADMINISTRATION**

Subsequent Arrest Notification. AB 500 (Wright), Chapter 269. (Amends Section 11105 of the Penal Code; adds Section 11105.2). Permits any agency that requires state summary criminal history information for purposes of employment, licensing or certification to establish a subsequent arrest notification service with the Department of Justice. Requires the agency to return such information to the Department of Justice if the person for whom a subsequent arrest notification service has been established, has had the license or certificate revoked, been terminated or denied employment, or is no longer or never was eligible to renew or reinstate such license or certificate. **Permit Reform Act of 1981.** SB 257 (Rains, et al.), Chapter 1087. (Adds Chapter 3, commencing with Section 15374, to Part 6.7 of Division 3 of Title 2 of the Government Code). Requires all state agencies, except as specified, that issue permits to adopt regulations establishing the time lines for considering applications and issuing permits. Requires parent agencies to establish appeal procedures to resolve disputes arising from an agency's failure to issue a permit within the established time limits. The act becomes operative on January 1, 1983. **Court Costs.** SB 575 (Carpenter), Chapter 814. (Adds Section 1028.5 to the Code of Civil Procedure). Provides up to \$7,500 in reasonable litigation expenses to a small business or licensee when it prevails against a state regulatory agency in a civil action. Requires the judgment against an agency to be satisfied from the agency's regular operating budget. Defines "small business" and "licensee." **Administrative Regulations: Judicial Review.** SB 726 (Beverly), Chapter 592. (Amends Section 11350 of the Government Code). Permits an interested person to obtain judicial review of the validity of an agency's regulation without first petitioning the agency for reconsideration. Allows a court to invalidate regulations if it cannot find evidence to support a determination that a regulation is necessary to carry out a statute, court decision, or other provisions of law.

**CONSUMER PROTECTION**

Real Property: Disclosure of Defects. AB 100 (Harris), Chapter 811. (Adds Section 1134 to the Civil Code). Requires the owner or subdivider of a structure being converted into a condominium, community apartment or stock cooperative, to provide each prospective purchaser, as soon as practicable before transfer of title, with a written statement listing all substantial defects or malfunctions in the unit and the common areas of the premises, or a written statement disclaiming knowledge of any such substantial defects or malfunctions. The disclaimer may be delivered only after the owner or subdivider has inspected the unit and the common areas and has not discovered a substantial defect or malfunction that such a reasonable inspection would have disclosed. Provides purchasers with a right to rescind if a disclosure is made after the execution of an agreement to purchase. Persons willfully failing to carry out the disclosure requirement would be liable to the buyer for actual damages and the injured party would be permitted to seek any remedy available under any other provision of the law. **Real Property: Foreclosure and Sale.** AB 191 (Frazee), Chapter 427. (Amends Sections 2924, 2924c and 2924h of the Civil Code). Requires that a deed executed in connection with a foreclosure sale contain a recital of compliance with all requirements of law regarding mailing copies of notices of default and related notices, without regard to whether a request has been recorded. Increases trustee and attorney's fees to the greater of \$150 or one-half of 1% of the unpaid principal for services rendered in connection with a foreclosure. Requires the bidder at a foreclosure sale to deposit cash, a cashier's check or cash equivalent which has been designated in the notice of sale. **Title Insurance.** AB 691 (Papan), Chapter 479. (Amends Sections 102340.3, 12359, 12392, 12401.5 and 12414.29 of the Insurance Code). Includes in the definition of "business of title insurance" the act of an insurer in furnishing in writing to a prospective purchaser of the insurer's title policy a statement which assures, and assumes the liability for, the proper performance of services necessary to the conduct of a real estate closing performed by an underwritten title company with whom the insurer maintains an underwriting agreement. Permits a title insurer to charge a reasonable fee in connection with the furnishing of any such statement. **Nonjudicial Foreclosure.** AB 1876 (Bates), Chapter 903. (Amends Section 2924 f of the Civil Code). Provides that the notice of sale required to be posted on property to be sold pursuant to a private power of sale contained in a trust deed or mortgage be posted on the door of the residence, if possible, or in a conspicuous place on the property before the sale occurs. Requires such notice to contain a statement concerning the effect of the notice and a suggestion to contact a lawyer.

**DEVELOPMENT**

Statute of Limitations: Development. AB 605 (Stirling), Chapter 88. (Amends Section 337.15 of the Code of Civil Procedure.) Provides that the 10-year statute of limitations for action on damages for or arising from a latent deficiency against persons who develop real property or who perform services relative to the construction of improvement on real property shall commence upon substantial completion of the improvement. The ten-year period, however, shall not commence later than the earliest of the date of final inspection, recordation of a valid notice of completion, use or occupation of the improvement, or one year after termination or cessation of work on the improvement. **Subdivision Maps: Expiration.** AB 612 (Frazee), Chapter 482. (Amends Section 66452.6 of the Government Code). Extends the statutory expiration date of approved or conditionally approved tentative maps to 24 months and permits local governments to extend that date by an additional 12 months. Substitutes "development moratorium" for water or sewer moratorium and defines such to include water or sewer moratoriums in addition to actions of public agencies with control over land use development or

(Continued on page 7)

TAX ACT (Continued from page 1)

affecting real estate involves the investment tax credit. Under prior law, there has been a 10% investment tax credit for certain rehabilitation expenditures for non-residential buildings at least twenty years old. The Act institutes an increased investment tax credit, but limits it to rehabilitation expenditures on buildings at least thirty years old. The tax credit will be 15% of qualified rehabilitation expenditures for non-residential buildings between thirty and thirty-nine years old, 20% for non-residential buildings at least forty years old, and 25% for certified historic structures. The new credit applies only to qualified expenditures incurred after 1981.

The combination of the investment tax credit for rehabilitation tax expenditures and ACRS will provide extremely significant tax benefits, and it is anticipated that rehabilitation projects will be widely touted for their tax shelter potential.

The Act has made two important changes specifically related to personal residences. Under prior Section 1034, the gain on the sale of a taxpayer's principal residence was deferred if the taxpayer purchased and moved into a replacement residence during the period commencing eighteen months before and ending eighteen months after the sale of the old residence. Under the Act, the replacement residence may be purchased and occupied as early as two years before and as late as two years after the sale of the old residence. This provision is effective for all residences sold after July 20, 1981. It also applies to residences sold on or before July 20, 1981, as long as the eighteen month period allowed under prior law had not ended as of that date.

The second major change affecting personal residences involves Section 121. Under prior law, a taxpayer selling his principal residence could exclude \$100,000 of gain from his income if he or his spouse was at least 55 years old, the property was used as their principal residence for three of the last five years, and no prior election had been made. The Act increases the exclusion from \$100,000 to \$125,000, effective as to residences sold after July 20, 1981.

Some of the provisions of the Act, while affecting real estate only indirectly, will have a profound impact on real estate ownership. The graduated individual tax rate reductions, combined with the tax indexing provisions and the reduction of the maximum tax on investment income from 70% to 50% will reduce the tax payable at the time real estate is sold. Since only 40% of capital gain is taxed as ordinary income, this insures that the tax on the sale of real property held for investment or in the trade or business will not exceed 20% of the gain. Although the reduction in the maximum tax rate applies only to tax years beginning after 1981, the Act has a special provision reducing the maximum capital gains tax to 20% of the gain for sales and exchanges occurring after June 9, 1981.

(Continued on page 8)

Notes from Licensing

by
Thomas Hensley
Real Estate Manager I
Licensing and Examinations

In July 1980, Arthur Young & Company was awarded a contract with the Department of Real Estate (DRE) to study the examination program for real estate salesperson and broker applicants. The purpose of this study was to conduct a complete review of the question bank currently used in the license examination program and develop innovative methodologies and approaches to enhance the validity of current testing procedures.

Initial examination specifications were developed by the DRE in 1956. In 1966, the DRE modified its examination format, moving from a subjective situation-oriented format to a totally objective multiple choice format. Although changes have been made to specific questions, the content of

examinations has remained relatively constant since that time, consisting of emphasis in Real Estate Law, Public Control, Appraisal, Finance, and Practice. The chart shown below gives a comparison between the current exam composition and the recommended composition:

In order to obtain a basis for a comprehensive and practical examination, the study included a complete review of DRE test items by industry experts on ten review panels, a random sampling job task analysis survey of brokers and salespersons to identify entry level job tasks, and a knowledge requirement survey of industry experts to identify the relevance of job tasks. The input from the industry, combined with a computer analysis of the examination library and recommendations from the Arthur Young & Company testing experts, resulted in recommendations which will greatly improve the examination process.

With the exception of a Vydec word processor, the current examination process is performed manually. The study recommends a sophisticated combination of staff services and data processing capabilities. The gradual change-over to computer generated examination booklets will begin during the latter part of 1981 and should be completed during the early part of 1982.

KNOWLEDGE CATEGORY	CURRENT COMPOSITION OBJECTIVE	RECOMMENDED BROKER COMPOSITION	RECOMMENDED SALESPERSON COMPOSITION
LAW	50 PCT	34 PCT	35 PCT
PUBLIC CONTROL	10 PCT	17 PCT	19 PCT
APPRAISAL	15 PCT	19 PCT	16 PCT
FINANCE	10 PCT	20 PCT	22 PCT
REAL ESTATE PRACTICE	15 PCT	10 PCT	8 PCT

DRE

DRE



45 Memos From

Continuing Education

prepared by

Edw. Donobedian, Real Estate Specialist

Presently, licensees are not required to attend any specific offering of approved real estate continuing education courses. License renewal applicants must only submit evidence of having completed at least 45 clock hours of approved continuing education.

However, and this is an important however of which licensees should be aware, Senate Bill 951 (Carpenter) signed into law by Governor Brown requires that on and after January 1, 1983, real estate licensees applying for renewal of their licenses must complete as a part of the 45 clock hours of continuing education, a three-hour course in ethics, professional conduct, and legal aspects of real estate.

This new law (Business and Professions Code Section 10171.1) reads as follows:

"On and after January 1, 1983, no real estate license shall be renewed unless the Commissioner finds that the applicant for the license has, during each four-year period preceding the renewal application, completed as part of the 45 clock hours of attendance

provided for in section 10170.4, a three-hour course in ethics, professional conduct, and legal aspects of real estate. Any such course shall include, but need not be limited to, relevant legislation, regulations, articles, reports, studies, court decisions, treatises, and information of current interest.

"This section shall be operative until January 1, 1985, and on such date is repealed."

Even though January 1, 1983, is some time away, this new legislation is becoming well-known. Below are some of the questions currently being asked about it by licensees and the Department's answers.

Q. If a licensee already has 45 hours of continuing education offerings and the license is expiring (for example, on or after January 1, 1983), will it be necessary to obtain an additional three hours of the specifically approved offering required by S.B. 951 (Carpenter)?

A. Yes. In this situation the result is the licensee will obtain a total of 48 clock hours of continuing education.

NOTICES (Continued from page 3)

all licensees whose *Bulletins* have been returned to us will be removed from the computer mailing system until such time as the licensee furnishes us with a written notification of the licensee's current mailing address.

RESEARCH STUDIES AVAILABLE

Limited quantities of the following recently completed research studies are available from DRE:

1. Educational Requirements and the Quality of Real Estate Licensees' Service to the Public (University of California, Berkeley)
2. Dual Agency Problems in California Real Estate Transactions (California Technical Assistance Associates, Inc.)
3. Characteristics of Licensees Who Were Disciplined or Against Whom Complaints Were Filed in Fiscal Year 1979-1980: A Record Linkage Study (University of California, Berkeley).

The research reports are \$1.50 each plus 6% tax to California purchasers. Make checks or money orders payable to:

Department of Real Estate
P.O. Box 160009
Sacramento, CA 95816
ATTENTION: Accounting.

DRE

Q. The three areas specified in the Bill are ethics, professional conduct, and legal aspects. Must these be combined all in one course?

A. Yes. And as specified above, be given in an offering that is specifically identified as being approved in conformance with this Bill.

Q. How will a licensee know before enrolling in a continuing education course whether the offering satisfies the mandatory three-hour course in ethics, professional conduct, and legal aspects?

A. It will be the responsibility of the sponsor to advise the licensee. Also, the Department will designate the three-hour mandatory offerings in a separate section in the quarterly list of approved courses.

Q. If a licensee has attended an offering that covered the subjects mandated by S.B. 951, but not one specifically identified as being approved in conformance with this Bill, does the offering satisfy the requirement?

A. No. It must be identified as such or it does not satisfy the requirement.

Q. This new law is identified as Business and Professions Code Section 10171.1. Is that not now an existing code section adopted prior to passage of S.B. 951?

A. Yes. While a conflict exists now, in that two sections of the Code will each bear the number 10171.1, we have requested the Legislative Counsel to renumber one of the sections in the Bill to Maintain the Codes. However, this correction will probably not become effective until January 1, 1983. Existing Section 10171.1 is not repealed by the adopting of the new Section 10171.1

DRE

TIME-SHARES (Continued from page 4)

to one and one-half times the difference between cash in the trust and unpaid balances of the blanket encumbrances be retained in the trust as a source of funds to pay off the mortgage or deed of trust. With these receivables and the additional regulatory requirement of cash in the trust equal to three months debt service on the encumbrances, the trustee should have sufficient resources to prevent a foreclosure if there is a default on the promissory note secured by the deed of trust.

The time-share regulations are also designed to assure that a time-share project will begin operating with enough assessment—paying members to give it a reasonable chance of surviving during its first few operational years. Under Regulation 2810.3, DRE has the authority to insist that a minimum number of interests be presold before any sale may close.

Section 2812.8 is another regulation that breaks new ground. It lists the provisions which must be covered in contracts between a time-share owners association and the managing agent for the project. Since a time-share owner is by definition an absentee owner for most of the year, it is vitally important that the management contracts be drafted in a way that will protect these owners.

It is the factor of absentee ownership that accounts for the fact that the regulations for the operation of the owners association for a time-share project are slightly different from those that are required for other types of common-interest subdivisions. The time-share regulations for organization and operation of the owners association include special arrangements for such aspects as actions by the members without a meeting, notice of meetings, distribution of annual reports, budgets, minutes of board meetings, etc., and for making copies of association records available to members upon written request.

The most recent statutory change applicable to a time-share offering is a 72 hour plus right of rescission afforded to every purchaser of a time-share subdivision interest. This was accomplished by the addition of Section 11024 to the Business and Professions Code through Chapter 381, Statutes of 1981. This section became effective as urgency legislation on September 8, 1981, when it was signed by Governor Brown. It provides that the buyer of an interest in a time-share subdivision project has the right to rescind the offer or contract purchase by written notice on or before midnight of the third day following the execution of the offered purchase. In enacting Chapter 381 as an urgency statute, the Legislature found that "sales of interests in many time-share projects have been and are being made through intensive marketing efforts which often include misleading advertisements, deceptive promotional giveaway devices and high pressure selling tactics."

(Continued on page 8)

SUMMARY (Continued from page 5)

providing services to land other than agencies with authority to approve maps. **Real Property: Recordation of Conveyance Restriction.** AB 663 (Costa), Chapter 663. (Adds Section 27281.5 to the Government Code). Requires local governments, on or after January 1, 1982, to record any conveyance restrictions imposed on real property or proprietary leaseholds in order for such restrictions to be valid and enforceable. **Residential Developments: Application and Permit Review.** AB 941 (McCarthy), Chapter 846. (Amends Section 65913.3 of the Government Code and Section 35800 of the Health and Safety Code). Requires local agencies to provide for the coordination of review and decision making and the provision of information regarding the status of all applications and permits for residential developments by a single administrative entity. Defines "administrative entity". Deletes provision of law requiring developers to request such reviews. Renames the Housing Financial Discrimination Act of 1977 to the Holden Act. **Subdivision Map Act: Appeals.** AB 1817 (Frazee), Chapter 309. (Amends Section 66452.5 of the Government Code). Decreases the time period within which an appeal may be filed concerning the decisions of a local advisory agency and appeals board on a tentative map to ten days. **Building Permits.** AB 1904 (Moore), Chapter 365. (Adds Section 19828 the Health and Safety Code). Authorizes local governments to issue building permits if they are satisfied that all conditions of the final or parcel map have been completed and the map is eligible to be recorded. **Subdivisions: Security For Performance.** AB 1929 (Stirling), Chapter 323. (Amends Section 66499 of the Government Code). Expressly authorizes the use of a letter of credit issued by a federal or state regulated financial institution as a security device to insure performance whenever security is required by the Subdivision Map Act or local ordinances. **Subdivision Maps: Modifications.** AB 1959 (Katz), Chapter 1184. (Adds Section 66472.1 to the Government Code). Allows local agencies, by ordinance, to permit modification of a filed final or parcel map upon prescribed conditions. Requires the owner of the parcel, prior to obtaining a permit or approval for development of the parcel, to obtain a certificate of compliance regarding compliance with the Subdivision Map Act and local ordinances. **Real Property: Conversion.** SB 425 (Sieroty), Chapter 603. (Amends Sections 66452.8 and 66452.9 of the Government Code). Revises the statements contained in notices required to be given to tenants and prospective tenants of residential real property to be converted into a condominium, community apartment or stock cooperative project. Makes certain technical changes. Urgency statute—TAKES EFFECT IMMEDIATELY. **Coastal Housing.** SB 626 (Mellos and Greene), Chapter 1007. (Adds Section 65590 to the Government Code; amends Section 30213 of, and adds Sections 30500.1 and 30607.2 to the Public Resources Code). Among other things, prevents jurisdictions lying, in whole or in part, within the coastal zone from authorizing the proposed conversion or demolition of existing residential dwellings which would result in the displacement of persons and families of low or moderate income, unless provision has been made for replacement housing opportunities located within the coastal zone.

FINANCE and TAX

Property Taxes—Change in Ownership. AB 152 (Deddeh), Chapter 1141. (Amends, adds, and repeals various Revenue and Taxation Code Sections). Provides for various technical and substantive changes to the change-of-ownership provisions in the property tax law enacted to implement Proposition 13. **Taxation: Property Assessment.** AB 396 (Vicencia), Chapter 1132. (Amends various sections of the Revenue and Taxation Code; adds Section 11341). Revises the procedures which must be followed in challenging the assessment of property which is assessed by the State Board of Equalization and those which must be followed with regard to hearings on such assessments. **Real Property Loans.** AB 650 (Bane), Chapter 274. (Adds Sections 1916.10 and 1916.11 to the Civil Code; amends Sections 1227 and 5074 of, and adds Sections 1227.1 and 7150 to the Financial Code; amends Sections 11346.1 and 11346.2 of the Government Code). Among other things, requires the Superintendent of Banks to adopt regulations which would authorize state-chartered banks and subsidiaries of bank holding companies to make specified loans upon the security of real property with other than a fixed rate of interest if national banks doing business in California are authorized to make such loans. Requires regulations to be established within certain time limits insuring adequate disclosure to the borrower of the material terms of such loans. Requires the Savings and Loan Commissioner to promulgate similar regulations with respect to state associations. **Escrow Agents.** AB 1390 (Sher), Chapter 773. (Amends Sections 17004, 17210.2, 17213.2, 17213.5, 17416, 17601, 17604, and 17621 of the Financial Code). Deletes "for compensation" from the escrow agent definition. Allows the Commissioner of Corporations more discretion to alleviate strict compliance with procedural rules pertaining to fines for unapproved branch offices, financial statements and orders of discontinuance for unsafe or injurious practices. **Shared Appreciation Loans.** AB 2167 (Costa), Chapter 1143. (Adds Chapter 4, commencing with Section 1917.010, to Title 4 of Part 4 of Division 2 of the Civil Code). Authorizes lenders to make shared appreciation loans for the purchase of owner occupied residential real property improved with one-to-four dwelling units, including mobilehomes on permanent foundations and condominiums. Applicable only to loans to be originated by a lender on behalf of pension funds qualified under the Employment Retirement Income Security Act of 1974. Establishes the terms and conditions of the loans including notices and disclosures about the loans. **Shared Appreciation Loans.** AB 2168 (Costa), Chapter 1144. (Adds Chapter 5, commencing with Section 1917.110, to Title 4 of Part 4 of Division 2 of the Civil Code). Permits lenders to make shared appreciation loans on one-to-four unit (owner occupied) family dwellings, including mobilehomes placed upon permanent foundations, or residential condominiums. Establishes the terms and conditions of such loans including notices and disclosures about the loans. **Taxation: Property Assessment.** SB 139 (Speraw), Chapter 377. (Amends Sections 51 and 170 of the Revenue and Taxation Code). Revises method of assessing property damaged or destroyed by disaster, misfortune or calamity. Provides that the taxable value of the property is the assessed value of the property in its damaged condition compounded by an inflation factor until the property is restored, repaired, reconstructed or required to have a new base year established. Establishes procedures for taxing partially and fully restored property. **Consumer Finance Lenders.** SB 140 (Maddy), Chapter 724. (Various Business and Professions, Civil, Commercial, Financial, Insurance, Penal and Revenue and Taxation Codes). Creates a class of lenders, known as consumer finance lenders, which are exempt from the interest rate limitations contained in the California Constitution. Establishes the licensing and regulatory structure for such persons. Repeals provisions of law regulating a class of nonexempt lenders known as small loan companies. Exempts corporation licensed as an escrow agent under the Escrow Law from real estate broker licensing requirements. (NOTE: Incorporates provisions proposed by SB 333 which were chaptered out by this bill.) **Real Property Loans.** SB 809 (Foran), Chapter 1079. (Amends, adds and repeals various sections of the Civil, Financial and Insurance Codes). Authorizes lenders to make adjustable-payment, adjustable-rate mortgage loans. Prescribes a specific

(Continued on page 8)

SUMMARY (Continued from page 7)

disclosure statement relating to these loans be provided to prospective borrowers. Permits mortgage guaranty insurance on such loans up to 100% of the fair market value of the property. Requires the Secretary of the Business, Transportation and Housing Agency to adopt essentially the same regulations and privileges as are granted to federally chartered financial institutions. Permits the Secretary, on or after January 1, 1983, to prescribe rules and regulations that permit lenders to make variable interest rate mortgage loans which are exempt from any restrictions on variable rate mortgage loans or renegotiable rate mortgage loans, or other requirements for changes in the rate of interest on loans. Repeals provisions of law pertaining to loan regulations to be promulgated by the Superintendent of Banks and the Savings and Loan Commissioner, on December 31, 1983. **Subdivisions: Security for Taxes and Assessments.** SB 1156 (Doolittle), Chapter 392. (Amends Section 66494 of the Government Code). Authorizes the payment of property taxes and assessments as they become due from security deposited with a local government for delinquent property taxes and assessments if such is authorized by a prior agreement with the subdivider or his or her sureties. 

LANDLORD and TENANT

Rental Deposits. SB 650 (Ellis), Chapter 259. (Amends Section 1950.7 of the Civil Code). Extends the repayment period of a rental deposit to a period mutually agreed upon by the parties, not to exceed 30 days from the date the landlord receives possession of the premises, if the landlord claims a portion of the deposit for damages or cleaning. **Limited Partnership Act.** AB 362 (Imbrecht), Chapter 807. (Repeals, adds Chapter 2 of Title 2 of the Corporations Code; amends Section 12209 of, and adds Sections 12213, 12214, and 12215 to the Government Code). Repeals the Uniform limited Partnership Act. Enacts a new comprehensive law relating to limited partnerships. Excludes from coverage of the act any limited partnership organized under the laws of the State of California and in existence on the measure's effective date, January 1, 1983. **Corporate Securities Law.** AB 1518 (Imbrecht), Chapter 1120. (Repeals, adds and amends various sections of the Corporations Code). Repeals provision of law exempting a specified transaction from the qualification requirements of the Corporate Securities Laws and instead provides that an offer or sale of a security to no more than 35 persons, without the use of advertising, under specified circumstances, is exempt from the qualification requirements. Provides penalties for failure to file a notice of the transaction when required by the commissioner. Provides that a change, addition, or deletion of preemptive rights which materially and adversely affects the shareholders is not a transaction which is exempted from the qualification requirements. Repeals provision of law exempting agents who effect transactions on behalf of a broker-dealer from licensing requirements. Eliminates application of certain provisions of the Corporate Securities Law to an agent. Provides that in an action for injunctive relief under the Corporate Securities Law, a court may grant other ancillary relief when appropriate. Imposes a civil penalty not exceeding \$2,500 for each violation of the Corporate Securities Law and specifies the manner in which the penalties collected are to be distributed. Provides that the Commissioner of Corporations may take certain actions as are authorized by the federal Commodity Exchange Act. Urgency statute—became operative November 1, 1981. 

TIME-SHARES (Continued from page 7)

Two new sections have been added to DRE regulations to implement the new statutory rescission right. Section 2812.12 spells out how the right of rescission may be delivered and when it is to be effective depending upon the method of delivery to the sponsor of the project. Section 2813.13 establishes the form of notice that a time-share project sponsor must give to alert each buyer to the right of rescission and the means by which it can be exercised. A portion of the notice itself may be completed, signed and mailed or delivered

to exercise the buyer's rescission right.

The new laws and regulations are part of an effort by the State of California to control the sale of a unique subdivision interest, the time-share. Since these regulations are a pioneering effort, DRE welcomes comments and recommendations to increase their effectiveness. These comments should be addressed to:

Department of Real Estate
Headquarters Subdivisions
P.O. Box 160009
Sacramento, CA 95816. 

TAX ACT (Continued from page 5)

[The provisions of the Act authorizing the issuance of tax exempt savings certificates (commonly called "the All Savers" Certificates) should have a significant impact on real estate financing. Because of the relatively low interest rate to be paid on the certificates and the requirement that 75% of the net proceeds from the certificates be used for residential loans, mortgage financing at lower interest rates should become increasingly available.]

The net effect of the Act will be to make real estate a more attractive investment. The depreciation and investment tax credit provisions will increase the tax benefits of real estate ownership. Because of the effective dates of these provisions, the Act creates an incentive for people to acquire additional real estate, rather than simply to retain what they have already acquired. [The All Savers Certificate provisions will enable many people to acquire real estate, as these provisions should greatly increase the availability of residential financing while decreasing its cost.] The individual tax rate reductions will lessen the tax impact of selling real estate, thereby removing a major drawback to its disposition. Installment sales will become particularly attractive, both because of the lower tax rates and because of the liberalized reporting provisions of the Installment Sales Revision Act of 1980. Finally, the new two year time period for rolling over gain into a new principal residence and the higher exemption on the sale of a principal residence will increase taxpayers' flexibility in planning their transactions.

Because of space limitations, this synopsis has greatly simplified the provisions discussed. Since the Act is lengthy and complex, expert advice should be obtained in applying the provisions of the Act to particular real estate transactions.

Copyright 1981


Richard A. Goodman

Official Publication

CALIFORNIA DEPARTMENT OF REAL ESTATE

1719-24th Street

Sacramento, California 95816