

1989 DRE LEGISLATIVE SUMMARY

by Eileen Parker, Manager, Legislation, Publications and Records Management

Laws are effective January 1, 1990 unless otherwise noted. The following brief descriptions of 1989 legislation are intended to alert you to pertinent changes. Refer to the statutes for complete information. Bills may be obtained from the Legislative Bill Room, State Capitol, Sacramento, CA 95814; telephone (916) 445-2323.

DEPARTMENT SPONSORED

SB 743 (Seymour). Chapter 296. Subdivided Land: Public Reports.

Adds Section 11020 to the Business and Professions Code, relating to subdivided land.

This bill would make it a crime to make, issue, publish or deliver or transfer as true and genuine any subdivision public report which is false, forged, altered or counterfeit or to participate in the making, issuance, delivery or publication of a subdivision public report which is forged, false, altered or counterfeit.

SB 1316 (Seymour). Chapter 640. Real Estate Brokers.

This is an omnibus bill covering various aspects of real estate licensing. The bill provides:

1. That in order to obtain a real estate license a person must first apply for, take and pass a license examination, and after being notified by the Commissioner of having passed the examination, only then apply for the license.
2. Explicit authorization for the Real Estate Commissioner to copy the books and records of a real estate broker.
3. Amends an unintended exemption from a provision of the Real Estate Law which requires certain specific disclosures to be given to borrowers in connection with real property secured loans arranged by real estate brokers.
4. Conforms existing statutory law governing issuance of restricted (probationary) real estate salesperson licenses to the same requirements and limitations imposed on applicants who are issued unrestricted or plenary real estate salesperson licenses.
5. Gives specific Deputy Real Estate Commissioners limited powers of peace officers.

COMMON INTEREST DEVELOPMENTS

SB 573 (Bergeson). Chapter 709. Managing Agents.

Adds and repeals Section 1363.1 of the Civil Code.

This bill would require persons hired as managing agents for common interest subdivisions (such as condominiums) to provide the homeowners' association with specified information about the agent as soon as practicable, but not more than 90 days before entering into an agreement to manage the common areas for the subdivision.

SB 777 (Stirling). Chapter 1150. Common Interest Subdivisions: Definition.

Repeals Section 1103.1 of the Business and Professions Code and amends Section 1351 of the Civil Code.

Defines common interest development in terms of the various types of common interest subdivisions: condominium projects, planned developments, stock cooperatives in community apartment projects. Clarifies the definition of "planned development" to be consistent with the historical understanding of the elements of such common interest development projects.

LICENSE LAW

AB 1729 (Chandler). Chapter 1022. License Tests.

Amends Section 584, amends and renumbers Section 497, adds Section 123, and repeals and adds Section 496 of the Business and Professions Code.

Makes it a misdemeanor for any person to engage in conduct which subverts or attempts to subvert any licensing examination or the administration of any licensing examination. The bill further specifies conduct which would be considered as subverting a licensing examination or its administration. Permits an agency to obtain injunctive relief for persons engaged in or about to engage in practices which would subvert the examination process.

MOBILEHOME PARKS

AB 416 (Woodruff). Chapter 831. Subdivision Maps.

Amends Section 66428 of the Government Code.

This bill would waive the requirement for a tentative and final map for tenants in a mobilehome park who seek to buy the park and convert it to a condominium project when at least two thirds of the tenants petition for the conversion.

NARELLO '89 San Diego conference

COMMISSIONER EDMONDS INSTALLED; DRE PUBLICA- TIONS LAUDED

Real Estate Commissioner James A. Edmonds, Jr. was installed as president of the National Association of Real Estate License Law Officials (NARELLO) during NARELLO's annual conference held in October, 1989.

NARELLO is an association of real estate law officials representing all 50 United States, seven provinces of Canada, Australia, Guam and the Virgin Islands.

The association honored the DRE with its 1989 Education Award for excellence.

Two consumer education publications were cited, the *Common Interest Development Brochure* and the brochure, *Trust Deed Investments — What You Should Know*.

BROKER SUPERVISION — SUGGESTIONS OF THE COMMISSIONER'S TASK FORCE; PART 3

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

Foreword

This report is the third in a four-part series addressing the issue of broker supervision over salespersons. In a review of many disciplinary cases, Real Estate Commissioner James A. Edmonds, Jr. discovered many causes for action could have been avoided if adequate supervision of salespersons was exercised by the broker to whom the salespersons were licensed.

A task force, created by the Commissioner, examined the issue of broker supervision. The comments which follow are suggestions of that task force. The suggestions of the task force represent ways in which brokers may implement reasonable management programs that will contribute to greater salesperson compliance with the Real Estate Law and the regulations enacted thereunder. The recommendations should not be interpreted as standards of conduct, but rather, as helpful guidelines for practical supervision.

The following preventive suggestions are designed to assist the broker in implementing policies, modified to fit his or her needs with respect to supervision.

File Maintenance

As the case of *Walters v. Marler* suggests (*Real Estate Bulletin*, Vol. 49 No. 3, Fall, 1989, "Broker Supervision"), simply initialing documents will not always reveal problems nor insure compliance with the duty to

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 GEORGE DEUKMEJIAN, *Governor*

JAMES A. EDMONDS, JR.
Real Estate Commissioner

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DISCIPLINARY ACTION — JUNE TO AUGUST, 1989

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

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

FOR YOUR INFORMATION

The following are brief summaries of the numerical code sections listed. The full context of the various sections is found in the Business and Professions Code and the Regulations of the Real Estate Commissioner, both of which are printed in the *Real Estate Law* book. The *Real Estate Law* book is available for purchase from the Department of Real Estate for \$12.50 plus tax.

Business and Professions Codes

- 490 Relationship of conviction to licensed activity
- 10130 Acting without license
- 10137 Unlawful payment of compensation
- 10145 Trust fund handling
- 10145(a) Trust fund handling
- 10145(c) Trust fund handling
- 10145(d)(3) Trust fund handling
- 10148 Retention and availability of real estate broker records
- 10159.2 Supervision of licensed acts of corporate broker
- 10159.5 Fictitious name
- 10163 Branch office license requirement
- 10165 Covers various violations
- 10167.10(b) Failure to refund deposit or portion thereof
- 10167.11(b)(1) False, misleading or deceptive advertising or description by a PRLS licensee
- 10167.11(b)(2) False, misleading or deceptive advertising or description of a rental property
- 10167.12 Violation or criminal conviction by PRLS licensee
- 10167.5 Failure to supervise business activities at a PRLS location
- 10167.9(a)(1) Failure to include required information in a PRLS contract
- 10167.9(a)(8) Prepaid rental contract small claims court remedy
- 10167.9(c) Use of unapproved contract
- 10176(a) Making any substantial misrepresentation
- 10176(d) Failure to disclose dual agency
- 10176(e) Commingling trust funds
- 10176(i) Fraud or dishonest dealing in licensed capacity
- 10177(a) Procuring a real estate license by misrepresentation or material false statement

- 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
- 10177.5 Judgement of fraud in a civil action
- 11013.1 Sale of subdivided lands under blanket encumbrance
- 11013.2 Sale of subdivided lands subject to blanket encumbrance without compliance or conditions
- 11018.2 Illegal subdivision sales (sale of subdivision lots without public report)

Regulations

- 2725 Failure of broker to review and initial agreements
- 2726 Broker-salesperson agreements
- 2731 Unauthorized use of fictitious business name
- 2785(a)(9) False representation as to deposit of receipt
- 2785(a)(10) Unlawful refund of a purchase deposit
- 2830 Failure to maintain trust fund account
- 2831 Inadequate trust fund records
- 2831.1 Inadequate trust fund records
- 2832 Failure to comply with specific provisions for handling trust funds
- 2832.1 Broker's failure to obtain permission to disburse trust funds from an account involving multiple beneficiaries
- 2834 Trust account withdrawals by unauthorized person

LICENSES REVOKED

Name	Address	Date	Violation
Adolph, Richard Paul (RES)	7247 Fairway Rd., La Jolla	8/29/89	490, 10177(b)
Aguirre, Ernesto Vizcarra (RES)	1918 Hawkbrook Dr., San Dimas	6/29/89	490, 10177(b), 10177.5
Bailey, Helen Evans (REB)	412 N. Coast Hwy., Laguna Beach	7/11/89	10177(h)
Beckwith, Janice Claire (RES)	1800 Nelson, #184, West Covina	6/21/89	490, 10177(b)
Berson, Inna (RES)	14536 Roscoe Blvd., Panorama City	8/15/89	490, 10177(b)
Birge, Glenda Faye (RES)	7795 Sunrise Creek Ct., Citrus Heights	7/3/89	490, 10177(b)
Brody, Steve Martin (RES)	16612 Osborne St., Sepulveda	6/8/89	490, 10177(b)
Brooks, Mark Spencer (RES)	6149 Hersholt Ave., Lakewood	6/8/89	490, 10177(b)
Castillo, Yolanda Moreno (RES)	38 Marston Ave., San Francisco	7/20/89	490, 10177(a)(b)
Castro, Ovidio (RES)	1800 Rockefeller Ln., Redondo Beach	7/27/89	490, 10177(b)
Chenoweth, Donald Ray (RES)	18431 Hillcrest Ave., Villa Park	6/29/89	10177(j)
Cisneros, Richard (RES)	1048 E. Broadway, San Gabriel	8/22/89	490, 10177(b)
Citywide Rentals Inc. (REC)	8285 Santa Monica Blvd., W. Hollywood	6/7/89	10159.5, 10163, 10167.9(a)(1), (a)(8), (c), 10167.10(b), 10167.11(b)(1), (b)(2), 10177(d)

LICENSES REVOKED

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Name	Address	Date	Violation
Cleasay, Michael Herbert (RES)	781 Los Osos Valley Rd., Los Osos	7/3/89	10177.5
Coleman, Jerome Ronal (RES)	3783 Van Ness, Los Angeles	6/7/89	490, 10177(b)
Contreras, Mario A. (RES)	1459 N. Adkisson Ave., Los Angeles	8/22/89	490, 10177(b)
Crudupt, Rolf Wayne (RES)	1117 Dwight Way, Berkeley	7/6/89	490, 10177(b)
David, Marin (RES)	8143 Laurel Grove Ave., N. Hollywood	7/5/89	490, 10177(b)
Deliger, Marcelino Adriaan (RES)	10261 Tudor Ave., Montclair	7/27/89	490, 10177(b)
Dejillo, Joe (RES)	1178 Grouse St., El Cajon	8/15/89	490, 10177(b)
Fernandez, Willy (RES)	9382 Leilani Dr., Huntington Beach	6/16/89	10177(f)(g)
Gee, Eddie Arthur, Jr. (REB)	601 Mission Ave., Oceanside	6/6/89	490, 10177(b)
Gellman, Todd (RES)	2211 Loma Dr., Hermosa Beach	7/11/89	490, 10177(a)(b)
Gerwer, Karl (REB)	15840 Ventura Blvd., Encino	8/10/89	2731, 2830, 10145, 10177(d)
Green, Ann Marie (RES)	17950 Burbank Blvd., #10, Encino	6/27/89	490, 10177(b)
Hardre, Michele (RES)	3708 Chamberlain Way, Carmichael	7/3/89	490, 10177(a)(b)
Hawkins, Rita V. (RES)	5757 Century Blvd., Ste. 700, L.A.	6/8/89	2830, 2832, 10130, 10145, 10176(i), 10177(d), 10177.5
Hebert, Paul Wilson Jr. (REB)	5811 Amaya Dr., La Mesa	8/29/89	490, 10177(b)
Hecker, Mitchell Wade (RES)	500 Glenwood Cir., #239, Monterey	8/1/89	490, 10177(b)
Hood, James Albert (REB)	6947 Gillingham Way, North Highlands	8/17/89	2725, 2726, 2830, 2832, 2834, 10137, 10145, 10176(c), 10177(d)(h)
Hunnicut, Robert Lewis (REB)	1363 43rd Ave., San Francisco	8/3/89	10177(f)(g)
Jardine, John Grant (RES)	509 - 14th St., Paso Robles	7/3/89	490, 10177(b)
Jensen, Leslie (REB)	201 Sycamore Valley Rd. West, Danville	8/14/89	10177.5
Joukl, Judit (RES)	P.O. Box 348, San Ramon	8/14/89	10145, 10177(d)
Laica, Rodica (RES)	1459 Valencia Dr., Fullerton	6/7/89	490, 10177(a)(b)
Largey, John David (RES)	10663 Caminito Alvarez, San Diego	6/8/89	490, 10177(a)(b)
Lloyd, John Dale (RES)	9402 E. Slauson Ave., Pico Rivera	8/30/89	490, 10177(b)
Lynch, Vera Louise (RES)	453 Raindance St., Thousand Oaks	7/27/89	490, 10177(a)(b)
Maguire, Daniel Thomas (REB)	2859 1/2 Country Club Blvd., Stockton	7/13/89	2830, 2832, 2832.1, 10137, 10145, 10176(a)(i), 10177(d)(e)
Mann, Richard Clifford (RES)	950 S. Bascom Ave., #1113, San Jose	7/10/89	10177.5
Martin, Richard Allen (REB)	650 University Ave., Sacramento	8/14/89	10177(d)(f)(g), 11013.1, 11013.2, 11018.2
Meissner, Werner Willy (RES)	2201 21st St., Sacramento	8/11/89	10130, 10176(a)(i)
Molloy, Christie Lynn (RES)	1278 Gina Dr., Oxnard	8/29/89	490, 10177(b)
Montano, Jorge Luis Garcia (RES)	1821 W. Puente Ave., West Covina	7/18/89	10130, 10176(a)(i), 10177(d)(j)
Mussack, Allen J. (RES)	P.O. Box 9060, San Jose	7/12/89	490, 10177(b)
Nassoudi, Manocher (RES)	19054 Chase St., Northridge	8/15/89	490, 10177(a)
Nazarian, Soleiman E. (RES)	2033 Euclid St., Apt. 11, Santa Monica	7/27/89	490, 10177(a)
O'Daniel, Robert Doyal (RES)	5375 Grassy Trail Dr., Riverside	6/19/89	490, 10177(b)
Ortega, Kenneth Jr. (RES)	1301 W. Magnolia Blvd., Burbank	7/5/89	490, 10177(b)
Owens, William Michael (RES)	5132 White Oak Ave., #214, Encino	8/30/89	490, 10177(a)(b)
Park, Catherine Susan (RES)(PRLS)	2333 Huntington Dr., Duarte	6/23/89	10167.5, 10167.10(a)(1), 10167.10(b), 10167.11(b)(1), 10167.11(b)(2), 10167.12, 10177(d)
Parker, Fred Harold (RES)	964 Orange Dr., Oxnard	7/5/89	490, 10177(b)
Parnell, James Murray (RES)	1901 Halford Ave., #200, Santa Clara	7/17/89	490, 10177(b)
Pectol, Gil Colia (RES)	12361 Line Pl., Chino	7/19/89	490, 10177(b)
Phan, Tony Thoi Ung (RES)	4937 N. Willmonte Ave., Temple City	6/21/89	10137
Pulliam, Richard Robert (RES)	P.O. Box 40313, Santa Barbara	7/18/89	490, 10177(b)
Pyle, Robert Francis (REB)	39023 Walnut Terr., Fremont	8/7/89	490, 10177(b)
Randall, Gene (RES)	P.O. Box 5770, Oxnard	6/21/89	490, 10177(b)

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BROKER SUPERVISION

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supervise. A broker should consider having a reliable means of keeping track of activities in his or her office(s). An efficient and well organized filing system will allow a broker to retrieve information about what has been done and what needs to be done with respect to transactions being handled. It protects the broker and his or her client. It can also be an important source tool for exercising supervisory responsibility. The following suggestions are designed to assist brokers with file maintenance.

- a. All files should be organized in a logical and consistent manner.
- b. The principal's address and telephone number should be listed in the files in the same place.
- c. Key documents such as the listing agreement, deposit receipts, escrow instructions and disclosure statements required by law should be kept in one part of the file where they can be easily located.
- d. Files should be opened in a numerical sequence and all numbers should be accounted for.
- e. The licensee should have a filing system which makes files easy to locate.
- f. The broker should have a reminder system or some other audit system to make sure that all documents requiring his review and initials per Regulation 2725 are in fact being reviewed and initialed by the broker or his delegee (See Regulation 2725 for requirements to delegate authority to review).

Note: Brokers should keep in mind that they are responsible for maintaining and retaining certain records of transactions in their offices for at least three years (10148). The file records belong to the broker and not his or her sales staff. As such, a well organized file system is one means the broker has to keep informed about what is going on in an office. To this extent brokers may consider making random audits of files to review their content for compliance with office policies and provisions of the Real Estate Law. Knowledge that such random audits may occur will encourage staff to comply with those policies and the Real Estate Law.

Prior to the close of escrow, or of a transaction which may not require an escrow, the broker or the broker's delegee may wish to review the transaction file and discuss it with the salesperson to ensure compliance with all requirements imposed by law (i.e., agency disclosure, transfer disclosure documents, etc.). The personal discussion with the salesperson is a means of alerting the broker to problems which do not appear in the paper work.

Trust Record Maintenance

Another area where brokers should consider taking time to implement an efficient system for keeping informed about office activities is maintenance of proper trust account records. Even if a broker does not keep or maintain a trust account, the regulations require maintenance of certain records to account for all trust funds received by the broker and all salespersons operating under the broker's license. Brokers should make sure that salespersons understand their obligations under the law and the office policies with respect to trust fund handling.

Brokers should keep in mind that they must maintain a record of all trust funds received, including uncashed

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BROKER SUPERVISION,

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checks (Regulation 2831). Maintenance of journals of cash receipts and disbursements, or similar records, will satisfy this requirement.

Secondly, if the broker does use a trust account, the broker must maintain a separate beneficiary record which accounts for all funds which have been deposited to the trust account, and interest, if any, earned on the deposit. For additional details concerning the information which must appear in the separate record, please review Regulation 2831.1. Set forth below is a short list of things a broker can do to monitor trust fund handling.

- a. The journal records of daily transactions should be reconciled daily. Research and correct all exception items.
- b. If a trust account is maintained, the separate trust records should be reconciled monthly to the journal records. Research and correct all exceptions immediately.
- c. Reconcile the trust account balance at the end of every month with the balance shown on the bank statements as adjusted or deposits in transit and outstanding checks and the total of both the columnar records and the separate beneficiary records. The three records will agree if all transactions are properly recorded. Any differences should be promptly investigated if they indicate a possible trust fund shortage. The broker should review these reconciliations monthly including ledgers or other records for posting errors and unusual items as a minimum monitoring procedure to ensure not only that records are adequate, but that trust funds are being properly handled.

Finally, if a trust account is maintained, the broker should decide who will have responsibility for making the withdrawals. Regulation 2834 says either the broker (designated officer for a corporation), a salesperson in his employ or an unlicensed person with fidelity bond coverage equal to the maximum amount of trust funds to which the employee has access may make withdrawals. Ultimate responsibility for proper withdrawals always resides in the broker, but if there is delegation, then it can only be as set forth above. In order to ensure control, the broker may wish to require that he or she be a signatory on the trust account.

Note: For a more extensive discussion of the do's and don'ts for monitoring trust fund records, please see the articles appearing in the Winter, 1985 and Spring, 1986 *Real Estate Bulletin* by Hermie Briones, Chief Auditor of the Department of Real Estate.

To be concluded in the Spring, 1989 edition of the *Bulletin: Overall Supervision.*

LEGISLATION,

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AB 929 (Epple). Chapter 810. Purchase by Nonprofit Corporations.

Amends Section 11010.8 of the Business and Professions Code.

Requires funds from tenants who are purchasing the mobilehome park in which they reside to be deposited in escrow to be used for costs associated with converting the park to a condominium project. Permits such costs to be paid prior to close of the escrow which transfers title to the tenant-controlled nonprofit corporation.

Legislation, continued on Page 5

LICENSES REVOKED

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Name	Address	Date	Violation
Rauber, Melba (RES)	5116 Serrania Ave., Woodland Hills	8/22/89	490, 10177(b)
Robinson, Daniel Kert (RES)	3315 E. Virginia Ave., West Covina	7/5/89	490, 10177(b)
Rosen, Cary A. (REB)	23161 Ventura Blvd., #202, Woodland Hills	8/22/89	490, 10177(b)
Schmidt, Jerry Ellis (RES)	2983 Bayshore, Ventura	7/19/89	490
Snyder, Ronald Carl (REB)	2670B Berryessa Rd., San Jose	7/12/89	490, 10177(b)
Spitzer, Julian Stefan (RES)	145 Almont Dr. North, #207, L.A.	7/5/89	490, 10177(b)
Stein, Jeff Marshall (RES)	2767 N. Velarde Dr., Thousand Oaks	8/30/89	490
Stellabotte, Richard George (RES)	10061 Talbert Ave., Ste. 200, Fountain Valley	6/6/89	490, 10177(b)
Talamantes, David Ronald (REB)	1621 Paramount Blvd., Montebello	6/8/89	2830, 10145, 10148, 10177(d)(g)(j)
Thomas, Perry Rodney (RES)	4021 Dale Rd., Apt. B, Modesto	8/28/89	490, 10177(b)
Thompson, Donald Ross (RES)	P.O. Box 353, Rancho Mirage	6/8/89	490, 10177(b)
Troche, Dino Perry (RES)	P.O. Box 30202, Long Beach	6/29/89	490, 10177(b)
United Western Funding Inc. (REC)	5252 Balboa Ave., Ste. 901, San Diego	6/20/89	2831, 2831.1, 2832, 2834, 10145, 10175, 10176(c)(i), 10177(d)
Wayland, John Vernon (RES)	1302 Monarch Ln., Davis	7/3/89	10130, 10176(a)(i), 10177(d)(j)
Welch, Jeff Robert (REB)	2471 Berryessa Rd., San Jose	7/11/89	2832, 10141, 10145, 10176(a)(c)(f)(i), 10177(d)
Woelffel, Richard Jr. (REB)(REO)	1727 Martin Luther King Jr. Way, Ste. 216, Oakland	7/10/89	10177.5

LICENSES REVOKED WITH RIGHT TO A RESTRICTED LICENSE

Name	Address	Date	Violation
Aguinaldo, Bruce John (REB) (Right to RREB license on terms and conditions)	1170 N. Coast Hwy., Laguna Beach	7/27/89	490
Allen, Frank (REB) (Right to RREB license on terms and conditions)	2420 San Bruno Ave., San Francisco	6/15/89	490, 10177(b)
Amos, Ruth Johnson (RES) (Right to RRES License on terms and conditions)	6539 Gardenia Ave., Long Beach	6/6/89	490, 10177(b)
Aston, Flora (RES) (Right to RRES license on terms and conditions)	11611 San Vicente Blvd., 9th Fl., L.A.	7/11/89	490, 10177(a)(b)
Brennan, John Joseph (REB) (Right to RREB license on terms and conditions)	17161 Golden West, #E, Huntington Beach	8/10/89	10177(f)(j)
Brentwood Financial Corporation (REC) (Right to RREC license after 120 days on terms and conditions)	1950 Sawtelle Blvd., Ste. 215, L.A.	8/24/89	2830, 2832.1, 10145, 10145(d)(3), 10177(d)
Christina, Cathy Jeanette (RES) (Right to RRES license after 60 days on terms and conditions)	19671 Beach Blvd., Ste. 101, Huntington Beach	6/6/89	490, 10177(b)
Conrad, Sandra (RES) (Right to RRES license on terms and conditions)	11 Margarita Rd., Palm Desert	8/10/89	490, 10177(b)
Dietz, Patricia Joan (RES) (Right to RRES license on terms and conditions)	851 N. Rector Way, Fresno	7/3/89	10145(c), 10176(a), 10177(g)
Dorfman, Charlotte (RES) (Right to RRES license on terms and conditions)	420 Foxen Dr., Santa Barbara	6/6/89	490, 10177(b)
Douglas, Felicia (RES) (Right to RRES license on terms and conditions)	6960 Hyde Park Dr., #14, San Diego	7/5/89	490, 10177(b)
Emerjian, Amos (REB) (Right to RREB license on terms and conditions)	2006 High St., Selma	6/19/89	2725, 2731, 2832, 10145(a), 10177(d)(g)(h)
Fitzgerald, Michael William (REB) (Right to RREB license on terms and conditions)	7626 Stonewood Ct., Roseville	8/8/89	2725, 10177(d)(f)(g)(h)
Forteza, Jaime Ramon Canovas (RES) (Right to RRES license on terms and conditions)	9028 Krueger St., Culver City	8/17/89	490, 10177(b)
Gaxiola, Joan Marian (RES) aka --- Rodgers, Joan Marion (Right to RRES license on terms and conditions)	P.O. Box 2752, Crestline	7/26/89	490, 10177(a)(b)
Griggs, Lary Lee (REB) (Right to RREB license on terms and conditions)	#14 Woodpine, Irvine	6/6/89	490, 10177(b)

Continued on Page 5

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

Name	Address	Date	Violation
Harrison, Charles R. (RES) (Right to RRES license on terms and conditions)	7722 Reseda Blvd., #225, Reseda	6/6/89	490, 10177(b)
Hulme, Mary Catherine (REB) (Right to RREB license on terms and conditions)	15253 Saticoy St., Van Nuys	6/20/89	10177(h)
Jazayeri, Majid (RES) (Right to RRES license on terms and conditions)	19836 Ventura Blvd., Woodland Hills	6/28/89	490, 10177(b)
Jeffs, Carol Smith (RES) (Right to RRES license on terms and conditions)	2 Rue Chantilly, Newport Beach	5/30/89	10176(a)
Knucker, Linda Ann (RES) (Right to RRES license on terms and conditions)	23 Goleta Pt. Dr., Corona Del Mar	6/21/89	490, 10177(b)
Kuhl, Robert Julian (RES) (Right to RRES license on terms and conditions)	2240 Douglas Blvd., Ste. 100, Roseville	8/8/89	10130, 10177(d)(f)
Lo, Mei-Hwei Amy (RES) (Right to RRES license on terms and conditions)	1600 Potrero Grande Dr., #5, San Gabriel	8/15/89	490, 10177(b)
Maher, Kelly John (RES) (Right to RRES license on terms and conditions)	2160 Saviers Rd., Oxnard	6/21/89	10130, 10145, 10177(d)
McKenry, Mary Ellen (RES) (Right to RRES license on terms and conditions)	2433 Hicks, Selma	6/19/89	10177(g)
Olmsted, David Veryl (REB) (Right to RRES license on terms and conditions)	4454 Van Nuys Blvd., Ste. 210, Sherman Oaks	8/15/89	490, 10177(b)
Ortega, Andres Romero (REB) (Right to RRES license on terms and conditions)	1111 W. Newmark Ave., Monterey Park	8/15/89	490, 10177(b)
Partin, James Franklin (RES) (Right to RRES license on terms and conditions)	22411 Lombardi, Laguna Hills	6/8/89	490, 10177(a)
R. J. Kuhl Corporation, The (REC) (Right to RREC license on terms and conditions)	2240 Douglas Blvd., #100, Roseville	8/8/89	2785(a)(9), 10152, 10176(a)(i), 10177(d)(f)(g)
Robinson, Adele L. (RES) (Right to RRES license on terms and conditions)	6766 N. Tamera, Fresno	7/3/89	10176(a), 10177(g)
Robinson, Pamela Beth (RES) (Right to RRES license on terms and conditions)	10912 Vista Terrace, La Mesa	6/6/89	490, 10177(b)
Rodgers, Moira Ann (RES) (Right to RRES license on terms and conditions)	23251 Collins St., Woodland Hills	7/20/89	10130, 10177(d)
Schofield, Charles Fred (REB) (Right to RREB license on terms and conditions)	4260 S. Harbor Blvd., #A204, Oxnard	8/29/89	490, 10177(b)
Seely, David Brian (RES) (Right to RRES license on terms and conditions)	P.O. Box 205, Chicago Park	7/14/89	490, 10177(b)
Silber, Walter B. (REO) (Officer — Brentwood Financial Corporation) (Right to RREB license after 120 days on terms and conditions)	1950 Sawtelle Blvd., Ste. 215, L.A.	8/24/89	10177(h)
Spencer, Jack Manning (REB) (Right to RREB license after 30 days on terms and conditions)	2337 California St., Bureka	8/1/89	2785(a)(10), 10145, 10176(a)(e), 10177(d)
Taylor, Julia Y. (REB)(REO) (Right to RREB license on terms and conditions)	85 Calvert Ct., Piedmont	6/15/89	490, 10177(b)
Tucker, Russ Ramon (RES) (Right to RRES license after 90 days on terms and conditions)	5983 Revelstok Dr., Sacramento	8/8/89	2785(a)(9), 10152, 10176(a)(i), 10177(d)(f)(g)
Yu, Anna T.C. (RES) (Right to RRES license on terms and conditions)	890 Roble Dr., Sunnyvale	8/22/89	490, 10177(a)(b)
Zimmer, Jon Courier (RES) (Right to RRES license on terms and conditions)	3967C E. Thousand Oaks Blvd., Westlake Village	6/6/89	490, 10177(b)

LICENSES REVOKED WITH STAYS

Name	Address	Date	Violation
Hunziker, Joan Carol (REB) (Right to RREB license on terms and conditions) (Stayed for 1 year on terms and conditions)	5000 Bear Creek Blvd., Lodi	8/8/89	490, 10177(b)

PUBLIC REPROVALS

Name	Address	Date	Violation
Madation, Ann F. (RES)	7118 Ventura Canyon, Van Nuys	8/29/89	490, 10177(f)

LEGISLATION,

continued from Page 4

Clarifies that park purchase funds and funds associated with the conversion process are not subject to the impound statutes of the Subdivided Lands Law.

MORTGAGES

AB 337 (Clute). Chapter 96. Deeds of Trust: Transfer.
Amends Section 2937 of the Civil Code.

Provides notice of transfer of servicing at the time a deed of trust is executed and limits the class of borrowers entitled to such notice to those with loans on real property consisting of one-to four residential units.

Provides that a subsequent or successor obligor would also be entitled to notice of transfer of servicing and would require that a notice of transfer of servicing be given a trustee or attorney if a notice of default has been recorded when the transfer of servicing takes place.

Urgency statute.

REAL ESTATE BROKERS

SB 1209 (Garamendi). Chapter 1116. Licensed Securities Broker-Dealers.

Amends Section 10133.1, adds Section 10008.5 to the Business and Professions Code and amends Sections 181, 903, 1203, and adds Sections 183.5 and 1201.5 to the Corporations Code.

This bill was introduced as a result of a court case: All Points Traders, Inc. v. Barrington Associates. The bill makes the provisions of the Real Estate Law dealing with business opportunities inapplicable to licensed broker-dealers. Although unclear, it would appear from the intent language in the bill (which will not be codified) that the exemption only applies to business opportunity transactions over \$7.5 million. Business opportunity transactions of less than \$7.5 million would appear to require the licensed securities broker-dealer to also obtain a real estate license in order to collect a commission.

The bill also exempts licensed securities broker-dealers, their employees and agents from real estate licensing requirements when offering to sell and selling a security representing an ownership interest in a pool of promissory notes secured directly or indirectly by a lien on real property which transaction is subject to any law of this state or the United States regulating securities.

Urgency statute. In effect.

AB 405 (Sher). Chapter 22. Arbitration: Real Estate.
Amends Section 1298 of the Code of Civil Procedure.

This bill changes existing law to require eight point bold type notices to be contained in contracts to convey real property and contracts between agents and principals in real estate transactions which provide for arbitration.

This law has particular application to deposit receipts or other contracts for conveyance of a subdivided interest which provide for arbitration pursuant to Regulation 2791, or arbitration of disputes generally requiring compliance with the Code of Civil Procedure, Section 1298.

Urgency statute. Operative July 1, 1989.

MORTGAGE LOAN BROKERS

SB 251 (Craven). Chapter 1275. Mortgage Loan Brokers.

Amends Sections 10231.1, 10232.25, 10232.4, 10237.8, 10241, 10241.1, 10242.5, 10245 and 10248.1 of the Business and Professions Code.

LEGISLATION,

continued from Page 5

Under existing law brokers who act within the meaning of subdivisions (d) and (e) of Sections 10131 and 10131.1 as mortgage loan brokers are prohibited from retaining funds payable according to the terms of a promissory note for more than 60 days without written consent of the owner. Interest on such funds is prohibited. SB 251 would delete the restriction on the payment of interest and would allow such payment in accordance with the trust fund handling requirements imposed on all real estate brokers.

Requires all real estate brokers acting as mortgage loan brokers but who are not threshold to prepare a quarterly trust fund statement and retain the reports as part of their records. The records would be subject to inspection by the Commissioner.

Expands the list of lender-purchasers to whom the disclosure statement does not have to be given.

The bill would require the disclosure statement given to a borrower in a mortgage loan transaction to include a notice in 10 point bold face type concerning the risks associated with a loan which provides for a balloon payment as well as disclosing broker controlled funds; changes the definition of broker controlled funds to those entities in which the broker or defined close relative have 10 percent or more of the ownership interest.

Loans made under the Necessitous Borrowers Act are limited to certain charges. These charges would be expanded to include a beneficiary statement charge and a payoff demand charge and would also require that real estate brokers when servicing a loan would be able to charge a 10 percent late fee rather than 5 percent limits set forth in the Civil Code.

SB 1128 (C. Greene). Chapter 493. Loan Disclosures.

Amends Section 10241 of the Business and Professions Code.

This bill requires specific disclosures in bold print concerning risks associated with repaying a loan secured by a lien on real property which provides for a balloon payment.

SB 1204 (Vuich). Chapter 1386. Real Estate Brokers: Disclosures.

Amends Sections 10133.1 and 10232.4 of the Business and Professions Code.

Currently persons licensed by the Department provide a disclosure statement to borrowers or investors purchasing real estate sales contracts or notes secured by deeds of trust.

This bill expands the persons to whom the disclosure is not required to be provided. The bill also exempts from licensure those persons collecting loan payments or loan servicing who are employees of real estate brokers acting as agents of the institutional lenders or purchasers described in Section 10232.4.

REAL PROPERTY TRANSFER DISCLOSURES

SB 650 (Stirling). Chapter 294. Transfer or Hiring.

Adds Sections 1120.15 and 1940.7 to the Civil Code.

Would require disclosure to be provided to a buyer by a seller of any former federal or state ordnance locations within a mile of the subject property.

Would require a landlord of a residential dwelling unit to provide the same disclosure to a prospective tenant.

LICENSES SUSPENDED

Name	Address	Date	Violation
Imrie, Duane Alexander (RES) (Suspended for 7 days)	421 South K, Madera	8/28/89	490, 10177(a)
Gandy, Joe Allen (REB) (REO) (Suspended for 6 months)	1916 Broadway St., Ste. 204, Oakland	5/27/87	2832, 10145, 10176(i), 10177(d)(f)

LICENSES SUSPENDED WITH STAYS

Name	Address	Date	Violation
Abu, David L. (RES) (Suspended for 45 days — Stayed for 90 days on condition)	2175 Pacific Ave., #G-4, Costa Mesa	8/1/89	490, 10177(b)
Adams, Kitty May (REB) (Suspended for 15 days — Stayed for 1 year on conditions)	201 W. Sycamore Rd., Danville	8/14/89	10159.2(a), 10177(h)
Atkins, Jefferson Davis Jr. (RES) (Suspended for 30 days — All but 10 days stayed for 1 year on condition)	10832 Deering St., San Diego	3/14/89	2832, 10145(c), 10177(d)
Chisick, Brian (REB)(REO) (Suspended for 80 days — Stayed for 2 years on terms and conditions)	701 S. Parker St., Ste. 5000, Orange	7/18/89	10177(h)
Dietz, Gordon P. (REB) (Suspended for 60 days — All but 30 days stayed for 1 year on condition)	851 N. Rector, Fresno	7/3/89	2725, 2831, 10145(a), 10177(d)(f)(g)(h)
First Alliance Mortgage Company (REC) (Suspended for 80 days — Stayed for 2 years on terms and conditions)	701 S. Parker, 5th Fl, Orange	7/18/89	2831.1, 10176(e), 10177(d)
Greene, Alan Scott (RES) (Suspended for 30 days — Stayed for 1 year on condition)	11342 Dona Pegita Dr., Studio City	7/5/89	490, 10177(b)
Powell, Robert Guy (REB) (Suspended for 60 days — All but 15 days stayed for 1 year on terms and conditions)	6117 State Farm Dr., Rohnert Park	8/30/89	10177(g)
R.L. Hastings & Associates Inc. (REC) (Suspended for 30 days — Stayed for 1 year on condition)	412 N. Coast Hwy., Laguna Beach	7/11/89	2832.1, 10145, 10177(d)
Wallin, Jeffery Dean (RES) (Suspended for 1 year — May be stayed for 2 years on conditions)	P.O. Box 1802, Chino	6/13/89	490, 10177(b)

INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS

Name	Address	Date
Creative Financial Concepts Corp. (REC)	537 W. Main St., Merced	8/24/89
Grant, Robert L. (REB)	124 Castle Crest Rd., Walnut Creek	8/24/89
Guerrero, Edward R. (RES)	3998 Mission St., San Francisco	8/15/89
Kerwin, David Sylvester, III (REB)	968 Emerald St., #216, San Diego	8/1/89
Martin, Robert Lee (REO)	3801 Saviers Rd., Oxnard	8/9/89
McLeod, Frances Johanna (REB)	P.O. Box 2876, San Bernardino	7/28/89
Rothwell, Laurie Samuel (REB)	1890 San Pablo Ave., Pinole	6/21/89

POSTAL STATEMENT FILED

A statement of ownership, management and circulation of the *Real Estate Bulletin*, issued quarterly, was filed with Postmaster on September 7, 1989. 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; Managing Editor: John R. Liberato, Chief Deputy Commissioner, Department of Real Estate; Editor: George W. Hartwell, Public Information Officer, 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: 273,259; paid circulation through dealers, etc.: none; mail subscriptions: 270,079; total paid circulation: 270,079; free distribution: 2,115; total distribution: 272,194; office use, leftover, etc.: 1,065; total press run: 273,259. Actual number of copies of single issue published nearest to filing date: 281,440; sales through dealers and carriers, etc.: none; mail subscriptions: 278,298; free distribution: 2,094; total distribution: 280,392; office use, leftover, etc.: 1,048; total press run: 281,440.

LEGISLATION,

continued from Page 6

AB 584 (Hauser). Chapter 171. Disclosures.

Amends 1102.6 of, and adds to Section 1102.6(a) to the Civil Code.

Requires persons who transfer their interest in residential real property containing one-to four units to include in the disclosure statement given to transferees certain specific information about asbestos materials on the property. It would allow cities and counties on and after July 1, 1990 to require additional disclosures.

AB 983 (Bane, Allen). Chapter 969. Environmental Hazards.

Adds Section 10084.1 to the Business and Professions Code. Adds Section 2079.7 to the Civil Code and adds Section 25417 to the Health and Safety Code.

Requires the Department of Real Estate to develop a booklet to educate consumers on common environmental hazards affecting real property and the significance of those hazards and what can be done to mitigate

them and where sources of additional information can be located.

Delivery of this booklet to a transferee will be deemed to have provided adequate information about common environmental hazards affecting the real property.

AB 1812 (Sher). Chapter 380. State Responsibility Areas: Disclosures.

Amends Section 4125, adds Section 4236 to the Public Resources Code. Operative July 1, 1991.

Requires the seller of real property located in a "state responsibility area" for purposes of fire protection to disclose to a prospective purchaser the fact that the real property is within a "wildland area" which contains substantial forest fire risks and hazards and that it is not the state's responsibility to provide fire protection unless it has an agreement with a local agency to do so.

Would require that every fifth year, the Department of Forestry must provide the county assessor with maps identifying the boundaries of lands identified as state responsibility areas for every county containing such lands.

AB 2250 (Friedman). Chapter 535. Timeshares. Rescission.

Amends Section 11024 of the Business and Professions Code.

Provides a cause of action for recovery of actual damages for a buyer of a timeshare interest who has not been given a clear and conspicuous disclosure of a right to rescind the contract within three days or whose right to do so has not been recognized.

SUBDIVISION PUBLIC REPORTS

AB 181 (Campbell). Chapter 1209. Public Reports: School Facilities.

Amends Section 11010 of the Business and Professions Code.

A major school funding bill.

The bill would require that the information contained in the application for a subdivision public report include disclosure of the location of public schools or alternate information.

REAL ESTATE PUBLICATION REQUEST

DRE	RE#	TITLE OF PUBLICATION, BROCHURE, REPORT OR VIDEO	COST	QUANTITY	YOUR COST
	1	1989 Reference Book	\$15.00		
	2	1987 Real Estate Law Book (Free 1988 Supplement included)**	\$12.50		
	3	1988 Supplement to Real Estate Law (brochure)	\$2.00		
	4	Instructions to License Applicants (brochure)	Free		
	6	Disclosures in Real Estate Transactions (1987; brochure)	\$2.00		
	7	A Homeowner's Guide to Foreclosure in California (1987; brochure)	\$2.00		
	11	Consumer Protection and Licensee Liability Protection (1987; report)	\$9.00		
	12	Deregulation of Financial Institutions (1987; report)	\$9.00		
	17	Future of California Housing Resale Market (1986; report)	\$9.00		
	18	Licensee Interaction With Respect to Marketing REOs (1987; report)	\$9.00		
	19	Common Interest Homeowners' Assoc. Mgmt. Study (1987; report)	\$9.00		
	20	Payment and Interest Rate Shock (1987; report)	\$9.00		
	21	Job Analysis and Testing Procedures Study (1987; report)	\$9.00		
	22	Licensee's Role in Marketing of Housing to the Elderly (1986; report)	\$9.00		
	23	Real Estate Specialization — Need for Special Licenses and/or Educational Requirements (1987; report)	\$9.00		
	24	Reasons for Today's Foreclosures (1987; report)	\$9.00		
	25	Rental Housing Data Base (1986; report)	\$9.00		
	26	Restructuring of the Real Estate Brokerage Industry (1986; report)	\$9.00		
	27	Review of California's Continuing Education Program — including testing requirements (1987; report)	\$9.00		
	28	Supervision of the Real Estate Office (1987; video)	\$25.00		
	29	Trust Funds (1987; video)	\$25.00		
	30	Study of California's R.E. Appraisal Industry (1988; report)	\$9.00		
	32	Compliance with the Real Estate Transfer Disclosure Law (1988; video)	\$25.00		
	33	Agency Disclosures in Residential Real Estate Transactions (1988; video)	\$25.00		
	34	Mobilehome Park Purchases by Residents (1986; brochure)	\$2.00		
	35	Trust Deed Investments — What You Should Know (1989; brochure)	\$2.00		
	36	Private Mortgage Insurance: Its Effects on Real Estate Transactions and Its Benefits to Real Estate Licensees (1989; report)	\$9.00		
	38	Analysis of California's Escrow Industry (1988; report)	\$9.00		
	39	Common Interest Development Brochure (1989; brochure)	Free		
	40	Home Equity Lending by Mortgage Loan Brokers (1989; report)	\$9.00		

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IT'S (PROBABLY) "IN THE BOOK..."

by Jerry E. Fiscus, Managing Deputy Commissioner II

The Department of Real Estate receives approximately 1500 telephone calls each workday from people seeking various sorts of information. A common complaint heard from the public is, "I've been trying to get through for hours; your 'phones are always busy."

Approximately 35 percent, or 525 telephone calls each day, are from licensees. Some of the calls from licensees are inquiries that need clarification from the department. However, many of the inquiries by licensees could be answered by a simple review of the *Real Estate Law Book*.

On many occasions when a licensee is asked if he or she has a copy of the latest edition of the *California Real Estate Law Book* the answer is "no," or at best, "yes, but it's an old edition."

All of us at some time or another have played board games or athletic games. Can you imagine competing in any game, expecting to be successful in that endeavor without a thorough knowledge of the rules of the game? The profession of selling real estate is far from being a game. It is a very complex and demanding profession with serious consequences for violation of the "rules" as set forth by the State Legislature and the Real Estate Commissioner. Not only may your client be damaged, costing you his or her future business and any referrals, but you may also be exposing yourself to civil and/or criminal liability and placing your hard-earned license in jeopardy of being revoked, restricted or suspended.

Real estate law is changing constantly. Laws are added, repealed and amended. Any licensee who expects to be successful in the business of selling real estate always should have at his immediate disposal the latest edition of the *Law Book* and should spend time daily becoming

acquainted with the "rules of the game."

This article is not intended to discourage licensees from telephoning the Department of Real Estate for clarification of questions you may have. It is meant to encourage licensees to maintain a standard of excellence befitting your profession by being familiar at all times with the laws and regulations under which you are required to operate.

A new edition of the *California Real Estate Law Book* is expected to be available to the public in March, 1990 at all DRE district offices, or may be ordered by mail. A publication order form is printed on page seven of this edition of the *Real Estate Bulletin*. The address of each district office is published on page two.

Editor's note:

BULLETIN TYPE

In order to accommodate all the information in this issue of the *Real Estate Bulletin*, it is composed using 9-point Times-style type for most text. The disciplinary action reports are produced in 7-point type.

The DRE hopes this positive attempt to expand the material contained in the *Bulletin* meets with your acceptance.

WORKERS' COMP — BROKER'S RESPONSIBILITY

In most cases, real estate brokers are considered employers of their salespeople for purposes of Workers' Compensation Insurance coverage, according to the State Compensation Insurance Fund (Fund).

The Fund sought to clarify a broker's question to the DRE asking whether salespersons licensed to him through contractor agreements would be considered employees for the purposes of Workers' Compensation. The Fund said yes, absolutely.

"Business and Professions Code Sections 10132 and 10177(h) define the salespersons as being employed by the broker and require reasonable supervision over the sales staff by the broker. Underwriting must take the essence of these codes into consideration when interpreting Rule VII, Section 21 of the California Manual of Rules, Classifications, and Basic Rates. This rule prescribes a series of tests to determine employment status. When these tests are applied, most real estate broker-salesperson relationships are shown to be employment," said Aaron Davis, underwriting supervisor for the Fund. "Evidence of independent contractor status (to exclude a broker from Workers' Compensation Insurance responsibility) would require most compelling documentation," Davis wrote.

The Fund's position is strongly supported by the Division of Labor Standards Enforcement which, Davis said, has maintained an "on-going dialogue" with the Fund on the question since the early 1970's.

Brokers who wish further clarification should contact the Fund at P.O. Box 807, San Francisco, CA 94101-0807.



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