

REAL ESTATE BULLETIN

CALIFORNIA DIVISION OF REAL ESTATE

EARL WARREN, Governor

THIRD QUARTER

HUBERT B. SCUDDER, Commissioner

CHANGES MADE IN REAL ESTATE LAW

Conferences Result in Simplification of Law; Amendments Will Affect Nearly All Licensees

The California Real Estate Law was amended by the 1947 session of the Legislature. These amendments were in the interest of simplifying and clarifying the law and its administration by the Division of Real Estate.

Conferences throughout the State were held with the California Real Estate Association, real estate boards and individuals to determine what legislation was desirable.

Three bills sponsored by the division were introduced by Senator Arthur H. Breed, Jr., of Alameda County. One additional bill enacted relative to subdivided lands included provisions which were acceptable to the commissioner.

As these amendments will affect real estate, business opportunity, cemetery and mineral, oil and gas licensees of the division, they are summarized below for your benefit. It is urged that you carefully note the changes effected.

License Fees

Amendments to the Real Estate Law in reference to fees will become effective September 19, 1947. The total fees collected should not change materially, but the changes will result in a simpler and more uniform schedule.

The basic changes are:

1. Original applications require an "original license fee." This fee is not broken down into charges for license and examination. It is a license fee which entitles the applicant to the first examination.
2. Fees, when paid are not refundable.
3. Separate charges are made for all re-examinations.

The new fee schedule will be as follows:

Brokers

- \$20 (a) Original license fee including first examination for all broker applicants (including corporation and partnership licenses)
(b) Re-examination for mineral, oil and gas brokers only.
- \$10 Re-examination for broker applicants (except mineral, oil and gas brokers)
- \$5 (a) Renewal of broker licenses (except late application which requires a double fee)
(b) Re-issuance of a revoked license.
(c) Corporation or partnership licenses where officer or partner is licensed as a broker at time of application.
- \$1 For each branch office, for changes of name, address, transfer of salesmen, duplicate licenses or reinstatement of a cancelled license within the license year.

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LICENSE RECORDS

At the end of the 1946-47 license period, which terminated June 30th last, 77,500 licenses had been issued during the year by the division of Real Estate, 70,662 of which were real estate licenses. Figures are not yet available on the total number that will be renewed. Many will renew their licenses by paying the penalty fee. The total number of licensees as of August 1, 1947, was 61,600. Of these 500 were filed after June 30th and required a penalty fee.

This is a remarkable renewal record when one considers that over 2,000 provisional licenses which were not renewable were issued in 1946-47. Besides, many new licensees took out salesman's licenses and afterwards qualified as brokers, automatically dropping the salesman's license. This, together with removals and deaths, accounted for many more non-renewals.

The commissioner wishes to point out that those who failed to renew by June 30th may renew at any time during the present license year which ends June 30, 1948. They will, of course, have to pay a penalty of double the fee; namely, \$10 for brokers and \$4 for salesmen. After June 30, 1948, the renewal right on this year's licenses terminates. If they then wish another license, they will be considered new applicants and must pay the original license fee and qualify by examination.

NOTE: You must possess a 1947-48 license to transact business.

The following notice is reproduced because it is of vital importance to Real Estate Brokers and Salesmen. Your efforts to increase the individual thoughtfulness in reference to fire can materially contribute to this essential protection of our natural resources.

KEEP CALIFORNIA GREEN AND GOLDEN



Many people do not realize the great danger of forest, watershed and range fires in California. From mid-spring to late fall the State is dry and fires start easily along roadsides and in grass, wooded, and forest areas.

If you smoke, be sure to put out your matches, cigarettes, cigars, or pipe ashes before discarding them. Careless SMOKERS and CAMPERS caused 4,500 fires last year and one-third of those fires started along the roadsides.



Please be careful at all times and help protect our range, watershed, and forest lands from destruction.

California Fire Prevention Committee

Salesmen

- \$5 (a) Original license fee for all salesman applicants (includes first examination)
- (b) Re-examination for salesmen.
- \$2 Renewal of salesman license (except late application which requires a double fee).
- \$1 For changes of address, name, broker and for duplicate licenses, reinstatement of cancelled licenses within the license year.

Partnership and Corporation

The renewal fees for a corporation broker license will hereafter be \$5 including the president (or in case of cemetery licensees, any designated officer), and \$5 for each additional licensed officer of the corporation. Formerly, the renewal fee was \$5 plus \$2 for each additional licensed officer. Similarly with partnerships, the renewal fee is \$5 which includes one partner and each additional licensed partner must pay a renewal fee of \$5.

General

It will be noted that there has been a reduction in the original real estate salesman's license fee, as he will henceforth pay \$5, instead of \$2 license and \$5 examination fees as formerly. The total combined business opportunity salesman's fee will be reduced \$4.50, as he formerly was required to pay \$9.50 which included \$2 license fee and \$7.50 examination fee.

It will be noted that a fee must be paid for each re-examination, where formerly no additional fee was charged. In case of a broker, the re-examination will be \$10 (except mineral, oil and gas broker, where this re-examination fee is \$20). Re-examination fee for a salesman's license is \$5.

As previously mentioned, fees for real estate, business opportunity and cemetery broker and salesman licenses are now uniform.

Another important provision protects brokers and salesmen who file their renewals *correctly and on time*, even though their licenses are not received by them prior to July 1st. This provision specifically states that they are entitled to operate pending receipt of their licenses

Provisions of the present law relative to reinstatement of expired licenses have been clarified. If a license has expired and application for reinstatement of such a license is not filed within one year of expiration, the applicant must file as an original applicant and pay the appropriate fee and pass an examination.

Out-of-state Licensees

Another amendment to the law requires that all nonresident applicants for license as California real estate brokers must file with the Real Estate Commissioner an irrevocable consent that a valid service may be made upon them by delivering the process to the Secretary of State if personal service cannot be made. Under other provisions of the present law, such applicants must maintain a definite place of business in the State of California and comply with all other requirements of the law.

Subdivisions

Section 11000 of the Real Estate Law now reads:

“ ‘Subdivided lands’ and ‘subdivision’ refer to improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into five or more lots or parcels.”

The words “improved or unimproved” were inserted to clarify the definition of a subdivision. This particular amendment was made an “urgency measure,” and took effect immediately upon signature by the Governor, May 31, 1947.

Another amendment, Assembly Bill No. 1830, effective September 19, 1947, establishes an exception in the definition of subdivisions exempting large acreages, as follows:

“ ‘Subdivided lands’ and ‘subdivision’ refer to improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into five or more lots or parcels; provided, however, that land or lands sold by lots or parcels of not less than 160 acres which are designated by such lot or parcel description by government surveys and appear as such on the current assessment roll of the county in which such land or lands are situated shall not be deemed to be ‘subdivided lands’ or ‘a subdivision’ within the meaning of this section, unless such land or lands are divided or proposed to be divided for the purpose of sale for oil and gas purposes, in which case such land or lands shall be deemed to be ‘subdivided lands’ or ‘a subdivision’ within the meaning of this section.”

WHO IS YOUR PRINCIPAL?

The law requires that the agent shall serve his principal faithfully and work for his best interests. In determining who your principal is, consider who has requested you to perform a service and who has agreed to pay you for those services.

In the case of an average home listing, the seller of the property authorizes the broker to perform a service and agrees to pay him a contingent fee or commission based upon the sale. While the Realtors' Code of Ethics admonishes agents to act fairly with the buyer in such cases, this by no means signifies that the broker is to place the interests of the buyer above those of the seller, who is his principal. Recently a prominent and respected real estate broker discovered that one of his salesmen had tried to purchase for his own benefit one of the office listings which appeared to be an exceptionally good buy. The salesman was accused of taking title in the name of a dummy in order that the seller would not discover that he was to secure an interest in the property. When the employing broker discovered this act, he immediately censured the salesman and insisted that a buyer with whom the salesman was negotiating at an advanced price, be given the property at the original listing price.

The broker was undoubtedly acting in good faith according to his best knowledge, but he failed to recognize the important point that he owed his first duty to the seller and should have given the seller the benefit of the increased price the buyer was willing to pay. By so doing, he violated an important rule of agency.

Naturally, you wish to be fair to every party to the transaction, but remember that the party who employs you should receive first consideration.

National Convention

The annual Convention of the National Association of Real Estate Boards will be held in San Francisco November 11-14, 1947. Those expecting to attend the sessions are already making hotel reservations.

The Honolulu Realty Board has made arrangements for a post convention air excursion to Honolulu, allowing for a three-day visit.

NEW RENT CONTROL ACT

Since the signing of the Housing and Rent Control Act of 1947 by President Truman, there seems to have been some confusion as to the present status of rent control. Some of the highlights of the new measure are published herewith as they may be helpful to brokers and salesmen. This summary was received from the Los Angeles Realty Board and based upon information furnished by the Area Rent Director.

1. Any increase in rents under the new rent control extension law will be granted only through a voluntary lease signed by both the landlord and the tenant; such a lease will freeze the tenant's rent at an increase of not more than 15 percent through December 31, 1948. The lease must be executed on or before December 31, 1947.
2. A tenant who does not wish to sign a lease allowing a 15 percent boost is not required to do so, and his rent will remain at its present level through February 29, 1948; however, those who do not sign leases will be protected by rent control only through next February 29th, when the new rent control law expires.
3. Voluntary lease entered into by the tenant will be noncancellable by the landlord until its effective date of expiration; the lease may, however, provide that the tenant can terminate the lease at his option before the expiration date.
4. The lease must take effect or commence after July 1, 1947, the effective date of the Housing and Rent Act of 1947.
5. The landlord must file a copy of the signed lease with the Area Rent Office within 15 days after the lease is executed; the lease must be accompanied by the proper form, to be provided by the Area Rent Office.
6. Under the new bill, jurisdiction over evictions returns to local courts; however, eviction is not permissible as long as tenant pays his rent, unless he violates his tenancy under state law, commits a nuisance, or uses the dwelling for immoral or illegal purposes or for other than living purposes. In addition a landlord may evict if, in good faith, he seeks possession for his immediate personal use or if he contracts in writing to sell his house to a purchaser for the purchaser's use as a dwelling. Eviction also may be granted if the landlord seeks possession of his house for the purpose of substantially altering, remodeling, or demolishing it in order to replace it with a new construction.

LOS ANGELES OFFICE MOVES

On July 1st the Los Angeles office of the division was moved from the 6th floor in the Union Bank Building to the

11th floor in the Ninth and Hill Building, 315 W. Ninth Street, Los Angeles 15. The move was made after working hours and the office was open the next day for service.

TIME LIMIT FOR RECONVEYANCE

Assembly Bill No. 2502, Burke, designed to put teeth into Section 2941 of the Civil Code becomes effective September 19, 1947.

Section 2941, before amendment by Assemblyman Burke's bill, allowed damages for the mortgagor and a forfeit of \$100 to him by the mortgagee who failed to deliver a certificate of discharge or record a satisfaction of a satisfied mortgage. The section omitted any mention of recourse in the event of failure to reconvey when a deed of trust had been satisfied.

A great many brokers have been unaware of the silence of the law in this respect. Some, so it has been reported, have been drastically inconvenienced and financially hurt by failure of the beneficiary to act for reconveyance.

The section, as amended, sets a specific time limit of 30 days from date of satisfaction of instrument and demand, for clearing a mortgage or presenting the beneficiary's request to the trustee for full reconveyance pursuant to the terms of the deed of trust. Failure to do so evokes a penalty of \$300 payable to the mortgagor, owner, or trustor. Further, the mortgagee or beneficiary is liable for any damages which may have been sustained by reason of his refusal to perform.

LICENSE FOR ESCROW AGENCIES

The 1947 Legislature passed a bill which was signed by Governor Warren providing that the Corporation Commissioner will license escrow agencies. This law is necessarily of interest to real estate brokers who entrust their escrows to a third party. The law exempts banks, trust companies, building and loan associations, insurance companies, licensed attorneys not actively engaged in conducting an escrow agency, title companies, and any company, broker or agent subject to the jurisdiction of the Real Estate Commissioner while performing acts in the course of or incidental to the real estate business.

Did You Sign Your Renewal Application?

The renewal license period is a busy one for the division, requiring the employment of many temporary employees to clear the applications and issue the nearly 70,000 licenses in the short period of 30 to 40 days. Practically all licenses which did not require correspondence were in the mail July 15, 1947.

The major cause of delayed issuance of licenses is the failure of applicants to sign their applications and, in the case of salesmen, to secure their broker's signature. Other causes are incorrect remittances and confusion of business and residence addresses.

These difficulties are not, however, restricted to renewal applications as incomplete applications occur throughout the year. It is hoped that much of this correspondence may be eliminated through the current revision of all forms of applications and licenses and the simplification of the fee schedule which becomes effective September 19, 1947.

The division appreciates the cooperation that has been so gratifying during the past years and welcomes any suggestions which will improve the service to the licensees and the public.

RESELLING VETERANS' HOMES

The Division of Real Estate has received numerous inquiries from licensees relative to problems encountered in dealing with priority homes originally sold to veteran owners. Since these questions do not ordinarily come within the division's jurisdiction, they should be directed to the Office of the Regional Housing Expediter.

However, through the courtesy of a Los Angeles real estate broker who sent a list of such questions to the Regional Housing Expediter, we herewith quote in part an answer received from the Regional Attorney. This may prove of interest and benefit to brokers, but, in any specific transaction, check carefully for any modifications of rules or policies which may be adopted by the Office of the Regional Housing Expediter.

"As to whether a veteran owner may 'resell his house at any price he wanted to', the rules provide for giving preference at specified maximum sales prices to veterans of World War II in the initial sale and all subsequent sales (except judicial sales).

The seller may not add the cost of improvements which he has made on the property, whether or not they constitute, in whole or in part, his own labor, unless he has first applied for and secured from the Federal Housing Administration an increase in the maximum sales price because of such improvements. . . .

The original financing, title and escrow charges which are customarily borne in the locality, may be paid by the original purchaser without violation of maximum price provisions, but they may not be passed on to subsequent purchasers as part of the purchase price.

The real estate broker's commission may not, as to houses constructed under the provisions of PR-33, be added to the maximum sales price in connection with the original sale. However, in connection with subsequent sales, any normal and customary fees or commissions paid in connection with any previous sales, other than the original sale, may be added to the maximum purchase price. . . .

As to houses constructed under the authority of HEPR-5, any customary brokerage fees or commissions or other incidental charges paid in connection with the particular sale, whether the first or a subsequent sale, may be added to the maximum sales price provided, however, that if such fees, commissions and charges are to be added in the original sale, it is necessary that such items be enumerated in the application, as approved by the Federal Housing Administration. In the second and subsequent sales, any customary brokerage fees or commissions or other incidental charges paid in connection

with the particular current sale may be added to the maximum sales price, whether or not such items were enumerated in the application as approved; however, such fees or commissions or other incidental charges paid in connection with previous sales may not be added. . . .

As to repairs the seller had made while he has owned the house, as distinguished from improvements, neither regulation allows him to add the costs of ordinary maintenance and repair.

As to the interest the seller has paid on his loan against the property while he has owned it, the regulations do not permit the inclusion thereof in the maximum sales price. . . .

If the seller sells a house furnished and where the portion of the price representing the furniture is in excess of the value of the furniture, the rule would be as follows: If the purchase of the furniture were made a condition to the sale of the dwelling, there would be a violation of the maximum sales price limitation under either PR-33 or HEPR-5. If, however, the veteran were given an opportunity to purchase the dwelling without the furniture and the veteran purchased the furniture voluntarily, the purchase of the furniture would be regarded as a separate transaction and would be permissible under either regulation. If the amount paid for the furniture exceeds its reasonable value, such transaction, if it meets the attention of the Compliance Division, would be scrutinized with extreme care since, under such circumstances, it would be very likely that the purchase of the furniture was made a condition of the sale of the dwelling.

PR-33 and HEPR-5 are "policed" as you used the term, by the Compliance Division of the Housing Expediter of the Office of the Housing Expediter, 1206 Santee Street, Los Angeles 15 (Prospect 4711).

As to the reporting of sales, PR-33 is silent in regard thereto. However, paragraph (i) (1) of HEPR-5 requires the seller within 30 days after any sale of such dwelling to fill out in triplicate a sales report form (NHA Form 14-39) and file it with the local area rent office of the OPA and, if such accommodations are not in an area under rent control, the seller must send the original and one signed copy of the form to the nearest OPA area rent office.

A real estate broker who figures in a sale or resale of such dwelling at a consideration above the maximum sales price will be covered by the provisions of paragraph (q) of HEPR-5 and probably by paragraph (n) of PR-33 as a party to an evasion of the maximum sales price provisions. Such a violation would subject such broker to the possibility of a criminal prosecution in the federal court and, upon conviction thereof, to either a substantial fine or imprisonment or both."