

REAL ESTATE BULLETIN

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SACRAMENTO

Time For Filing License Renewals Again At Hand

Appeal Is Made For Prompt Action — Suggestions Offered

Again the time has arrived for renewal of all licenses issued by the State Division of Real Estate. Licensees are urged to attend to this immediately to avoid a last minute rush and possible penalty.

Here are a few suggestions and words of caution. Please read them carefully:

1. Look for your renewal application form attached to the back of your current 1946-47 license. This may mean taking the license out of the frame. Detach it and fill out completely.
2. Check the typed information carefully! If there are any errors in spelling or the address, etc., please indicate the proper correction to be made.
3. If for some reason the application form is missing from the old license, apply at once at any office of the division for a duplicate.
4. Brokers are requested to file the renewal applications of their salesmen at the time they file their own, to save work and avoid failure to file all salesman applications.
5. Brokers should be sure to sign their own applications and those of their salesmen. The salesman must also sign his own application.
6. Be sure the fee is correct: Broker license, \$5; salesman, \$2; branch office license, \$1.
7. Be sure to renew branch office licenses when renewing the main office license. You will save time and avoid errors by renewing all licenses connected with your business at one time.
8. Carelessness in filling out applications and remitting proper fees will delay receipt of your license.
9. Failure to get your renewal applications into the Division of Real Estate by closing time June 30th, or failure to at least have the applications in the mail postmarked before midnight June 30th, will require you to pay a double fee as a penalty.

Unemployment Tax

A bill which would exempt real estate salesmen from paying federal unemployment compensation tax was introduced in the present session of Congress by Congressman Carl Hinshaw of the Twentieth California District. It is now pending before the Ways and Means Committee of the House, but from last reports had not yet been scheduled for hearing.

Salesmen have contended that the tax is unfair as far as they are concerned, as they are not in a position to receive any benefits. It is questionable if they will be considered as unemployed as long as they maintain a license and endeavor to earn a living, even though they may not be successful in earning anything.

REAL ESTATE DIVISION NOTES

By Hubert B. Scudder, Commissioner

With this issue of the Division of Real Estate Bulletin I hope to resume regular publication in order that licensees may keep abreast of developments in connection with their licensing agency.

Publication of the bulletin was necessarily suspended last year when the volume of work and lack of experienced personnel made it necessary to discontinue all activities which were not directly connected with licensing and subdivision work. This situation has now been corrected to the point where some former activities, including publication of a bulletin, may be resumed.

It is my sincere desire to make the bulletin of direct value to its readers. Suggestions as to material to be included will be welcomed.

Much attention has been devoted during the past few months to streamlining office procedures of the division so that license issuing, complaint work and other matters may be handled promptly. The results have been gratifying. Much credit is due the State Department of Finance which furnished experts to study methods followed by the division and make recommendations for eliminating waste motion. I believe most licensees will note the increased promptness with which their business is handled.

Since last publication, two new members of the Real Estate Board have been appointed by Governor Warren, namely Charles B. Shattuck of Los Angeles and Chester R. MacPhee of San Francisco. The board has continued to meet regularly and advance valuable suggestions for the operation of the Division of Real Estate. Other members of the board are Leland P. Reeder of Beverly Hills, Frank L. Whitelock of San Bernardino, Maurice G. Reed of Berkeley, and Paul S. Bomberger of Modesto.

I urge all persons who will renew licenses for the year 1947-48 to carefully read renewal instructions appearing in this issue. Carelessness in not observing instructions multiplies the clerical work of the division many fold, and causes delays in receiving licenses. The procedure is very simple, and merely a few simple instructions need be followed.

Attention is now being given to building a strong and efficient force in the division, particularly in the classification of Deputy Real Estate Commissioner. In this connection the State Personnel Board held a civil service examination on January 30th to qualify applicants for the position, as there were about five positions immediately available. Approximately 80 persons qualified to take the examination. The results are not yet available but it is believed that they will result in several good prospective deputies qualifying for appointment.

Brokers are cautioned to sign the renewal applications of their salesmen. Otherwise there will be delay in issuing licenses and much needless correspondence.

RENT CONTROL

Rents have risen less than 4 percent since the beginning of 1941 while living expenses of property owners have risen 64 percent, is the contention of the National Home and Property Owners Foundation in its campaign to eliminate residential rent controls. They also contend that during this period the cost of food has nearly doubled, house furnishings have risen 76 percent, clothing 74 percent, and utilities and fuel 15 percent. They estimate that property maintenance costs are up nearly 100 percent.

It will be interesting to watch the course of rent control during the coming year. At the present writing there seems to be less inclination on the part of legislators to abruptly terminate controls. Certain bills are now pending before the State Legislature as stop gap rent control measures in event federal controls are summarily dropped.

Sixty-Day Waiting Period

The requirement that all applicants for broker licenses wait a period of 60 days after filing their applications before taking the qualifying examination is being strictly adhered to by Commissioner Scudder.

Certain exceptions to the rule have been made by the commissioner, however, after discussion with the advisory board. Only under the following circumstances will he consider waiving the waiting period:

1. Upon application by a veteran when the application is made within 90 days after separation from active service in the armed forces of the United State.
2. When a licensed real estate broker makes application for a business opportunity broker license.
3. When a licensed broker dies and his successor in the business applies for a broker license.
4. When a licensed broker has allowed his license to lapse and again applies for license during the second year after said license expired. (During the first year after he failed to renew his license he may reinstate it by paying a penalty fee.) After the second year, the rule is strictly enforced.

Real Estate Convention

The annual convention of the California Real Estate Association will be held at Hotel del Coronado at Coronado this year on June 5th, 6th, and 7th. San Diego and Coronado real estate boards are hosts. As in previous years an invitation is extended to all interested in the real estate business to attend, whether or not they are affiliated with the group.

Latest advice is that the headquarters hotel is fully reserved, but delegates and visitors may make reservations by writing direct to the U. S. Grant, San Diego and Pickwick Hotels in downtown San Diego or to the Casa de Manana in La Jolla. The distance from these hotels to the meetings is not great. The convention program is unusually interesting this year and many speakers of national reputation are scheduled.

Renewal applications may be mailed with fee to any office of the Division of Real Estate, preferably the Sacramento office. Address the envelope "State Real Estate Commissioner, 584 Business and Professions Building, Sacramento 14, California." Filings may also be made in person at any of the division offices.

License Record Broken

Figures compiled as of April 1st reveal that California now has more licensed persons engaged in the real estate business than at any time in the history of the State, a total of 67,001. This surpasses by 1,031 the previous all high record established in 1927 when a total of 65,970 was reached.

An interesting fact is noted in comparing present and 1923 license totals. At present there are far more licensed brokers than salesmen. Real estate brokers now total 42,211, with 23,013 regular real estate salesmen and 1,777 provisional salesmen. In 1927 the salesmen far outnumbered the brokers, with 18,631 brokers and 47,339 salesmen. There was no provisional salesman classification in those early years.

In addition, the division now also licenses a total of 5,633 business opportunity brokers and salesmen. There are 4,517 of these brokers and 1,116 salesmen. Licenses are also issued to lesser numbers of cemetery and mineral, oil and gas licensees. The total number of licensees of the Division of Real Estate as of April 1, 1947, was 73,111, or 7,141 in excess of the total in 1927.

It may be seen that the division has had a real problem in meeting this skyrocketing number of license applications. The great increase has occurred during the past three or four years, and reached its peak in May, 1946. Since that time there has been some decrease in applications, as will be shown by figures on examinations.

In May, 1946 the division gave the largest number of examinations for license in the history of the division. A total of 4,278 was given that month. Since that time the month to month record is as follows:

Month	Total Exams Given
May, 1946	4,278
June	3,492
July	3,108
August	3,052
September	2,440
October	2,918
November	2,946
December	1,985
January, 1947	2,629
February	2,149
March	2,213

A breakdown of the March examinations will give the approximate proportion of various licenses applied for. Of the total of 2,213 examinees, real estate broker applicants totaled 1,080, real estate salesmen 738, provisional real estate salesmen 149, business opportunity broker 177, and business opportunity salesmen 65.

The amount of work involved in issuing a license today is far greater than it was back in 1923. At that time no examination was required, no fingerprint investigation, or various other steps taken today to make sure that persons securing licenses are properly qualified.

Many renewal licenses are delayed each year because the broker does not sign his application on the line provided.

Salesmen when renewing licenses must sign the application on the line provided, and the employing broker must also sign the application.

REFUND OF FEES

There are very few instances under which the division can refund fees after they are submitted in connection with license applications. Rules regarding refunds are imposed by the Department of Finance based upon legal advice, and the commissioner has little, if any, discretion in the matter.

Fees paid to the division in connection with the filing of an original application cannot be refunded even though the applicant later withdraws his application. Examination fees are not refundable if the applicant fails an examination. Applicants are urged not to file applications for license and pay fees until they are absolutely sure they will be able to go ahead with the examination and be ready to accept the license when issued.

The division will apply license fees to a license for the ensuing year if the applicant does not qualify in time to secure a license for the present year. For instance, if the applicant applies for a 1946-47 license in May, and cannot get his examination out of the way in order to issue the license by June 30th, the applicant may request that the fee be applied on a 1947-48 license.

Proposed Law Change

As the license law now reads, any broker or salesman must actually have a current license in his possession in order to be entitled to operate. Technically, this means that if the renewal license is not received by July 1st, even though the renewal application was made on time and the proper fee paid, the licensee cannot legally operate. Applications received just before the deadline might result in the license being issued days or weeks later, and the applicant is technically operating without a license.

To correct this situation, an amendment to the law has been proposed in Senate Bill No. 19 which entitles any licensee who renews his license properly and on time to continue to legally operate. The amendment reads as follows:

"An application on the form prescribed by the commissioner for the renewal of any unrevoked or unsuspended license filed before midnight of June 30th of the year for which such unrevoked and unsuspended license was issued, accompanied by the applicable renewal fee, entitles the applicant to continue operating under his existing license after its usual expiration date, if not previously suspended or revoked, and until such date as he is notified in writing that the application has been granted or denied."

Old Subdivisions

From time to time inquiry is received at the Division offices as to whether or not it is necessary to comply with the provisions of the Real Estate Law in the case of an old subdivision, the map of which was recorded prior to 1933 when the law became effective for residential subdivisions.

The answer to this question cannot be given until all of the circumstances surrounding the sale of the proposed project are known. It must be remembered that the jurisdiction of the Commissioner in investigating subdivision offerings is to prevent fraud upon the public, and until sufficient information is at hand he cannot waive any of the regular requirements.

HAVE A DIRECTORY?

Do you have a copy of the directory of all persons holding licenses issued by the Division of Real Estate? If not, you are entitled to one without charge provided you hold a broker license. These directories sell for \$1.75 per copy to all others. Salesmen are not entitled to a free copy.

Many brokers have advised us that they are very valuable in corresponding with offices in other sections of the State, circularizing real estate exchanges, etc.

According to law the Commissioner must publish the directory each year about October 1st, so it will be about six months before another volume is issued.

Requests by brokers for a free copy of the directory should be made in writing to the Sacramento Office of the Division of Real Estate, whereupon they will be mailed postpaid. Or, brokers may obtain a free copy by calling at any office of the Division.

Change of Office Address

The Real Estate Law requires each holder of a license to keep the Commissioner informed promptly of any change of office address. Failure to do this may cause the licensee inconvenience and even financial loss. Section 10162 of the Real Estate Law reads:

"Every licensed real estate broker shall have and maintain a definite place of business in the State of California which shall serve as his office for the transaction of business. This office shall be the place where his license is displayed and where personal consultations are held.

"No real estate license authorizes the licensee to do business except from the location stipulated in the real estate license.

"Notice in writing shall be given the Commissioner of change of business location of a real estate broker, whereupon the Commissioner shall issue a new license for the unexpired period. The change or abandonment of a business location without notification to the Commissioner shall automatically cancel the license theretofore issued."

Whenever a licensee indicates a change of address on his renewal application, which change has not previously been brought to the attention of the Commissioner, it gives rise to some question as to whether the licensee has moved some time previously and failed to notify the Commissioner promptly. When the office location is moved as of July 1st, it is well to write a note of explanation and submit it with the renewal application.

If your office address change is effective as of July 1st there is no dollar fee required.

Your renewal application form, attached to your license for the current year, contains your name, address and name of employing broker (in case of a salesman). Check them carefully and correct any mistakes in spelling of names and address before submitting them with fee.

FICTITIOUS NAMES

Reasonable control of the use of fictitious names by real estate and business opportunity brokers has been the aim of the Division of Real Estate for many years. Because of the many various circumstances which arise in connection with their use, it has been difficult to adopt hard and fast rules to apply in all cases. The test as to whether or not a broker may use any particular fictitious name is whether or not it is against public interest.

Section 2727 of the Real Estate Commissioner's regulations (Title 10, Chapter 6, California Administrative Code) provides:

"The commissioner may determine if a license shall be issued under a particular fictitious name. The division shall not issue a license under the same fictitious business name to more than one licensee in the State."

Occasionally complaint is received that a new broker in the business has adopted and been licensed under a fictitious name similar to one already in use, and therefore may be misleading the public into believing that it is dealing with the old established firm. In such cases the commissioner must ascertain all the facts and determine whether or not use of the fictitious name is fair. Each such case must have individual analysis.

Recently, in answer to inquiries by the commissioner, the Attorney General rendered an opinion clarifying the commissioner's position in the control of the use of fictitious names. Following are the questions propounded and a summary of the answers received:

1. *Question:* Does the commissioner have full power to grant an applicant permission to use a particular fictitious name?

Answer: It is the opinion of the Attorney General that the commissioner has this authority, and also has the right to require applicants to disclose the fictitious name or names under which they propose to do business, and also require a licensee to do business under no other fictitious name than that specified in his license.

2. *Question:* If Broker A and Broker B, each individually licensed at the same address but denying partnership, apply to do business under the same fictitious name, can such request be denied?

Answer: The answer is in the affirmative.

3. *Question:* If Broker A and Broker B, as described in the previous question, can be refused identical fictitious names on their licenses, can either broker be licensed with a fictitious name which embodies the name of the other broker?

DON'T OVERPAY

Recently the division refunded checks numbering 3,599, totaling over \$11,000, to licensees who had overpaid various fees. This involves a great deal of bookkeeping and clerical work at a time when the staff work load is heavy anyway.

Most of these refunds were necessary because brokers would send in \$2 in cases where only \$1 fee was required, such as in changing their office address, reinstating licenses, etc., or because salesmen sent in \$2 instead of \$1 when transferring from one broker to another. There are also numerous cases where fees were short, making it necessary to undertake much correspondence. More care in these matters will be appreciated and often save the licensee some money.

Los Angeles Office to Move

The Los Angeles office of the division has been given notice to vacate its quarters on the sixth floor of the Union Bank Building, Eighth and Hill Streets, prior to December 1, 1947. The bank requires the space now occupied by the division for its own use.

In this connection, the commissioner will appreciate the cooperation of all brokers in locating suitable new quarters. The office at present occupies approximately 3,900 square feet of floor space, but due to rather cramped quarters could use 5,000 to 6,000 square feet.

The commissioner points out that it is not necessary for the Los Angeles Office to be quartered in a downtown office building located in the best retail district. Locations somewhat removed from the main district might be considered, although these should not be too far out. A ground floor location might be used.

Answer: We believe you may refuse to issue the license in the described situation.

4. *Question:* Can the commissioner on his own initiative withdraw permission of a licensee to do business under a fictitious name when he believes continued use of such name to be against the best interests of the public or the real estate business?

Answer: The commissioner may institute suspension or revocation proceedings only when it appears that the particular use of a fictitious name or some other activity of the broker constitutes conduct in violation of the Real Estate Law.

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