

REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate



GEORGE DEUKMEJIAN, Governor

Winter 1985

JAMES A. EDMONDS JR., Commissioner

Legislative Summary

by
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Manager, Legislation and
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Real estate licensees should find this summary of 1985 legislation passed by the California Legislature of particular interest. All statutes will be effective January 1, 1986 unless otherwise noted.

The following brief descriptions of 1985 legislation are intended to alert you to the existence of pertinent changes to the law. They are not to be relied upon as in-depth statements of the law. You should refer to the statutes for complete and accurate information.

SB 299 (Seymour) Chapter 394. Monetary Penalty. Adds Section 10175.2 to the Business and Professions Code to grant authority to the Real Estate Commissioner to accept the payment of a monetary penalty by the real estate licensee in lieu of an actual suspension of the license imposed as a result of a disciplinary proceeding or by stipulation without a formal proceeding. The payment of such penalty would be considered only at the request of the licensee, and is discretionary upon the part of the Commissioner.

SB 409 (Craven) Chapter 57. Real Estate: Violations: Criminal Provisions. Adds Sections 10035 and 11008 to the Business and Professions Code to preserve criminal sanctions for violations of the Real Estate Law and the Subdivided Lands Law. Incorporates into the Real Estate Law a declaration of legislative intent that criminal penalties set forth within the Real Estate Law and the Subdivided Lands Law are not intended to preclude the applicability of sections of the Penal Code or other provisions of the criminal law applicable to an act or omission violative of the Real Estate Law or the Subdivided Lands Law.

SB 453 (Robbins) Chapter 223. Liability: Real estate. Adds an article heading preceding Section 2078, and adds Article 2 (commencing with Section 2079), to Chapter 3 of Title 6 of Part 4 of Division 3 of the Civil Code, and adds Section 11589.5 to the Insurance Code relating to professional liability. Requires that a real estate broker conduct a reasonably competent and diligent visual inspection of residential real property consisting of one to four dwelling units, and disclose to a prospec-

tive purchaser all facts materially affecting the value or desirability of the property such an investigation would reveal. Establishes the standard of care as the degree of care that a reasonably prudent real estate licensee would exercise as measured by the degree of knowledge through education, experience, and examination required to obtain a real estate license under California law. Prohibits insurers from excluding coverage for liability arising from a breach of the above duty.

SB 512 (Beverly) Chapter 690. Real Estate Recovery Program. Amends Section 10450.6, adds Chapter 6.5 (commencing with Section 10470), and repeals Article 3 (commencing with Section 10470), of Chapter 6 of Part 1 of Division 4 of the Business and Professions Code. Revises provisions of the Real Estate Recovery Program to require that an applicant for payment from the Real Estate Recovery Account file a claim with the Real Estate Commissioner. The Commissioner would be authorized to pay or settle a claim; an unsuccessful applicant could apply to the court for an order directing payment from the account. **Operative January 1, 1987.**

SB 516 (Boatwright) Chapter 489. Usury: Real Estate Brokers. Amends Section 1916.1 of the Civil Code to clarify the usury exemption for loans made or arranged by real estate brokers which are secured by liens on real property. States that purchase money financing arranged by a broker is exempt from usury if the broker was compensated as an agent in a transaction, if not specifically compensated for arranging a loan. The exemption would extend to the arranging of any extensions, forbearance, or refinancing of a loan in which the broker had originally been compensated, even though not being specifically compensated for arranging new credit terms.

SB 758 (Boatwright) Chapter 1505. Housing: Age Restrictions. Adds Section 11010.05 to the Business and Professions Code. Amends Sections 51.3 and 1360, and adds Section 1368, to the Civil Code. Authorizes the issuance of a public report for a subdivision with senior citizen occupancy restrictions meeting

the requirements of the Unruh Act, even though the subdivision itself did not include enough units to qualify as a "senior citizen housing development"; provided the project was being developed in subdivision phases and the subdivider presented evidence to satisfy the Department of Real Estate in that regard. Modifies definition of senior citizen housing projects. Other technical changes.

SB 1105 (Beverly) Chapter 476. Real Estate Licensees. Amends Section 10133 of the Business and Professions Code to add to the existing exception for corporate officers, an exception for general partners acting with respect to partnership real property or business opportunity if the acts are performed without expectation of special compensation.

SB 1185 (Vuich) Chapter 1355. Real Property. Amends Sections 10225, 10237.4, 10238.7, 10242.6, 10243, and 10248.1, adds Sections 10240.1 and 10240.2, and repeals Sections 10237.5 and 10247.5 of the Business and Professions Code. Modifies and "cleans up" provisions of the Real Estate Law applicable to mortgage loan brokerage transactions and real property securities offerings by real estate broker licensees. Modifications are within Article 7, Chapter 3, of the Real Estate Law which regulates small hard money loans secured by real property.

SB 1406 (Petris) Chapter 1574. Real Property Transfers: Disclosure. Adds Section 10176.5 to the Business and Professions Code, adds Article 1.5 (commencing with Section 1102) to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code. Requires the transferor of real property containing one to four dwelling units to deliver to prospective transferees a written form of disclosure regarding prescribed factors affecting the value or desirability of the property. **Operative January 1, 1987.**

AB 314 (Davis) Chapter 874. Common Interest Developments. Repeals, adds, and amends various sections of the Business and Professions Code, the Civil Code, and the Code of Civil Procedure relating to land subdivisions

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DISCIPLINARY ACTION—JUNE—AUGUST 1985

REB—Real estate broker RES—Real estate salesperson PRLS—Prepaid rental listing service
RREB—Restricted real estate broker RRES—Restricted real estate salesperson RPRLS—Restricted prepaid rental listing service
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 for \$10.00 plus tax. Code sections summarized will vary from issue to issue as they will correspond with the particular disciplinary listings.

Business and Professions Code

1017(a)	procuring a real estate license by misrepresentation or material false statement	2742	failure of corporate broker to file articles of incorporation
490	relationship of conviction to licensed activity	2785(a)(10)	unauthorized earnest money refund
10130	acting without license	2791	unlawful subdivision purchase money disbursements
10137	unlawful payment of compensation	2830	failure to maintain trust fund account
10145	trust fund handling	2831	inadequate trust fund records
10147.5	notice regarding negotiability of commission	2831.1	inadequate trust fund records
10148	retention and availability of real estate broker records	2832	failure to comply with specific provisions for handling trust funds
10162	office abandonment	2832.1	broker's failure to obtain permission to disburse trust funds from an account involving multiple beneficiaries
10165	covers various violations	10240(a)	failure to deliver mortgage loan disclosure form
10167.3(b)	failure of broker or salesperson to supervise PRLS activities	11012	material change in subdivision without notice
10167.9(a)(3)	failure to include required terms in PRLS contract	11013.2(a)	violation of subdivision blanket encumbrance impound requirements
10167.9(c)	use of unapproved contract	2834	trust account withdrawals by unauthorized person
10167.10(b)	failure to refund deposit or portion thereof	2834(b)	unauthorized person making withdrawals for corporate trust account
10167.12	violation or crime by PRLS licensee	2842.5	failure to obtain borrower's signature to mortgage loan disclosure form
10176(a)	making any substantial misrepresentation	2910	crime or act done in perpetration of a crime substantially related to qualifications, functions or duties of the real estate profession
10176(b)	making false promise		failure of broker handling escrows to maintain records
10176(d)	failure to disclose dual agency	2715	failure to deposit escrow trust funds
10176(e)	commingling trust funds	2725	broker escrows: failure to disclose broker's interest in agency holding the escrow
10176(f)	secret profit or undisclosed compensation	2731	
10176(i)	fraud or dishonest dealing in licensed capacity		

Regulations

2715	broker's failure to maintain current address with DRE	2950(d)	failure of broker handling escrows to maintain records
2725	failure of broker to review agreements	2950(f)	failure to deposit escrow trust funds
2731	unauthorized use of fictitious business name	2950(h)	broker escrows: failure to disclose broker's interest in agency holding the escrow

LICENSES REVOKED

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
*Ben-Levy, Shalom (RES)	336 N. La Jolla Ave., Los Angeles	5/2/85	10176(a)(d)(i), 10177(d)(j)
*Steelman, Henry (REB)(REO)	8170 Beverly Blvd., #110, Los Angeles	5/2/85	2725, 10177(d)(h)
*Hanks, Donald Anthony (REB)(REO)	2555 E. Chapman Ave., Ste. 300, Fullerton	5/21/85	10176(a)(g)(i), 10177.5
*Fairfax, David Philip (RES)	23441 Golden Spring Dr., #140, Diamond Bar	5/21/85	2715, 10177(d)(f)(j)
*Wilson, Lillian Hlene (RES)	1244-1 Green Garden Dr., El Cajon	5/28/85	490, 10177(b)
*Hosseini, Mohammad Karimi (RES)	738 Tustin Ave., Apt. A, Newport Beach	5/28/85	490, 10177(b)
*Georges, Nicole (RES)	8701 Mellmanor Dr., #A, La Mesa	5/30/85	490, 10177(b)
*Brock, John M. (RES)	4749 N. Fresno St., Fresno	5/30/85	10177(j)
*Palmer, Eddie Iven (RES)	1511 W. Millbrae, Fresno	5/30/85	10177(j)
Kimpton, Charles Leonard (RES)	6798 Green Ave., Riverside	6/4/85	490, 10177(b)
Power, William Charles (RES)	2210 Carmelita Dr., San Carlos	6/19/85	2832.1, 10145, 10177(d)(g)
William C. Power & Associates, Inc. (REC)	2055 Woodside Rd., Redwood City	6/19/85	2832.1, 10145, 10177(d)(g)
Colistra, John Anthony (REB)	1565 The Alameda, Ste. 200, San Jose	6/19/85	2832.1, 10145, 10177(d)(g)(h)
Fonseca, Constance Louise (RES)	912 N. Dianthus St., Manhattan Beach	6/24/85	10176(a)(i)
Pearey, Robert Lee (RES)	19223 Hawthorne Blvd., Torrance	6/24/85	10177(j)
Marshall, Lucille Marie (RES)	1562 Hemlock Ln., Paradise	6/27/85	490, 2910, 10177(b)
Imhoff, Robert Arthur (REB)(REO)	573 S. Van Ness Ave., San Francisco	6/27/85	2830, 2832.1, 10130, 10145, 10176(e)(i), 10177(d)(h)
Financial Plan Management Corp. (REC)	671 N. D St., San Bernardino	6/27/85	2830, 10137, 10145, 10176(e)(i), 10177(d)(f)
Blackwell, James Lee (RES)	11857 Holly St., Grand Terrace	6/27/85	2830, 10137, 10145, 10176(a)(e)(i), 10177(d)
Guardian Equity Corp. (REC)	671 N. D St., Ste. 6, San Bernardino	6/27/85	2830, 10145, 10176(i), 10177(d)(f)
Bishop, Donald Arthur (RES)	3801 Archwood Rd., Cameron Park	7/1/85	490, 2910, 10177(b)
Condo Rent of California, Inc. (REC)	73-717 Highway 111, Palm Desert	7/9/85	10145, 10176(e), 10177(d)
Stocker, Walter (RES)	P.O. Box 1823, Oceanside	7/17/85	490, 10177(b)
Townsend, Paul Raymond (REB)(REO)	P.O. Box 46, Spring Valley	7/18/85	490, 10177(b)
Reza, Cord (RES)	3333 Wellington Dr., Sacramento	7/22/85	10177(j)
Irola, Wanda June (RES)	P.O. Box 3854, Fresno	8/1/85	490, 10177(b)
Timcho, Linda Helen (RES)	373 Franklin Ct., Vacaville	8/1/85	490, 10177(b)
Collins, Timothy Kevin (RES)	155 E. Minnesota, #K7, Turlock	8/1/85	490, 10177(b)
Stewart, Frances Sharlene (RES)	P.O. Box 133, Boulder Creek	8/5/85	490, 10177(b)(f)
Shoemaker, Jesse B. (RES)	1685 Lyle Dr., San Jose	8/5/85	490, 10177(b)(f)
Earl, William Charles (REB)	4832 Cherokee Dr., Concord	8/12/85	490, 10177(b)(f)
Granovsky, Klimenty (RES)	1860 Lombard St., San Francisco	8/13/85	490, 10177(a)(b)
Hicks, Alsie (REB)	263 Madrone, Redwood City	8/13/85	10145, 10176(e)(i), 10177(d)
Smith, Dennis Harold (RES)	1145 Reed Rd., Yuba City	8/13/85	10177.5
Brooks, Joni P. (RES)	P.O. Box 2211, Petaluma	8/14/85	490, 10177(b)(f)
Vigil, Patricia Lee (REB)	2312 Bethards, Santa Rosa	8/14/85	2715, 10162, 10177(f)(j)
Lupo, Gary Ralph (REB)	11460 Lehigh Ln., Riverside	8/16/85	10177.5
Rust, Wilma Dean (REB)	1028-11th St., Modesto	8/19/85	490, 10177(b)
National Equity Lenders, Inc. (REC)	114 N. 5th St., Montebello	8/20/85	2830, 2831, 2831.1, 2832, 2832.1, 2834(b), 2842.5, 2950(d)(h)(i), 10137, 10145, 10240(a), 10177(d)
Kateen, Marilyn Jean (REB)	4580 North Star St., Rocklin	8/26/85	10176(a)(i)
DBA—Kateen & Associates			
Carmine, Earl T. (RES)	13223 Emery, Baldwin Park	8/27/85	490, 10177(b)
Canfield, Roderick Eugene (REB)	3436 E. Maple, Orange	8/27/85	10177.5
Stafford, Violet E. (REB)	111 S. Orange Grove Blvd., #314, Pasadena	8/27/85	10176(e)(i), 10177(d)
Banks, Charles William Jr. (REB)	3741 Stocker St., Ste. 107, Los Angeles	8/28/85	2830, 2832, 10145, 10176(a)(b)(e)(i), 10177(d)

LICENSES REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
*Cook, Carl Frank (REB) (Right to RRES license after 90 days on terms and conditions)	534 S. Citrus Ave., Covina	5/9/85	2725, 10177(d)(h)
Hayden, Richard Eldon (RES) (Right to RRES license on terms and conditions)	P.O. Box 63, El Cajon	6/4/85	490, 10177(b)
Flynn, Pauline Lettie (REB) (Right to RREB license after 90 days on terms and conditions)	13974 Smoketree Dr., Victorville	6/4/85	2731, 2830, 2831, 2831.1, 10130, 10145, 10147.5, 10177(d)
*Lovely, Irene (REB) (Right to RREB license on terms and conditions)	1912 Cable St., Ocean Beach	6/4/85	10130, 10177(d)
Business Opportunities Unlimited, Inc. (REC) (Right to RREC license on terms and conditions)	6070 Mission Gorge Rd., San Diego	6/4/85	10137
Tausch, Joseph Henry (REO) Off—Business Opportunities Unlimited, Inc. Off—Business Opportunities Unlimited of America, Inc. (Right to RREB license on terms and conditions)	6070 Mission Gorge Rd., San Diego	6/4/85	10177(h)
Zattiero, Roy David (RES) (Right to RRES license after 90 days on terms and conditions)	3606 Williams Rd. South, Santa Rosa	6/5/85	10177(j)
Hareck, John Frederick (RES) (Right to RRES license on terms and conditions)	Box 23444, 111 Woodsworth Ln., Pleasant Hill	6/10/85	10177(f)
Morgan, Gerald R. (RES) (Right to RRES license on terms and conditions)	4402 Promesa Ct., San Diego	6/11/85	490, 10177(a)
C D C Management Corporation (REC) (Right to RREC license on terms and conditions)	912 Crenshaw Blvd., Los Angeles	6/11/85	2742, 2830, 2831, 2831.1, 2832, 2834, 10137, 10145, 10148, 10176(i), 10177(d)(f)(g)
Glover, Helena W. (REB) (REO) Off—C D C Management Corporation Off—Interurban Property Management (Right to RREB license on terms and conditions)	912 Crenshaw Blvd., Los Angeles	6/11/85	2725, 2830, 2831, 2831.1, 2832.1, 2834, 10137, 10145, 10148, 10176(i), 10177(d)(g)(h)
Salter, Daniel Jay (REB) (REO) Off—Guardian Equity Corporation Off—Financial Plan Management Corp. (Right to RREB license on terms and conditions)	1054 S. Robertson Blvd., Ste. 202, Los Angeles	6/27/85	10177(h)
Harness, Patricia Jean (REB) (Right to RREB license on terms and conditions)	309 N. Euclid Ave., Upland	6/27/85	10177(h)
Story, Carol Ann (REB) (Right to RREB license on terms and conditions)	337 N. Vineyard, Ste. 200, Ontario	6/27/85	10177(g)
Weingard, Ellen Nolan (RES) (Right to RRES license on terms and conditions) (Suspended for 30 days, Stayed for 1 year)	5589 Del Oro Pl., San Jose	7/1/85	10176(a), 10177(g)
Shelby, Mark Eric (REB) (REO) (Right to RREB license on terms and conditions) (Suspended for 30 days, Stayed for 1 year)	441 N. Central Ave., Ste. 1, Campbell	7/1/85	2831, 2832, 10145, 10177(d)
McMenomy, Gary Glenn (REB) (REO) (Right to RRES license on terms and conditions)	170 E. Palm Canyon Dr., Palm Springs	7/9/85	10177(h)
Ricardo, Crescencia Suguitan (RES) (Right to RRES license on terms and conditions)	846-44th Ave., San Francisco	7/17/85	490, 10177(b)(f)
High, Anthony Francisco (RES) (Right to RRES license on terms and conditions)	5762 Fallbrook Ave., Woodland Hills	7/18/85	10176(i)
Dickerman, Bruce Allen (REB)(REO) Off—La Mans Financial Corporation (Right to RREB license on terms and conditions)	2900 Townsgate Rd., Westlake Village	7/19/85	10167.3(b), 10167.9(a)(3),(c), 10167.10(b), 10167.12, 10177(d)(h)
La Mans Financial Corporation (REC) Off—Dickerman, Bruce Allen (Right to RREC license on terms and conditions)	28310 Roadside Dr., Ste. 134, Agoura Hills	7/19/85	10167.3(b), 10167.9(a)(3),(c), 10167.10(b), 10167.12, 10177(d)
Stone, Stanley Elmer (RES) (Right to RRES license on terms and conditions)	1051 Bret Hill Ct., San Jose	7/22/85	490, 10177(b)(f)
Pickard, Joseph Henry (RES) (Right to RRES license on terms and conditions)	5613 Crow Ln., San Jose	7/22/85	490, 10177(b)(f)
Daneshi, Vera (REB) DBA—20th Century Realty (Right to RRES license on terms and conditions) (Suspended for 90 days)	11657 Rochester Ave., #1, Los Angeles	7/22/85	10177(j)
Century 21 Abetter Realty (REC) Off—Beale, William Leslie Jr. (Right to RREC license on terms and conditions)	2833 Marconi Ave., Sacramento	7/22/85	10177(g)
Beale, William Leslie Jr. (REB)(REO) DBA—Century 21 Bill Beale Associates Off—Century 21 Abetter Realty (Right to RREB license on terms and conditions)	2833 Marconi Ave., Sacramento	7/22/85	10177(g)
Rubenstein, Arnold Gary (REB) (Right to RREB license on terms and conditions)	1368 Shawn Dr., #4, San Jose	7/23/85	490, 10177(b)(f)
Moore, James Alfred (RES) (Right to RRES license after 30 days on terms and conditions)	7306 S. Marina Pacifica Dr., Long Beach	7/25/85	10177(d)
*Pettyjohn, Carol Lois (REB) (Right to RREB license on terms and conditions)	336 The Strand, Hermosa Beach	7/30/85	2725, 2831, 2831.1, 10145, 10148, 10177(d)(g)
Brown, Vincent Earl (REB) (Right to RREB license on terms and conditions)	4630 Soquel Dr., Soquel	8/1/85	2832.1, 10145, 10177(d)(h)
Gardner, James Grant (REB) DBA—Tahoe Mortgage Company (Right to RRES license on terms and conditions)	3471 Hwy. 50, South Lake Tahoe	8/1/85	10145, 10177(d)
Rodriguez, Victoriano (RES) (Right to RRES license on terms and conditions)	3131 Vesuvius Ln., San Jose	8/5/85	10176(a)
Seville-Jones, Nesta Ann (RES) (Right to RRES license on terms and conditions)	3600 N. Park Ave., Soquel	8/12/85	10177.5

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Legislative Summary

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to create the Davis-Stirling Common Interest Development Act. Transfers and consolidates within the Civil Code various statutory sections from the Civil Code and the Business and Professions Code defining and relating to condominium developments, planned developments, stock cooperatives, community apartment projects, and limited equity housing cooperatives.

AB 438 (Stirling) Chapter 233. Subdivision Owners' Associations: Standing. Amends Section 374 of the Code of Civil Procedure. Authorizes an owners' association for a common interest subdivision to institute, defend, or intervene in any legal action or administrative proceeding affecting the subdivision on its own behalf without joining members of the association.

AB 596 (LaFollette) Chapter 1596. Subdivision Sales: Disclosure Requirements. Adds Section 11018.6 to the Business and Professions Code, and amends Section 1360 of the Civil Code. Requires persons offering common interest subdivision interests for sale or lease under the authority of a subdivision public report to provide the buyer with copies of the governing instruments for the subdivision, the latest financial report for the project, and, if available, the statement of delinquent assessments against the interest being offered.

AB 856 (Hannigan) Chapter 381. Desist and Refrain Orders. Repeals and adds Section 10086 of the Business and Professions Code. Broadens the authority of the Real Estate Commissioner under the Real Estate Law to issue desist and refrain orders to include: 1) activities other than those conducted by real estate licensees, e.g., activities conducted by mineral, oil, and gas licensees, and continuing education course sponsors; and 2) activities and violations of Regulations of the Commissioner as well as provisions of the Real Estate Law.

AB 1033 (Grisham) Chapter 641. Recovery Account Claims. Amends and repeals Section 10473 of the Business and Professions Code. Adds to the types of underlying judgments and actions against the Recovery Account in which the applicant has the burden of proving fraud, misrepresentation, deceit, or conversion of trust funds, a judgment in which the judgment debtor-licensee answered the complaint but did not appear to defend.

AB 1181 (Frazee) Chapter 128. Cease and Desist Orders. Amends Section 11019 of the Business and Professions Code. Expressly authorizes the Real Estate Commissioner to order subdividers to desist and refrain in their marketing and promotional activities from practices in violation of provisions of the Business and Professions Code which address the advertising and execution of promotional and marketing programs in which prospective purchasers are induced to hear sales presentations and to visit the locations where the product is being offered by promises of gifts and promotional devices. These devices are most frequently used in the marketing of parcels of raw land, timeshare interests, and campground and recreational vehicle sites.



Audit

Maintenance of Trust Fund Records is Important

by
Hermie S. Briones
Chief Auditor

As part of their fiduciary responsibility, real estate brokers must keep adequate records for all trust funds received. Section 10145 of the Business and Professions Code provides that the broker shall maintain a separate record of the receipt and disposition of trust funds.

While the record keeping task is seen by some brokers as an unproductive burden and given a low priority, deficient records can be costly. They can result in erroneous reporting and disbursement of funds to clients. In addition to potential disciplinary action by DRE, oftentimes the broker ends up expending more resources than what would have been initially necessary when the deficient records have to be reconstructed to calculate correct trust fund balances.

DRE audits of brokers' records have disclosed various record keeping deficiencies, which were mainly caused by two factors: (1) the design of the accounting records was not

in accordance with the Commissioner's Regulations, or (2) a well-designed system was not properly maintained. By becoming familiar with, and using an acceptable form of trust fund records, and by regularly monitoring their adequacy, brokers will be able to protect themselves and better serve their clients.

Trust Fund Record Forms

The appropriate form for accounting trust funds will vary according to the broker's business activities and volume of transactions. Columnar records may be adequate for a small office, while sophisticated computerized records may be needed in another. Whatever forms and means of recording are used, however, the requirements under Commissioner's Regulations 2831 and 2831.1 must be met. **These regulations require two types of records to be maintained:**

1. **A record of all trust funds received and disbursed.** All trust funds received by the broker must be reflected on this record, also called a "control account". The purpose of the record is to account for all trust fund transactions and provide the balance of the trust bank account. It should show in columnar form: (1) date funds were received; (2) from whom; (3) amount received; (4) date of deposit to the trust bank account; (5) check number, amount, and date of related disbursement; (6) with respect to funds not deposited in trust bank account, identity of other depository and date funds were forwarded; and (7) daily balance of trust bank account.

To make the accounting of trust funds easier, two types of control account should be kept: one for trust funds deposited to the trust bank account, and another for trust funds not so deposited.

2. **A separate record for each beneficiary or transaction.** Since the funds in the trust bank account are owned by the beneficiaries, the broker must be able to tell how much of the total is due to each. This can be accomplished by recording trust fund deposits and disbursements on a separate record for each beneficiary or transaction. Each such record should show in columnar form the: (1) date of deposit; (2) amount of deposit; (3) date of disbursement; (4) check number of disbursement; (5) amount of disbursement; and (6) if applicable, dates and amounts of interest earned and credited to the account.

In lieu of the columnar records, the broker may use accounting journals and ledgers, whether prepared manually or through an automated data processing system. These normally include a cash receipts journal, a cash disbursements journal, and a general ledger, in place of the "control account", and subsidiary ledgers for the beneficiaries' accounts. These records will be acceptable if they are maintained in accordance with generally-accepted accounting principles so they can readily provide:

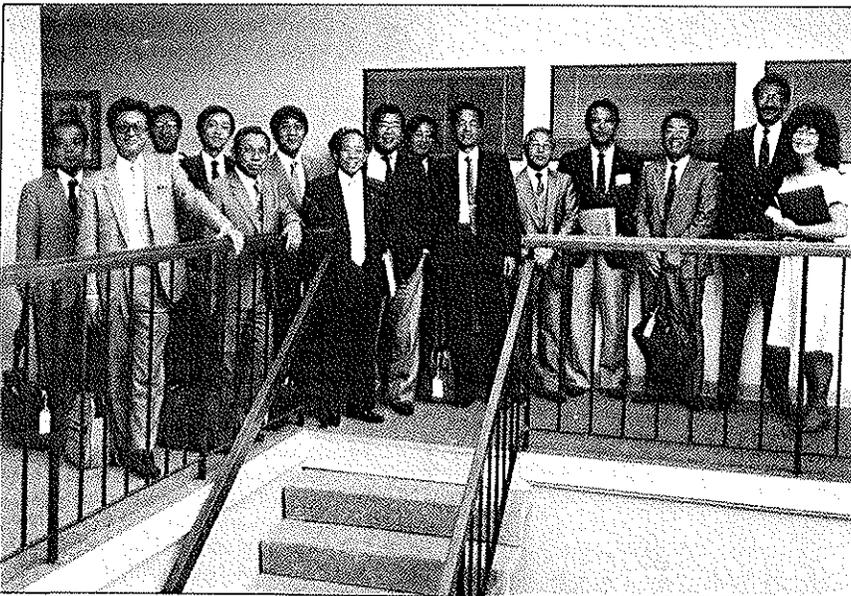
- Sufficient details for all trust funds received and disbursed.
- The balance of the trust bank account(s), at least on a monthly basis.
- Sufficient details for transactions affecting each of the beneficiaries' accounts.
- The balance of each beneficiary's account, at least on a monthly basis.

Processing of Information

After the broker has determined that the form and nature of the records are adequate for his/her business, he/she should ensure that they are maintained properly. Trust fund transactions should be recorded on the control account and beneficiaries' records, or their equivalent, and the balance of the accounts regularly determined. Although the

(Continued on Page 5)

Japanese Real Estate Delegation Visits California



High-level Japanese real estate industry and construction experts heard firsthand about the real estate business in California and the State's efforts to increase consumer protection and heighten licensee professionalism during a meeting hosted by the Department of Real Estate (DRE) on October 15 in Sacramento. During their visit, the Japanese delegation received briefings from DRE's executive staff concerning such topics as the examination and licensing process, enforcement of laws through disciplinary action; review and approval of newly-subdivided property; and real estate education and research. The visitors were given a tour of DRE's new Sacramento Principal Office before traveling to Los Angeles prior to returning home.

Audit (Continued from Page 4)

method of recording will vary depending upon the system used, the basic process is similar and will involve the following:

1. **Record the daily transactions on the control account.** Specific types of source documents must be consistently used as the basis for recording. To illustrate, as trust funds are received in the broker's office, prenumbered official receipt forms are prepared showing the date, amount received, from whom, and for whose account. Deposit receipt forms are also issued by the broker and salespersons for purchase deposits received. At the end of the day, the official receipts forms and the deposit receipts are batched, and then recorded in numerical sequence on the control account. In the same manner, disbursements made during the day are recorded, based on the check stubs filled out when checks are issued. No other forms are used as a basis to record trust funds received and disbursed. These procedures will ensure that all transactions are accounted for in a systematic manner. The type of source documents will differ by broker, but the key element to keep in mind is that there should be a consistent basis for recording daily transactions.

2. **Record on the individual beneficiaries' records the deposits to and disbursements from the trust bank account.** The basis of recording may be the source documents themselves, or as commonly practiced, the entries on the applicable control account. Again, the basis must be consistent to reduce confusion on the part of the person recording the transactions. The important procedure is that all entries recorded on the control account are recorded on the beneficiaries' records.

3. **Calculate the balances on the control account and on the beneficiaries' records.** If the columnar records are used, this should be done daily; otherwise, once a month may be acceptable.

4. **Reconcile the control account balance at the end of the month with:** (1) the balance shown on the bank statement(s) as adjusted for deposits in transit and outstanding checks; and, (2) the total of the beneficiaries' records. The three records will agree if all transactions were recorded correctly. The reconciliations will disclose errors or omissions in posting of transactions. And they will show if the balance of the bank account(s) is equal to the total amount due to the beneficiaries; any difference must be promptly investigated as it indicates a possible trust fund shortage or overage. If the accounting records are maintained by someone other than the broker, the broker should require and review these reconciliations monthly as a minimum monitoring procedure to ensure the records are adequate.

When these procedures are strictly followed, the broker can be assured that trust fund transactions are recorded and summarized properly.

Summary

Various reference materials on trust fund records are available to the broker. Chapter 24 of DRE's *Reference Book*, which can be

(Continued on Page 6)

(Continued from Page 3)

LICENSES REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
Feldner, Fredric Roland (REB)(REO) (Right to RREB license on terms and conditions)	164 Main St., Los Altos	8/12/85	10177.5
Groshong, Marlene Priscilla (RES) (Right to RRES license on terms and conditions)	1655 N. Clark, #326, Long Beach	8/13/85	10177(g)
Anderson, Blain Fairbanks (REB) DBA--Deseret Realtors (Right to RREB license on terms and conditions)	2852 Foothill Blvd., La Creseenta	8/13/85	10177(h)
Bartlett, Floranne Mary (RES) (Right to RRES license on terms and conditions)	P.O. Box 2360, Citrus Heights	8/15/85	490, 10177(b)
Murray, David Albert (RES) (Right to RRES license on terms and conditions)	5400 Thomas Rd., Healdsburg	8/19/85	490, 10177(b)(f)
Loma, Marisa (RES) (Right to RRES license on terms and conditions)	312 S. Willaman Dr., #305, Los Angeles	8/21/85	490, 10177(b)

LICENSES SUSPENDED

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
Chapman, Ann (RES)	530-29th St., San Francisco	7/2/85	10177(d)
Lewis, Jack (REB) (REO)	4747 Marina Dr., #17, Carlsbad	7/2/85 (30 days)	10137, 10177(g)(h)
Travis, Betty Jean (RES)	6957 Firmament, Van Nuys	7/17/85 (30 days)	10176(a)(j), 10177(g)
Smith, Annette (RES)	7752 Atoll Ave., North Hollywood	7/17/85 (45 days)	10176(a)(i), 10177(g)
Murray, Travis, Pepper, Inc. (REC)	6742 Van Nuys Blvd., Ste. 103, Van Nuys	7/17/85 (45 days)	10176(a)(i), 10177(g)
Miele, John Gerard (REB) DBA--Miele & Associates	851 Cattle Pluma, San Clemente	7/17/85 (90 days)	10148, 10162, 10165, 10177(d)
Murray, Kenneth Joseph (REB)(REO)	6742 Van Nuys Blvd., Ste. 100, Van Nuys	8/16/85 (90 days)	10177(g)(h)

LICENSES SUSPENDED WITH STAYS

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
Peterson, Wolfgang Pete (REB)(REO) (Stayed for 2 years on terms and conditions)	707 Torrance Blvd., #220, Redondo Beach	6/14/85 (60 days)	2791, 10177(d), 11012, 11013.2(a)
Com Real Corp. (REC) Off--Peterson, Wolfgang Pete (Stayed for 2 years on terms and conditions)	707 Torrance Blvd., #220, Redondo Beach	6/14/85 (60 days)	2791, 10177(d), 11012, 11013.2(a)
Sacher, Susan (RES) (Permanently stayed)	373-7th Ave., San Francisco	6/27/85 (30 days)	490, 10177(a)
Miller, Patrick Hammond (REB)(REO) Off--Real Property Investments (Stayed for 1 year on terms and conditions)	1112 S. Main St., Fallbrook	6/28/85 (15 days)	2785(a)(10), 10145, 10177(d)
Real Property Investments (REC) Off--Miller, Patrick Hammond (Stayed for 1 year on terms and conditions)	1112 S. Main St., Fallbrook	6/28/85 (15 days)	2785(a)(10), 10145, 10177(d)
Cantin, Michael James (REB) (All but 15 days stayed for 2 years on terms and conditions)	237 Chiquita Rd., Healdsburg	7/1/85 (60 days)	10145, 10177(d)
O'Hare, John Edward (REB) (Stayed for 1 year on terms and conditions)	2505 Valencia Blvd., Valencia	7/25/85 (60 days)	10177(j)
O'Hare, Alice Espino (RES) (Stayed for 1 year on terms and conditions)	25518 Old Course Way, Valencia	7/25/85 (60 days)	10177(j)
Montero, Roger Ivan (REB) (REO) DBA--Associated Mortgage Co. Off--Rim Enterprises, Inc. (Stayed for 1 year on terms and conditions)	9976 Lakewood Blvd., Downey	8/21/85 (30 days)	10177(g)
Rim Enterprises, Inc. (REC) DBA--Associated Mortgage Co. Off--Montero, Roger Ivan (Stayed for 1 year on terms and conditions)	9976 Lakewood Blvd., Downey	8/21/85 (30 days)	10177(g)

LICENSES SUSPENDED INDEFINITELY

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
B. L. Slayton Realtors, Inc. (REC)	1066 N. Maclay, San Fernando	6/27/85	10177(f)

INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS

Name	Address	Date
Gonzalez, Pablo Rodolfo (RES)	5372 Mission St., San Francisco	6/5/85
King, William Clifton (REB)	11610 Iberia Pl., Ste. 106, San Diego	6/19/85
Brown, Deveris (RES)	3486B Mission St., San Francisco	7/15/85
Melnerney, John F. (REB)	P.O. Box 491, Oxnard	8/8/85
Vines, Sanford (RES)	8 Baruna Ct., Newport Beach	8/15/85
Rivera, Vincente Nedecog (RES)	4109 Ramsey Way, North Highlands	8/15/85

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Audit (Continued from Page 5)

obtained for \$10.60 (see order form on page 7), presents a detailed discussion on handling and recording of trust funds. DRE also distributes free of charge the following forms which may be obtained from any district office:

- Columnar Record of All Trust Funds Received and Paid Out—Trust Fund Bank Account (Form No. 563)
- Separate Record for Each Beneficiary or Transaction for Client's Funds Placed in Trust Fund Bank Account (Form No. 564)
- Record of Trust Funds Received—Not Placed in Broker's Trust Account (Form No. 565)
- Separate Record for Each Property Managed (Form No. 566)

It is up to the broker to recognize the necessity of proper record keeping and ensure that records are in compliance with the Real Estate Law and Commissioner's Regulations. **DRE**

In the next issue of the *Bulletin*, some of the specific record keeping problems DRE audits have disclosed will be discussed.



Notification Required for Employment Changes

by
Lawrence J. Cannon
Managing Deputy Commissioner I
Licensing Operations

Inquiries are frequently received at DRE from brokers regarding the need to provide notification of changes of employment for their salespeople. Section 10161.8 of the Business and Professions Code maintains that a broker must notify DRE whenever a salesperson is either hired or terminates employment with the broker.

Commissioner's Regulation 2752 further provides that notification of hiring must be submitted to DRE within five days and that a notice of termination of employment must be submitted within ten days. It also provides that both situations must be reported on a form prepared by DRE. Commissioner's Regulation 2753 requires the employing broker, upon terminating the employment of a salesperson, to immediately return the license certificate to that salesperson.

A Salesperson Change Application (RE 214) should be used to notify DRE of a change in employment. The broker can utilize a personally-signed letter as a substitution for the RE 214 to inform us of employment terminations. The letter should identify the salesperson by name and identification number and provide the date of separation.

DRE normally processes over 2,000 salesperson employment notifications per month. Once our computer records are updated, all such notifications are microfilmed and made part of each salesperson's permanent master-file record. It is therefore important that brokers provide such notifications in a complete and timely manner. **DRE**

NEW LICENSE EXAMINATION REQUIREMENTS TAKE EFFECT JANUARY 1st, 1986

On March 29, 1984, Governor Deukmejian signed into law Senate Bill 1042—Lockyer (Chapter 66) which, on January 1, 1986, brings about major revisions in educational requirements for individuals wishing to qualify for either the real estate salesperson or broker license examination. The new law also makes changes in continuing education requirements for the *first renewal* of the license of a salesperson who has been required to complete qualifying courses for the salesperson license.

If a completed application for license examination and fee are received by the Department of Real Estate prior to January 1, 1986, the applicant will be scheduled in accordance with the 1985 requirements for the first available examination in 1986. If the applicant is scheduled for an examination under the 1985 requirements, but fails the examination or does not take the examination, and the reexamination or rescheduling application is received after January 1, 1986, the new requirements will apply.

SB 1042 amends Sections 10170.5, 10209, 10209.2, and 10215, adds Section 10153.3, and repeals and adds Sections 10153.2, 10153.4, 10153.5, and 10154 to the Business and Professions Code relating to real estate licensees. Major points in the new law are:

APPLICANTS FOR THE REAL ESTATE SALESPERSON EXAMINATION

1. To qualify to take an examination for a real estate SALESPERSON license on and after January 1, 1986, an applicant must have completed the college-level course **Real Estate Principles**.
2. Those who must satisfy this new requirement must also, *either* prior to issuance of the original license *or* within eighteen months after issuance, complete two additional basic real estate courses selected from among the following:
 - Real Estate Practice
 - Real Estate Appraisal
 - Accounting
 - Business Law
 - Property Management
 - Legal Aspects of Real Estate
 - Real Estate Financing
 - Real Estate Economics
 - Escrows
 - Real Estate Office Administration
3. On the *first renewal* of a SALESPERSON license, those licensees who have met the above requirements will not be required to complete continuing education requirements *except* for a minimum three clock hour course in "Ethics, Professional Conduct and Legal Aspects of Real Estate".
4. SALESPERSONS who qualify to take the examination by completing only the **Real Estate Principles** course shall have their licenses automatically suspended, effective eighteen months after issuance of the conditional license, *unless* the two additional courses have been completed within that time. The suspension will not be lifted until the licensee has submitted the required evidence of remaining course completion and the Commissioner has given written notice to the licensee of the lifting of the suspension.
5. The fee for a real estate SALESPERSON license is \$120.00 for those applicants who *have* satisfied all of the educational requirements (three courses) prior to issuance of the license. The fee for those who *have not* satisfied all of the educational requirements prior to issuance of the license is \$145.00.

APPLICANTS FOR THE REAL ESTATE BROKER EXAMINATION

1. An applicant for BROKER licensure applying for the examination on and after January 1, 1986, must have completed eight courses in addition to the experience/educational requirements. These eight courses must include the following *five*:
 - Real Estate Practice
 - Real Estate Appraisal
 - Real Estate Economics *or* Accounting
 - Legal Aspects of Real Estate
 - Real Estate Financing
2. The remaining *three* courses are to be selected from the following:
 - Real Estate Office Administration
 - Advanced Legal Aspects of Real Estate
 - Advanced Real Estate Appraisal
 - Advanced Real Estate Finance
 - Real Estate Principles
 - Business Law
 - Property Management
 - Escrows

Courses referred to in this article must be a three semester unit course or the quarter equivalent completed at an accredited institution of higher learning *or* an equivalent course of study offered by a private vocational school approved by the Commissioner.

To obtain a copy of Senate Bill 1042 (Chapter 66), write to: Legislative Bill Room; State Capitol, Room B-32; Sacramento, CA 95814. The first copy of each bill requested is free, and there is a small charge for additional copies. Prices may be obtained by calling (916) 445-2323.

Commissioner Names Task Force to Reduce Paperwork

Commissioner James A. Edmonds, Jr., recently appointed a Task Force to review and revise Department of Real Estate (DRE) subdivision application forms. California Real Estate Law generally requires subdivision developers to apply for and obtain a Final Subdivision Public Report from DRE before subdivided property can be offered for sale in this state.

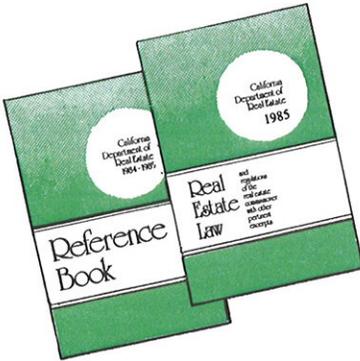
The last major revisions (which took place before Edmonds assumed office) were in response to incompleteness and lack of clarity in earlier versions of the application forms. Those revisions resulted in some subdivision questionnaires growing to sixty-two pages in length. The Commissioner has given the new Task Force a free hand to find ways of reducing the number of questions in the application and clarifying the requirements of the applicant.

In addition to top-level managers representing DRE, the following industry representatives have agreed to serve: Ray Becker, Lusk Homes; Susan Mills, First American Title Company; Mike Shaw, Lewis Homes of California; and Diane Zapalac, Founders Title Company. DRE members of the Task Force include: William Kewley, Robert Gilmore, Bob Sharp, and Dan Garrett. 



Pictured from left to right are: Robert Gilmore, Ray Becker, Susan Mills, William Kewley, Bob Sharp, Diane Zapalac, and Mike Shaw. Not shown is Dan Garrett.

1985 edition of **REAL ESTATE LAW** book is now available. . . .



Professional stature means experience and education. Real estate licensees today must have both a broad-based understanding of the many facets of real estate and a finely-tuned knowledge of their own specialty fields.

The **Real Estate Law** book is a working tool every licensee should own. It contains that portion of the Business and Professions Code known as the Real Estate Law, Regulations of the Real Estate Commissioner, Subdivision Map Act, Administrative Procedure Act, and pertinent excerpts from other California Codes.

The 1984-85 **Reference Book** is composed of 30 chapters devoted to such specific topics as agency, escrow, subdivisions, etc., and discusses subjects pertaining to judicial and trustee foreclosures, landlord obligations to tenants, effects of a cancelled escrow on a purchase contract, and truth in lending, among many others. Also included are pages with construction illustrations and terminology. A current edition of the **Reference Book** is a useful guide for both the novice and experienced professional.

Each book sells for \$10, plus tax; the price includes postage and handling charges. A special 20% discount may be applied to the purchase of 25 or more copies of one title.

When ordering publications, please use the order form shown below. Personal check or money order payable to the Department of Real Estate is acceptable, but please do not send cash.

Make check or money order payable to:
DEPARTMENT OF REAL ESTATE

MAIL TO:
Department of Real Estate
Accounting Section
P.O. Box 160009
Sacramento, CA 95816

DO NOT SEND CASH.

Allow 4-6 weeks for delivery.

California residents add 6% tax.

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Title	Quantity	Cost	Your Cost
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1984-85 Reference Book		\$10.00 ea.	
SUB TOTAL			
- Discount			
+Sales Tax			
TOTAL ENCLOSED		\$	



Legal

Salesman and His Broker, Who Sued for Commission, Lose Their Licenses

The pendency of a civil action by a real estate licensee to recover a commission will not prevent the Department of Real Estate, if warranted, from taking disciplinary action against the licensee, even if the civil action has not been concluded.

A real estate salesperson, working out of a branch office, obtained a listing on a gas station for \$420,000. On the next day, the salesperson presented an offer to Seller for \$420,000 with a check for \$3,000 as a good faith deposit. Seller counter offered at the same price, but requested different terms on notes which he was to take back. Buyer accepted the counter offer and escrow was opened by the salesperson. The escrow instructions recited that the \$3,000 check was on deposit at the brokerage office. This was a misrepresentation.

Unbeknownst to Seller, sometime between the time Buyer accepted the counter offer and the time Seller executed the escrow instructions, the salesperson received another offer for \$440,000 from a second buyer (Buyer No. 2). Salesperson did not disclose this offer to Seller, but instead negotiated with Buyer. The second offer was accepted by Buyer. Respondent caused an escrow to be opened, showing Seller as transferor rather than Buyer.

A few days after Buyer accepted the second offer, Buyer No. 2, who had observed for some time the volume of traffic through the

gas station, happened to mention to Seller that he was purchasing the gas station for \$440,000 from Buyer. Seller then unilaterally canceled the escrow. The salesperson, later joined by his broker, sued Seller for the commission. Buyer also sued for specific performance. Seller then complained to the Department, which investigated and filed an Accusation against the salesperson and the broker.

After a hearing, the Real Estate Commissioner adopted a Decision revoking the licenses of both the salesperson and the broker. The Decision found that the salesperson had acted for more than one party to the transaction without full disclosure to those parties, misrepresented a material fact concerning the \$3,000 deposit, and engaged in fraud and dishonest dealing for failing to disclose the second offer to the Seller.

With respect to the broker, the Decision found that the broker had failed to properly supervise the salesperson in this transaction and to initial and date documents, notwithstanding his oral delegation of this responsibility to the salesperson. Occasional visits to and frequent telephone conversations with the salesperson regarding real estate activity did not constitute a defense to the charge of failing to supervise.

Concerning the activity of the salesperson, the case repeats advice the Department has repeatedly given to licensees: You must dis-

close all material facts to your principals. You have a duty of good faith and undivided loyalty, and a breach thereof is grounds for discipline.

The real message in this case, however, is for brokers. Supervision requires more than casual visits to branch offices and conversations with sales staff about licensed activities. While some responsibilities can be delegated, overall responsibility, which includes proper supervision of managerial staff, resides in the broker.

Prior to the hearing, Seller had settled his civil action with Buyer by paying him \$2,000. The civil matter between Seller, the broker, and the salesperson was then still pending.

Please, no cash!

For the security and protection of the public and DRE employees, the Department will no longer accept cash for the purchase of books, payment of license renewals, etc. at its district offices.

Personal checks, money orders, and cashier checks are acceptable forms of payment. The Department regrets any inconvenience this may cause.

Official Publication

CALIFORNIA DEPARTMENT OF REAL ESTATE

P.O. Box 160009

Sacramento, California 95816

Season's Greetings
and Warm Wishes
for a Prosperous and
Healthy New Year