



1987 DRE Legislative Summary

by Eileen Parker, Manager of Legislation, Publications and Records, Sacramento

Real Estate Licensees should find this Summary of 1987 legislation passed by the California Legislature of particular interest. All statutes will be effective January 1, 1988 unless otherwise noted.

The following brief descriptions of 1987 legislation are intended to alert you to the existence of pertinent changes in the law. They are not to be relied on as in-depth statements of the law. You should refer to the statutes for complete and accurate information.

SB 24 (Montoya). Chapter 463. Continuing Education.

Repeals Section 6 of Chapter 413 of the Statutes of 1983.

Deletes a sunset section in the law dealing with continuing education requirements for real estate licensees. With the repeal date deleted, continuing education requirements will continue indefinitely.

SB 324 (Davis). Chapter 494. Death Disclosure: Real Property.

Amends Section 1710.2 of the Civil Code.

Provides that there is no cause of action for the failure of a seller of real property or his agent to disclose to the transferee that an occupant died on the real property or the manner of the occupant's death as long as the death was three years prior to the transferee's offer of occupancy. Existing law also contains a provision that a transferor need not disclose that the prior occupant was either afflicted with or died of AIDS. The bill specifies, however, that if an inquiry is made about this subject, the transferor or his agent must answer honestly.

SB 360 (Craven). Chapter 522. Real Estate Advisory Commission.

Amends Section 10054 of the Business and Professions Code.

Provides that members of the Real Estate Advisory Commission shall receive a \$100 per meeting stipend in addition to their actual and necessary expenses.

SB 596 (Robbins). Chapter 861. Recovery Account.

Amends Section 10471.1 of the Business and Professions Code.

Eliminates a deadline which requires that claimants filing applications for payment from the Real Estate Recovery Account must serve the application on the judgment debtor against

whom the application is being made no later than 15 days after the DRE is served with it. Failure to serve the judgment debtor within that time frame is an incurable defect. That deadline was of no benefit to DRE or the judgment debtor because proof of proper service of the application on the judgment debtor is still mandatory before the application is considered complete.

SB 940 (Seymour). Chapter 587. Criminal Activity.

Amends Sections 10139 and 10185 of the Business and Professions Code.

Increases the criminal penalties for acting or advertising as a real estate broker without a license and for violation of the Real Estate Law and Regulations. This bill increases from \$1,000 to \$10,000 the fine that may be imposed upon an individual for holding himself/herself out as a real estate licensee without a license. Corporations violating the prohibition against advertising without a license would face a possible fine of up to \$50,000.

SB 941 (Seymour). Chapter 588. Real Estate Licenses: Denial.

Amends Section 10177 of the Business and Professions Code.

Adds as grounds to deny, suspend or revoke a real estate license, the revocation, suspension or denial of a license by another licensing agency of this state, another state or the federal government for acts which, if done by a real estate licensee, would also be grounds for similar action by the DRE. The previous action must have been taken at a proceeding which afforded due process rights similar to those of California.

SB 972 (Seymour). Chapter 1031. Prepaid Rental Listing Services: Licensure.

Amends Sections 10167.4 and 10167.12 of, and adds Section 10167.17 to the Business and Professions Code.

Imposes a requirement that the "designated agent" of a PRLS licensee who has been assigned responsibility for conducting the licensee's activity at a branch office be honest and truthful. Also imposes an honest/truthful standard on officers and directors of an applicant or any person who owns or controls more than 25% of the ownership interest in any entity applying for a PRLS license. Authorizes the Commissioner to suspend or revoke the license of a PRLS to operate at one or more locations based on the

Important Notice to All Readers - Errata

Page 1 of the Fall DRE *Bulletin* carried an article referencing the new Post Office Boxes and Zip Codes for the Sacramento Principal Office. While the P.O. Boxes were correct, the zip codes listed were wrong. By the time the error was detected, the publication was already on the presses. The Department notified readers of the error by impressing a correction label on the mailing label page (page 8) of the *Bulletin* before it was mailed.

For readers who may have missed that correction, the following information is now current. Please check your records to be sure that you use the appropriate Post Office Boxes and Zip Codes for the Department. We are sorry for any inconvenience this error may have caused.

The mailing addresses for Sacramento DRE Principal Office Divisions are:

Division	P.O. Box	Zip Code
General*	187000	95818-7000
Examination	187001	95818-7001
Original License	187002	95818-7002
Salesperson Section	187003	95818-7003
Broker Section	187004	95818-7004
Subdivisions	187005	95818-7005
Book Orders	187006	95818-7006

* Use the General box number for all divisions not listed.

conviction of the designated agent of a crime substantially related to the qualifications, functions, and duties of a PRLS licensee. Authorizes the charge of a late renewal fee for license renewal applications received after expiration of the license.

SB 1385 (Montoya). Chapter 1401. License Exemptions.

Amends Section 10133.1 of the Business and Professions Code.

Deletes the exemption from the Real Estate License Law for those mortgage lenders (primarily mortgage bankers) making loans secured by

continued on page 4, Legislation

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STATE OF CALIFORNIA
 GEORGE DEUKMEJIAN, Governor

JAMES A. EDMONDS, JR.
 Real Estate Commissioner

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DISCIPLINARY ACTION
June 1987 to August 1987

REB -- Real estate broker
RES -- Real estate salesperson
PRLS -- Prepaid rental listing service
REO -- Real estate officer
RREB -- Restricted real estate broker
RRES -- Restricted real estate salesperson
RPRLS -- Restricted prepaid rental listing service
REC -- Real estate corporation

Note: A list of actions is not published in this *Bulletin* until the 30-day period allowed for court appeal has expired, or if an appeal is taken on the disciplinary action stayed, until the stay is dissolved. Names of persons to whom licenses are denied on application are not published.

FOR YOUR INFORMATION

The following are brief summaries of the numerical code sections listed after each licensee's name. The full context of the various sections is found in the Business and Professions Code and the Regulations for the Real Estate Commissioner, both of which are printed in the *Real Estate Law* book. The *Real Estate Law* book is available for purchase from the Department of Real Estate for \$10.00 plus tax.

Business and Professions Codes

10177.5 civil fraud judgment based on licensed acts
 10231 accepting loan funds for pooling
 10232.2 failure to file annual MLB reports
 10232.5 failure to provide MLB statement
 10234 failure of broker to refund trust deed in loan transaction or to cause recorded assignment of trust deed in sale of note secured by trust deed

490 relationship of conviction to licensed activity
 10085 failure to submit advance fee materials
 10130 acting without license
 10137 unlawful payment of compensation
 10145 trust fund handling
 10148 retention and availability of real estate broker records

10159.2 responsibility of corporate officer in charge
 10159.5 fictitious name
 10160 broker possession and licensee inspection of license

10176(a) making any substantial misrepresentation
 10176(b) making false promise
 10176(c) course of misrepresentations through salespersons

10176(e) commingling trust funds
 10176(g) secret profit or undisclosed compensation
 10176(i) fraud or dishonest dealing in licensed capacity
 10177(a) procuring a real estate license by misrepresentation or material false statement
 2831.1 inadequate trust fund records
 2832.1 inadequate trust fund records

10177(b) conviction of crime
 10177(c) false advertisement
 10177(d) violation of real estate law or regulations
 10177(f) conduct that would have warranted denial of a license
 10177(g) negligence or incompetence as licensee
 10177(h) failure to supervise salespersons
 10177(j) fraud or dishonest dealing not in licensed capacity
 10177(k) violation of restricted license condition

Regulations

2725 failure of broker to review and initial agreements
 2726 broker-salesperson agreements
 2731 unauthorized use of fictitious business name
 2752 notice of change of broker
 2753 retention of salesperson's license certificate
 2785(a)(10) unauthorized earnest money refund
 2785(a)(11) failure to disclose agent's interest in transaction
 2830 failure to maintain trust fund account
 2831 inadequate trust fund records
 2831.1 inadequate trust fund records
 2832.1 broker's failure to obtain permission to disburse trust funds from an account involving multiple beneficiaries
 2905 trust account withdrawals by unauthorized person
 2950 delivery of best control documentation
 2950(d) broker's failure of broker handling escrows to maintain records
 2950(e) failure by broker to maintain and make escrow records available for inspection

Licenses Revoked

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Hooks, Gayle Marie (RES)	11693 San Vicente Bl., #135, Los Angeles	4/15/87	10176(b)(i), 10177(d)(i), 10177.5
Eckert, Kevin Roger (RRES)	1331 18th St., #2, Santa Monica	6/2/87	10176(a), 10177(g)
Cassettari, Terry M. (RES)	211 Clay St., Nevada City	6/5/87	490, 10177(b)
Patrick T. Koefe Co., Inc. (REC)	P.O. Box 15216, San Francisco	6/9/87	2830, 2832.1, 10145, 10177(d)
Veneman, Dani Gale (RES)	6449 N. Millbrook Av., Fresno	6/10/87	10176(a)(i)
Smith, Donald Joseph (REB)	3711 Long Beach Bl., #201, Long Beach	6/10/87	2832.1, 10137, 10145, 10148, 10176(c), 10177(d)
Vaccaro, Joseph Thomas (RES)	8860 Lawrence Welk Dr., Escondido	6/17/87	490, 10177(b)
Covington, Robert Kenneth (RES)	Rte. 1, Box 189H, Cottonwood	6/25/87	490, 10177(b)
Par Investments, Inc. (REC)	9033 Wilshire Bl., Ste. 100, Beverly Hills	6/25/87	2830, 2834, 10145, 10148, 10176(e), 10177(d)
Silva, Douglas Bernard (REB)	3728 Brsebum Dr., Bakersfield	6/25/87	10176(a)(i), 10177(j)
Evans, Clifford Harry (RES)	4813 Bergquist Av., Bakersfield	6/25/87	10176(a), 10177(g)
Mullen, Wesley Earl (RES)	240 Oakdale Dr., Bakersfield	7/1/87	490, 10177(b)
Hall, Richard Leslie (RES)	21 Meadowsweet Wy., Irvine	7/7/87	490, 10177(b)
Crencio, Inc. (REC)	350 West D St., Lemoore	7/7/87	2725, 2726, 2731, 2830, 2831, 2831.1, 2832.1, 2834, 2905, 10137, 10145, 10148, 10159.5, 10176(a)(i), 10177(d)

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Disciplinary Action, continued from page 2

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Carolan, David Odell (REB)(REO) Off — Creenco, Inc.	18767 King Av., Lemoore	7/1/87	2726, 2731, 2830, 2831, 2831.1, 2832.1, 2834, 2905, 10137, 10145, 10148, 10159.5, 10176(a)(i), 10177(d)
To, Nancy Thuy Ha (RES)	1223 Shadowfax Dr., San Jose	7/13/87	490, 10177(b)(f)
Woodson, Michael Evans (RES)	851 Irwin at 3rd, San Rafael	7/14/87	10177(b)
Realty World Bulmer Fox Associates (REC)	P.O. Box 944, North Highlands	7/20/87	2830, 2831, 2831.1, 2832.1, 10145, 10176(e), 10177(d)
Neth, Michael Lawrence (REB)	13076 Ten Oak Wy, Saratoga	7/20/87	10176(a)(i), 10177(g)
George Jereich, Inc. (REC)	7600 Old Dominion Ct., Ste. D, Aptos	7/23/87	2731, 2832.1, 2834, 10145, 10159.2, 10159.5, 10176(e), 10177(d)(f)(g)(h), 10232.2
Jereich, George Sheldon (REB)(REO)	7600 Old Dominion Ct., Ste. D, Aptos	7/23/87	2731, 2832.1, 2834, 10145, 10159.2, 10159.5, 10176(e), 10177(d)(f)(g)(h), 10232.2
Capper, William Dale (RES)	1595 Nuthatch Ln., Sunnyvale	7/27/87	490, 10177(b)
Tavares, George Anthony (RES)	4417 W. North Av., Fresno	7/27/87	10130, 10177(d)
Young, Arthur Howard (RES)	380 E. Marvis, Atwater	7/30/87	490, 10177(b)
Barrett, Christine Natalia (RES)	1217 S. Hi Point St., Los Angeles	8/4/87	490, 10177(a)
Hensley, Dan Wayne (RES)	382 E. Surfside Dr., Port Hueneeme	8/5/87	490, 10177(b)
Scott, Allen (RES)	9343 Mira Mesa Bl., San Diego	8/11/87	490, 10177(b)
Heimann, Ann Marie Ennis, (RES)	2880 Fletcher St., Simi Valley	8/11/87	490, 10177(b)
Johnson, Christopher Neal (RES)	20742 Haynes, Canoga Park	8/11/87	490, 10177(a)
Liddle, James David (REB)	107 W. Transit St., Ontario	8/11/87	490, 10177(b)
Ocker, Lyman Ead (RES)	P.O. Box 5262, Oxnard	8/12/87	490, 10177(b)
Parks, Pamela June (RES)	#7 Starburst Cr., Newport Beach	8/18/87	490, 10177(b)
Lee, Pearl Whang (REB)	5502 Tuxedo Terrace, Hollywood	8/18/87	490, 10177(b)
Pond, James Lavem (RES)	3348 Corbin Wy, Sacramento	8/18/87	490, 10177(b)(i)
The Woodson Company (REC)	851 Irwin at 3rd, San Rafael	8/19/87	2832, 2832.1, 10145, 10176(a)(b)(c)(e)(i), 10177(c)(d), 10231, 10231.2, 10232.5, 10234, 10237.5, 10238.6
Barrymore, John (RES)	209 N. Canon Dr., Beverly Hills	8/19/87	490, 10177(b)
Abercrombie, France Joseph (REB)(REO)	12955 Riverview, Victorville	8/24/87	10176(a)(i), 10177(f)(j)
Hultman, Paul James (RRES)	Box 1051, Summerland	8/25/87	490, 10177(b)(k)
Munson, Terrel Gary (RRES)	42289 Andrea, Hemet	8/25/87	490, 10177(b)
Donnell, Thomas King (RES)	2688 W. Imperial Hwy, Inglewood	8/25/87	10176(a), 10177(d)(f)(j)
Knapp, Thomas John (RES)	4411 Geary Bl., #324, San Francisco	8/31/87	490, 10177(b)(f)
Pollack, Mark Farrell (REB)	6749 Fulton Av., Van Nuys	9/1/87	2950(d)(e), 10148, 10177(d)

Licenses Revoked With a Right to a Restricted License

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Berglund, Scott Ellis (REB) (Right to RREB license after 60 days on terms and conditions)	4020 Palos Verdes Dr. North, Ste. 100, Rolling Hills Estates	4/28/87	10177(j)
Hoffman, Sheldon Ross (RES) (Right to RRES license on terms and conditions)	5460 White Oak Av., #320, Encino	6/2/87	490, 10177(b)
Black, Eugene Robert (REB)(REO) (Right to RREB license on terms and conditions)	8181 Mt. Aukum Rd., Mr. Aukum	6/3/87	10145, 10177(d)(f)(g)(h)
Balara, Lois Jean (REB) Dba — Jean Balara & Associates (Right to RREB license on terms and conditions)	1414 S. Wilton Pl, #1, Los Angeles	6/24/87	10148, 10177(d)
Shoun, Warren Douglas (RES) (Right to RRES license on terms and conditions)	P.O. Box 572, Calistoga	6/4/87	10130, 10177(d)
Keefe, Patrick Thomas (REB)(REO) (Right to RRES license on terms and conditions)	4200 17th St., San Francisco	6/9/87	2830, 2832.1, 10145, 10177(d)
Gonzalez, Victor Hugo (RES) (Right to RRES license on terms and conditions)	9622 Rex Rd., Pico Rivera	6/16/87	490, 10177(a)

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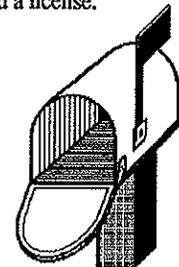
DRE Communication Link — A Current Mailing Address

by Pamela A. Davis, Post-Licensing, Sacramento

As a licensee, it is imperative that you have access to current information regarding all aspects of the ever-changing real estate world. Similarly, the DRE has an interest in maintaining current information about you. Your most important communication link with the Department of Real Estate is your mailing address. The DRE uses this address to send out the quarterly *Real Estate Bulletin*, license certificates, a courtesy 4-year license renewal notice, information regarding major Real Estate Law changes, other general correspondence, and service of accusations to revoke or suspend a license.

A mailing address may include any of the following: a residence, business location, real estate office, or a post office box. Brokers normally use either an office or residence address. While salespersons may use their employing broker's office address for receipt of mail, they may wish to consider using a residence address since in many instances this is a more permanent location.

Unfortunately, more than 30,000 licensees do not maintain a current mailing address with the DRE. Thousands of new license certificates returned to DRE by the Postal Service because a licensee has moved and failed to notify DRE of the change of mailing address. Even though the licensee's records are flagged, so that they are not included in future bulk-rate mailings, the end result is a cost to the DRE of thousands of dollars in returned postage fees and a loss to the licensee of valuable and timely information.



Regardless of whether a broker or salesperson is or is not actively engaged in the real estate business, the DRE should be notified of any change of mailing address. To provide the DRE with the required notification, brokers must submit a completed Change Application for Broker Licensee (RE 204). Salespersons must submit a completed Salesperson Change Application (RE 214). A simple change of address form from the Postal Service is not sufficient. The required forms may be obtained from any of our six District Offices. □

Statement on Real Estate Bulletin issued quarterly was filed with Postmaster on October 1, 1987. Location of office of publication and headquarters of publisher is 2201 Broadway, Sacramento, CA 95818. Publisher: James A. Edmonds, Jr., Real Estate Commissioner, State of California; Editor: Stephen L. Kolb, Information Officer, Department of Real Estate; Managing Editor: John R. Liberator, Chief Deputy Commissioner, Department of Real Estate; all with offices at the address given above. Owner: Department of Real Estate, State of California; 2201 Broadway, Sacramento, CA 95818-7000. Bondholders, mortgagees, and other security holders: none. Average number of copies each issue during preceding 12 months: 265,464; paid circulation through dealers, etc.: none; mail subscriptions: 262,311; total paid circulation: 262,311; free distribution: 1,599; total distribution: 263,910; office use, leftover, etc.: 1,554; total press run: 265,464. Actual number of copies of single issue published nearest to filing date: 261,326; sales through dealers and carriers, etc.: none; mail subscriptions: 257,860; total paid circulation: 257,860; free distribution: 2,070; total distribution: 259,930; office use, leftover, etc.: 1,396; total press run: 261,326.

Legislation, continued from page 1

liens on real property which are guaranteed or insured by an agency of the federal government or for which a commitment to so guarantee or insure has been made.

SB 1440 (Doolittle). Chapter 1042. Subdivided Lands: Public Reports. Amends Section 11010.2 of the Business and Professions Code.

Reduces certain time periods pertaining to processing applications by DRE for issuance of subdivision public reports and recasts and expands the Commissioner's notification responsibilities in some cases.

SB 1503 (Montoya). Chapter 699. Real Property Appraisals. Repeals Section 1922.12 of the Civil Code.

Deletes from provisions which establish minimum state standards for the development and performance of a "certified real property appraisal" the section which limits state agencies from imposing by rule or regulation a requirement for use of a certified appraisal in connection with a transaction until 1989 unless the state is a party to that transaction.

AB 491 (Lancaster). Chapter 508. State Government.

Repeals Section 10072 of the Business and Professions Code and Section 12301 of the Government Code.

Existing law requires the Real Estate Commissioner to execute a bond in the sum of \$10,000 for the faithful discharge of the duties of the office and requires the Treasurer to execute an official bond in the sum of \$100,000. Those bonds are outdated and are no longer needed to require public and elected officials to fulfill the duties of their respective positions.

AB 1676 (Johnston). Chapter 420. Appraisals: Real Property.

Amends Sections 1922.1 and 1922.2 of the Civil Code.

Amends current law defining a "certified appraisal report" to mean a written appraisal report. It would permit a person to orally communicate the results of a certified appraisal; however, the written report would have to be delivered within five business days of the oral communication or the close of escrow, whichever is later.

AB 2001 (McClintock). Chapter 535. Real Estate Recovery Account.

Amends Sections 10450.6 and 10471 of the Business and Professions Code.

Changes the percentage of license fees credited to the Real Estate Recovery Account from 5% to 12%, and the percentage credited to the Real Estate Education and Research Account from 15% to 8%. The bill also clarifies that the fraud, misrepresentation, or deceit which was the basis for an application for payment from the Recovery Account must be "made with intent to defraud." □

Disciplinary Action, continued from page 3

Licenses Revoked With a Right to a Restricted License

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Waimore, Floriana Antonietta (RES) (Right to RRES license on terms and conditions)	2042 Terrakappa Av., Spring Valley	6/16/87	490, 10177(e)
Holden, William Wallace, Sr. (RES) (Right to RRES license on terms and conditions)	565 South B St., Oxnard	6/23/87	490, 10177(b)
Gray, Ania (REB) (Right to RREB license on terms and conditions)	303 N. La Peer Dr., Beverly Hills	6/23/87	10177(g)
Vickers, Carolyn May (RES) (Right to RRES license on terms and conditions)	7041 N. Tealman, #101, Fresno	6/24/87	10130, 10176(a)(i), 10177(d)
Howard, Donald Louis (REB) (Right to RREB license on terms and conditions)	5942 E. Teague, Clovis	6/24/87	2725, 2726, 2831(a)(6), 10137, 10148, 10176(a)(i)
Pace, Clark David (RES) (Right to RRES license on terms and conditions)	P.O. Box 294, Covina	6/25/87	490, 10177(b)
Baker, Thomas Raymond (REB)(REO) Off - Par Investments, Inc (Right to RREB license after 60 days on terms and conditions)	1888 Century Park East., Ste. 10, Century City	6/25/87	2725, 2830, 2831, 2831.1, 10177(h)
Becker, Martin Henry (REB) Off - Par Investments, Inc (Right to RREB license after 90 days on terms and conditions)	324 N. Palm Dr., #103, Beverly Hills	6/25/87	10177(h)
Rovner, Paul Steven (REB)(REO) Off - Par Investments, Inc (Right to RRES license on terms and conditions)	9033 Wilshire Bl., Ste. 100, Beverly Hills	6/25/87	10177(h)
Bain, Abbey Elizabeth (REB) (Right to RRES license after 30 days terms and conditions)	30423 Canwood St., Ste. 125, Agoura Hills	6/25/87	2785(a)(11), 10176(a)(i), 10177(d)(g)
Bryant, Toby Jerry (REB) Dba - Bryant & Associates (Right to RREB license on terms and conditions)	1621 Centinela, #5, Inglewood	6/30/87	10137, 10177(h)
Powers, Gayle Vieths (RES) (Right to RRES license on terms and conditions)	1503 Palm Ct., Thousand Oaks	7/2/87	490, 10177(b)
Cailliau, Wanda M. (RES) (Right to RRES license on terms and conditions)	951 Westlake Bl., Westlake	7/7/87	490, 10177(b)
Walters, Charles Montgomery Jr., (REB) (Right to RREB license on terms and conditions)	1841 Carol Av., Merced	7/8/87	490, 10177(b)
Saadati, David Daryoush (REB) (Right to RREB license on terms and conditions)	8710 Amboy Av., Sun Valley	7/9/87	490, 10177(b)
Kefalianos, Peter Paradisis (RES) (Right to RRES license on terms and conditions)	10928 Remmet Av., Chatsworth	7/9/87	490, 10177(b)
Kremer, Kenneth Anthony (RESO) (Right to RRES license on terms and conditions) (Restricted license suspended 10 days)	18400 Pepper St., Castro Valley	7/13/87	10130, 10131(a), 10137, 10177(d)(f)
Pharr, Wayne Lawrence (REB) (Right to RREB license on terms and conditions)	4972 W. Pico, Los Angeles	7/17/87	490, 10177(b)
Keams, Charles Patrick III (REB) (Right to RREB license on terms and conditions)	4245 Rocklin Rd., Rocklin	7/20/87	10137, 10160, 10177(d)
Fox, Kenneth Lee (REB) (Right to RRES license after 30 days on terms and conditions)	6500 Watt Av., North Highlands	7/20/87	2830, 2831, 2831.1, 2832.1, 10145, 10176(e), 10177(d)
Glenn, Lori Ann (RES) aka - Gieg, Lori Ann (Right to RRES license on terms and conditions)	1910 1/2 2nd St., Bakersfield	7/29/87	490, 10177(b)
Kolesa, Alex Joseph (RES) (Right to RRES license on terms and conditions)	Box 2019, Santa Monica	8/4/87	490, 10177(a)
Muqtasid, Mu'Ath (RES) (Right to RRES license on terms and conditions)	380 Treewood St., San Diego	8/4/87	490, 10177(b)
Trains, Vincent Anthony (RES) (Right to RRES license on terms and conditions)	531 N. Sparks St., Burbank	8/4/87	490, 10177(b)
Whitlitz, Gary Kevin (RES) (Right to RRES license on terms and conditions)	1160 N. Berenice, Brea	8/4/87	490, 10177(b)
Castro, Gary Thomas (REB) (Right to RRES license on terms and conditions)	20342 Wisteria St., #5, Castro Valley	8/6/87	490, 10177(b)(f)
Sayegh, Alexander James (RES) (Right to RRES license terms and conditions)	2609 Broadmoor Av., Simi Valley	8/11/87	490, 10177(a)
Mendoza, Nicholas Alvarez (RES) (Right to RRES license on terms and conditions)	468 Elevado Terrace, Monterey Park	8/11/87	10177.5
Raicovic, Randy Rade (RES) (Right to RRES license on terms and conditions)	421 S. Hobart Bl., #311, Los Angeles	8/11/87	490, 10177(a)
Fischkes, Jerald Charles (REB)(REO) Off - Rental Bank, Inc. (Right to RREB license on terms and conditions)	20952 Blythe St., Canoga Park	8/11/87	10177(h)
Uribe, Jaye Marshall (REB) (Right to RRES license on terms and conditions)	309 N. Rowan Av., Los Angeles	8/11/87	10177(j)
Harmatz, William Steven (RES) (Right to RRES license on terms and conditions)	1175 N. Midway Dr., Escondido	8/12/87	490, 10177(b)
Zuckerman, George (RES) (Right to RRES license on terms and conditions)	7775 Highgate Ln., La Mesa	8/12/87	490, 10177(b)

continued on page 5. Disciplinary Action

Disciplinary Action, continued from page 4

Licenses Revoked With a Right to a Restricted License

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Jordan, Janet M. (RES) (Right to RRES license on terms and conditions)	P.O. Box 382, Folsom	8/17/87	10176(a)(i), 10177(j)
Liebelt, August (REB) (Right to RREB license on terms and conditions) (Restricted license to be suspended for 5 days)	3131 S. Bascom Av., Ste. 6, Campbell	8/17/87	2725, 2830, 2831, 10145, 10159.5, 10177(d)(h)
Liebelt Corporation (REC) (Right to RREC license on terms and conditions) (Restricted license to be suspended for 5 days)	3131 S. Bascom Av., Ste. 6, Campbell	8/17/87	2830, 2831, 10145, 10159.5, 10177(d)
Burchfield, Jerry Malin (RES) (Right to RRES license on terms and conditions)	2176 W. Birch, Fresno	8/17/87	10176(a)(i)
Parker, Shale Kittrell (RES) (Right to RRES license on terms and conditions)	26320 Senator Av., Harbor City	8/19/87	490, 10177(b)
Barabin, Leslie (RES) (Right to RRES license on terms and conditions)	2105 Dunsmuir Av., Los Angeles	8/19/87	490, 10177(b)
Urgenson, Ira Howard (RES) (Right to RRES license on terms and conditions)	15682 Cully Dr., Orange	8/25/87	490, 10177(b)
Bennett, Gene Michael (RES) (Right to RRES license after 60 days on terms and conditions)	2070 Business Center Dr., #235, Irvine	8/25/87	490, 10177(b)
Wheaton, Richard D. (REB) (Right to RREB license terms and conditions)	4607 Springwood Wy, Concord	8/31/87	490, 10177(b)(f)

Licenses Suspended With Stays

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Rodriguez, Oscar Solano (RES) (Stayed for 180 days on terms and conditions)	664A Shoppers Ln., Covina	3/3/87 (50 days)	10137, 10177(g)(h)
Burkart, Ritchie Lee (REB)(REO) (All but 30 days stayed for 1 year on terms and conditions)	747 5th St., Santa Rosa	6/4/87 (90 days)	2752, 2753, 10130, 10137, 10138, 10177(d)(g)
Moore, Richard Derald (REB)(REO) (Stayed Unconditionally)	574 N. Main, Yreka	6/24/87 (30 days)	2731, 10177(d)(g)(h)
Dinniene, Daniel Howard (RES) (Stayed Unconditionally)	574 N. Main, Yreka	6/24/87 (30 days)	2731, 10130, 10177(d)(g)
Costales, Erlinda Esperon (REB) (Stayed for 1 year on condition)	10680 Trececa St., Ste. 190, San Diego	6/25/87 (10 days)	2785(a)(10), 10177(d)
Clackson, Cynthia Ann (REB)(REC) (Stayed for 1 year on terms and conditions)	18 Crow Canyon Ct, Ste. 170, San Ramon	7/9/87 (10 days)	10130, 10137, 10177(d)
Mei, Paul J. (REB) (All but 15 days stayed for 1 year on condition)	4000 Moorpark, Ste. 110, San Jose	8/12/87 (30 days)	10145, 10177(d)
Arouri, Jeffery Steven (RES) (Right to RRES license on terms and conditions)	P.O. Box 116, Lakewood	8/12/87 (1 year)	2731, 10177(d)(g)
Salzer-Triad Property Management Inc. (REC) (Stayed for 1 year on condition)	15840 Ventura Bl., Ste. 213, Encino	8/19/87 (30 days)	2832.1, 10145, 10177(d)
Rosenthal, Robert Lynn (REB)(REO) Off — Salzer-Triad Property Management Inc. (Stayed for 1 year on condition)	16027 Ventura Bl., Ste. 201, Encino	8/19/87 (30 days)	2832.1, 10145, 10159.2, 10177(h)
Nicolson, Angus G. Jr. (REO) (Permanently stayed on condition)	23 Orinda Way, Orinda	11/23/87 (30 days)	10176(a), 10177(g)

Licenses Revoked with Stays

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Petrone, Russell Anthony (REO) (Stayed for 5 years on condition)	1001 Tower Wy, Ste., 205, Bakersfield	6/25/87	10145, 10177(d)(g)(h)
Brenco, Inc. (REC) (Stayed for 5 years on condition)	1001 Tower Wy, Ste., 205, Bakersfield	6/25/87	10145, 10177(d)(g)(h)
Cook, Daniel Bragg Jr. (REB)(REO) (Stayed for 5 years on condition)	1301 California Av., Bakersfield	7/27/87	10177(g)(h)

Public Reprimands

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Barbera, Michael Anthony (RRES)	5455 8th St., #27, Carpinteria	8/11/87	490, 10177(b)
Culton, John Gilbert (REB)	990 W. Florida Av., Hemet	8/19/87	490

California Continuing Education Requirements Extended Indefinitely — Research Study Completed

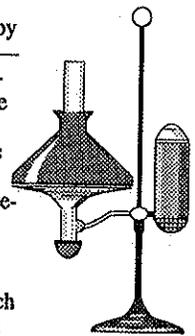
by Thomas L. Mabry
Managing Deputy Commissioner II, Education and Research Section

Governor Deukmejian approved legislation on September 9, 1987 removing the "sunset" provisions of existing Continuing Education law, thereby extending California's Real Estate Continuing Education requirements indefinitely. SB 24 (Montoya) was sponsored by the California Association of REALTORS®. The Department of Real Estate supported SB 24 after a review of an extensive research study of the Continuing Education Program was completed. The study, conducted by Arthur Young & Company of Sacramento, was funded from the Department's Education and Research Fund.

Groups surveyed during the study included current and former licensees, Continuing Education Sponsors/Providers, and real estate-related firms including financial institutions and mortgage companies. The study further analyzed responses from real estate-related subgroups such as salespersons, brokers, residential sales agents, active and non-active licensees.

Overall findings of the study appear to be consistent with other similar surveys involving mandatory real estate continuing education. The findings include the following:

- Between two-thirds and three-quarters of licensees believed they were receiving quality continuing education.
- Objectives of the Continuing Education Program in terms of (1) improving consumer protection and consumer services, and (2) improving licensee competency and professionalism are being achieved.
- The Continuing Education Program is improving currency of knowledge and skills among licensees.
- Broad support exists — by a margin of two-to-one — for extension of the continuing education license renewal requirements.
- Significant support exists for continuation of the testing/evaluation requirement.
- Licensees report an average of 47-hours of continuing education each renewal period. (A total of 45-hours is required.)



Copies of the Continuing Education study are available by submitting a check or money order for \$6.00 each (plus 6% sales tax for California residents) to:

DRE — Book Orders, P.O. Box 187006, Sacramento, CA 95818-7006. □

Supervision of Salespersons...or... ...When is an "Independent Contractor" Not an Independent Contractor?

by Larry Alamao, Attorney in Charge, Sacramento Legal Section

There is a great deal of interest in the employment relationship between a salesperson and a broker. Perhaps the most extensively used relationship is that of a salesperson as an independent contractor of the employing broker. While the broker and salesperson may choose to describe their relationship as that of an independent contractor, there is no such thing as a true "independent contractor" for purposes of the real estate license law.

An independent contractor is a person who renders services for a specified result under the control of a principal as to result and not as to the means by which such result is accomplished (California Labor Code Section 3353). Under a traditional independent relationship, the principal (broker) has no right to control the manner in which the agent (salesperson) performs a task. The principal in an independent contractor relationship has control only over the final results.

The distinction between an independent contractor and an employee is an important one for purposes of federal and state income and social security tax withholding, workers' com-

pensation, unemployment insurance and other considerations. For each of these areas, the question whether a real estate salesperson is an independent contractor or an employee will be determined by the facts surrounding the employment. Depending upon those facts, a real estate salesperson could be an independent contractor for purposes of unemployment insurance, workers' compensation or tax withholding.

For purposes of the real estate license law, a salesperson may not be an "independent contractor" of a broker as a matter of law. The employing broker is responsible not only for controlling the results achieved by the salesperson, but also for controlling the means by which the salesperson achieves those results. Court decisions on this question have uniformly held that for purposes of the real estate license law, a salesperson is not an "independent contractor."

"A real estate salesman cannot contract in his own name...., he can only be employed by a licensed real estate broker...., he cannot be employed by...any person other than the broker under whom he is at the time licensed...., and his

license must remain in the possession of his broker employer...who risks the suspension or revocation of his own license if he fails to 'exercise reasonable supervision over the activities of his salesmen.'" (*Resnik v. Anderson and Miles*, 109 Cal.App.3d 569.)

In addition to the Real Estate Law and court decisions, Sections 2725, 2726, 2740, 2741, 2752, and 2753 of the Commissioner's Regulations provide that the broker must review and initial documents, have an employment agreement covering supervision of licensed acts, supervise licensed acts performed for a corporation, notify the Department of Real Estate of any change of employing brokers and retain the salesperson's license certificate.

In conclusion, real estate licensees operating under an "independent contractor" arrangement should realize the limitations imposed upon that arrangement by the real estate license laws. A broker is not excused from the obligation to supervise and control both the results and the manner in which a salesperson performs licensed acts. A salesperson is not free to perform licensed acts without the close supervision of a broker. □

Lender/Borrower Disclosure Statements

by Larry Smith, Manager, Mortgage Loan Activities, Sacramento

Real estate brokers who engage in making and arranging loans secured by real property have specific responsibilities under the law to disclose pertinent information to borrowers and lender/purchasers.

In 1986, Assembly Bill 1738 amended Sections 10232.5 and 10241 of the Business and Professions Code to require lender and borrower disclosure statements to include information on all liens against the securing property, and to the extent of the broker's actual knowledge, pertinent information about other loans that the borrower expects or anticipates will result in a lien being recorded against the securing real property. Prior to the amendments to these sections, the lender and borrower disclosure statements only required information about liens which would be senior to the loan being arranged. These disclosure statements were not required to set forth information about other anticipated or expected loan encumbrances.

Brokers should note that their obligation to disclose "anticipated or expected loans" is not triggered unless they have "actual knowledge" of the additional liens. Information about such liens is important to a lender because the borrower's ability to repay the loan being made or arranged could be jeopardized if additional liens are immediately incurred against the property.

This statutory change was brought about when the Department learned that brokers arranging hard money second purchase loans were not disclosing to lenders that in some instances, buyers were obligating themselves to repay seller

carry-back third deeds of trust. Under prior statutory law, the lender and borrower disclosure statements only set forth information about senior encumbrances, yet the broker as an agent was required to disclose all material information to the lender, including the agreement for the seller carry-back third deed of trust.

Section 10241 and the Mortgage Loan Disclosure Statement (Borrower). Real estate brokers making or arranging loans requiring the use of the "Mortgage Loan Disclosure Statement (Borrower)" will see a change in the portion that asks the borrower to disclose liens against the property. In addition to the amount owing, information as to whether each lien will remain senior or will be subordinate to the lien that will secure the loan being arranged or made is now required. Section 2840 of the Commissioner's regulations actually sets forth in specific format the requirements of Section 10241. The form appearing in Section 2840 is titled *Mortgage Loan Disclosure Statement (Borrower)* and is reproduced by DRE as RE Form 582. The form is available from DRE upon request or it may be reproduced by the user. It may not, however, be amended, except in limited instances as set out in Section 2840, unless DRE reviews and gives specific approval of the amendment.

Section 10232.5 and the Lender/Purchaser Disclosure Statement. This section of the law pertains to real estate brokers who fall within a category of loan activity that requires

specific disclosures of information. These brokers are referred to as "threshold" brokers as they meet or exceed a certain level of business or loan volume. The "threshold" broker must provide a "Lender/Purchaser Disclosure Statement" to the actual lender of funds or the purchaser of an existing note and trust deed. Within this disclosure document is a section describing liens that would remain senior to the one being funded or sold. The change in the law now requires the broker to also inform the lender or purchaser whether the borrower expects or anticipates obtaining other loans that would result in a lien against the property regardless of priority in relation to the loan being funded or purchased. A broker who has actual knowledge of such an anticipated or expected loan, either through involvement in such arrangement or receipt of written notification of such a loan, must disclose the information.

Section 2846 of the Commissioner's regulations provides for the publication and availability of an approved format and content for the disclosure in Section 10232.5. Such a form is available and may be obtained upon request for Form 580, *Lender/Purchaser Disclosure Statement*. Although this is the official form, it is not the only format or prescribed content that satisfies the requirements of Section 10232.5. Variations of the official form may be reviewed by the Department for approval; however, any such submission must be made on behalf of 25 or more real estate brokers who are subject to the "threshold" requirements of Section 10232. □

Commissioner Edmonds Honored by Lambda Alpha International

California Real Estate Commissioner James A. Edmonds, Jr. was named recipient of the 1987 Lambda Alpha International Public Agency Staff Member Award. The award was given to

Commissioner Edmonds in recognition of his more than 40 years of continuing contributions in the field of real estate and land economics.

Donald W. Conley, Lambda Alpha Presi-

dent, and Evelyn T. Kieffer, Awards Committee Chairperson, presented the biennial award to Commissioner Edmonds at the 1987 Biennial Congress, October 9, 1987 in Los Angeles.

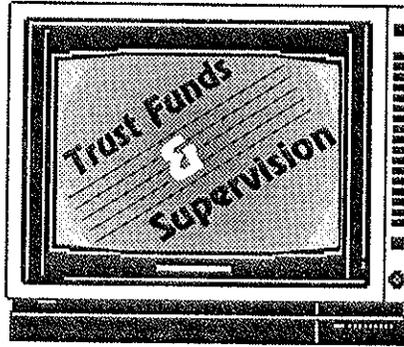
Lambda Alpha is an honorary land economics society. □

1987 NARELLO Education Award for DRE Videos

by Thomas L. Mabry, Managing Deputy Commissioner II, Education and Research Section

The Department of Real Estate has received the National Association of Real Estate License Law Officials' (NARELLO) 1987 Education Recognition Award in the category of "Professional Development Program (Non-Mandatory)." This year's DRE entry in NARELLO'S competition consisted of two educational video-taped programs entitled, "Trust Funds" and "Supervision of the Real Estate Office."

Impetus to produce the two video tapes came from concerns expressed to Commissioner James A. Edmonds, Jr. by members of his Research Advisory Committee, Department staff and licensees. The programs were produced by the Real Estate Land Use Institute (RELUI) in conjunction with the University Media Services of CSU, Sacramento under a DRE contract with the Trustees of the California State University. The tapes run 18 and 24 minutes, respectively and may be viewed independently or as a supplement-



tal video aid to continuing education, or statutory-required pre-license college-level courses.

The taped programs are designed to be used as educational materials that can be easily used by Boards of REALTORS, continuing education course providers, private real estate schools and colleges or universities, as well as individual real

estate salespersons and brokers. The programs include discussions of methods of operation, forms and procedures governing the activities of the real estate licensee. Some of the specific topics addressed include:

Trust Funds - Definitions of terms, basic documents and procedures, maintenance of records, proper handling of funds, case examples, withdrawals, commingling and conversion.

Supervision of the Real Estate Office - Definition of terms, legal responsibilities of the broker relating to supervision of a sales staff, licensing and continuing education requirements, office practice and professional conduct, review of transaction documents, office policies, and delegation of authority.

Copies of this year's award-winning video tapes are available in VHS format only for \$25.00 (plus state sales tax for California residents) for each copy requested. An order form for these and other DRE publications appears on this page. □



Name _____
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Title	Quantity	Cost	Your Cost
1987 Real Estate Law Book		\$12.50	
1987 Reference Book		12.50	
A Homeowner's Guide to Foreclosure in California (1987) (Brochure)		1.50	
Disclosures in Real Estate Transactions (1987) (Brochure)		1.50	
Future of California Housing Resale Market (1986) (Report)		6.00	
Payment and Interest Shock (1987) (Report)		6.00	
Job Analysis and Testing Procedures Study (1987) (Report)		6.00	
Reasons for Today's Foreclosures (1986) (Report)		6.00	
Rental Housing Data Base (1986) (Report)		6.00	
Restructuring of Real Estate Brokerage Industry (1986) (Report)		6.00	
Review of California's Continuing Education Program Including Testing Requirements (1987) (Report)		6.00	
Common Interest Homeowners Associations Management Study (1987)(Report)		6.00	
Consumer Protection and Licensee Liability Protection (1987) (Report)		6.00	
Trust Funds (Video)		25.00	
Supervision of the Real Estate Office (Video)		25.00	
		Subtotal	
		+ California Tax	
		TOTAL ENCLOSED	\$

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Clarification of "Certified Appraisal Report" Statute

by Commissioner James A. Edmonds, Jr.

Much confusion appears to exist regarding the effect of California's new Certified Real Estate Appraisal Statute which will become operative January 1, 1988. Initially, it should be noted that an appraisal report to be prepared in accordance with the requirements of the new statutes is only necessary when the "client" requests a "certified appraisal." A "certified appraisal" is basically an appraisal conducted in accordance with the standards and guidelines spelled out in the Lancaster-Montoya Appraisal Act (Assembly Bill 3746), which was sponsored by the California Association of REALTORS®. Nothing in this legislation prevents any person from continuing to offer opinions regarding valuation or the preparation of an appraisal report and/or market evaluation. The requirements of the "Act" are only triggered when the individual preparing the appraisal and/or evaluation refers to the report as a "Certified Appraisal Report."

Over the past several years, real estate appraisals and appraisers have increasingly come under fire as one of the causes of the instability of financial institutions around the country due to the acceptance or use of negligently or fraudulently prepared ap-

praisals for loans secured by real property. As a result, there has been a clamor to "do something about the situation."

California established a "first" in this area by taking a positive step forward with legislation that established the Lancaster-

Montoya Appraisal Act which includes provisions defining the terms "Certified Appraisal" and "Certified Appraisal Report." The Act also provides standards and guidelines for those performing "Certified Appraisals" and appraisal reports, establishes retention periods for supporting documentation, and sets forth civil damage provisions.

It should be emphasized that this legislation establishes certain appraisal standards that, if followed, will permit an appraiser to identify the appraisal as "certified." However, as stated earlier, the use of a "certified appraisal" is not mandatory. This is not to say that a lender or other interested party will not request an appraisal to be "certified." In fact, such may be the case as lenders look for uniformity in real estate appraisals.

Persons who desire specific information concerning the Lancaster-Montoya Appraisal Act are encouraged to obtain a copy of the initial legislation, Assembly Bill 3746 (Chapter 372, 1986 Statutes, adding Title 4.5, commencing with Section 1922, to Part 4 of Division 3 of the Civil Code) and the two subsequent bills, Assembly Bill 1676 (Chapter 420, 1987 Statutes; amended Section 1922.1) and Senate Bill 1503 (Chapter 699, 1987 Statutes; repealed Section 1922.12) which relate to the Act. □

Notice

The Department does not routinely maintain a surplus of legislative bills. The appropriate agency to contact is:

Legislative Bill Room
State Capitol
Sacramento, CA 95814

The first copy of each requested bill is free. There is a small charge for additional copies. Prices can be obtained by calling (916) 445-2323.

When ordering a bill, be sure to specify Senate or Assembly bill; and if the bill has been chaptered, include the chapter number and the year of the statute.



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