



to sellers, the Fourth District concluded that property sellers have no obligation to research local land use ordinances and to advise buyers as to the effect of those ordinances on the property.

On October 26, the California Supreme Court denied the Sweats' petition for review.

RECENT MEETINGS

At the September 22 REAC meeting, DRE staff announced that the 1996 compendium of real estate law will be available in both paperback and computer disk format; a revised version of the Real Estate Reference Book, which has not been updated since 1989, is expected to be completed by mid-1996.

DEPARTMENT OF SAVINGS AND LOAN

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The Department of Savings and Loan (DSL) is headed by a commissioner who has "general supervision over all associations, savings and loan holding companies, service corporations, and other persons" (Financial Code section 8050). DSL is part of the larger Business, Transportation, and Housing Agency. The Savings and Loan Association Law is in sections 5000 through 10050 of the California Financial Code. Departmental regulations are in Chapter 2, Title 10 of the California Code of Regulations (CCR). The Department, which has been recently downsized by the Wilson administration [13:4 CRLR 128], now consists of four employees regulating only eight state-chartered savings and loan institutions, one of which is currently seeking conversion to a federal charter. The DSL staff includes the Interim Commissioner, an examiner, a staff analyst, and a part-time assistant.

Although recent state budgets refer to DSL as the "Office of Savings and Loan," DSL is still officially a department. Its responsibilities technically include licensing, examination, and enforcement, but the trend is away from state chartering of S&L institutions. DSL no longer performs field audits of state-chartered S&Ls, and its enforcement powers have been reduced to reviewing analyses performed by the federal Office of Thrift Supervision.

MAJOR PROJECTS

DSL Pursues Changes to Affirmative Action Regulations. On August 18,

the Department published notice of its intent to amend section 103.121 and repeal section 104.400, Title 10 of the CCR, to effect amendments mandated by Executive Order W-124-95, relating to affirmative action.

Financial Code section 6556 provides that in determining an application for approval to establish a branch office, the Commissioner must assess, among other things, whether the applicant's policies, financial condition, and operations afford a basis for supervisory objection. Section 103.121(a)(2) requires an association which is required to file affirmative action reports under federal law to include in any branch application a description of the progress that it has made in attaining the goals and timetables established in its affirmative action in employment program. Section 103.121(b) provides that in reaching a decision on the branch application, the Commissioner may consider whether that association has an effective affirmative action in employment program, and the association's progress in attaining goals adopted in those programs, based on information contained in examination reports and on information in the association's affirmative action in employment reports filed in accordance with section 104.400. Section 103.121(b) also requires that consideration of the affirmative action in employment reports be given special emphasis when there are competing applicants for a branch facility.

Financial Code section 8151 requires state-licensed S&Ls to make any report that the Commissioner may from time to time require. Section 104.400 provides that each S&L which is required by federal law to file or prepare reports relating to its affirmative action in employment is required to file copies of such reports with the Commissioner.

Executive Order W-124-95, issued by Governor Wilson on June 1, provides that in the interest of promoting equal opportunity and a truly "color-blind" society and eliminating excessive state regulations and requirements, state agencies are required to take action to eliminate state preferential treatment requirements that exceed federal statutory or regulatory, or state statutory requirements (affirmative action measures), to the extent that the elimination would not violate a court order or result in a loss of federal funding.

Accordingly, DSL's proposed amendment would delete the requirement that a branch application describe the progress that an S&L has made in attaining the goals and timetables established in its affirmative action in employment program; delete the provision that states that the

Commissioner may consider whether that S&L has an effective affirmative action in employment program, and the S&L's progress in attaining its affirmative action goals when determining an application for approval to establish a branch; delete the provision which states that consideration of affirmative action in employment reports will be given special emphasis when there are competing applicants for a branch facility; and delete the requirement relating to the filing of affirmative action reports with the Commissioner.

The Department received public comments on these proposed changes until October 3; no public hearing was scheduled. At this writing, the changes await review and approval by the Office of Administrative Law (OAL).

DSL Amends Its Conflict of Interest Code. On June 16, DSL published notice of its intent to amend its conflict of interest code, which is set forth at section 102.300 *et seq.*, Title 10 of the CCR, and requires certain DSL employees in decisionmaking positions to file statements of financial and business interests. The changes remove several job classifications from the code, as those positions no longer exist within DSL. Also, the changes add "Administrator" as a designated position, and assigns a disclosure category of I to that position. Also, because of the changes, there would be no positions in disclosure category III; accordingly, DSL proposed to eliminate that disclosure category and renumber disclosure category IV as disclosure category III.

The Department did not hold a public hearing on these proposed changes; following the 45-day public comment period, DSL adopted the changes, which were approved by OAL on December 15.

LEGISLATION

AB 1482 (Weggeland). The federal Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 permits bank subsidiaries of a bank holding company to act as agents for each other for specified purposes, expands the authorization for interstate banking, and allows interstate bank branching. [15:1 CRLR 103-04; 14:4 CRLR 114] As amended September 5, this bill makes changes to state law regulating the operation of banks to eliminate conflicts with the Act, implement the provisions of the Act, and make related changes. The bill provides that certain of the changes also apply to industrial loan companies, as specified. The bill also enacts provisions to assist in the transition between the existing and revised banking laws. This bill was signed by the Governor on September 28 (Chapter 480, Statutes of 1995).



SB 616 (Marks). Existing law requires banks and other financial institutions to maintain certain information concerning charges and interest on accounts, and to make that information available to the public. Existing law also requires banks and other financial institutions to furnish depositors with statements concerning charges and interest on accounts. As amended May 4, this bill would prohibit a supervised financial organization, defined to include banks, savings associations, savings banks, and credit unions, from charging and collecting deposit item return fees applicable to consumers who deposit checks that are subsequently not honored due to insufficient funds. [S. FI&IT]

SBXX 21 (Kopp), as amended September 5, is intended to ensure that local agencies avoid conflicts of interest when depositing and investing public funds. Under existing law, a bank or a savings and loan association may act as a depository, paying agent, trustee, or fiscal agent for the holding or handling of public funds or securities notwithstanding the fact that a member of the legislative body or an officer or employee of the depositor is an officer, employee, or stockholder of the bank or association, of a holding company that owns any stock of the bank, or of a savings and loan holding company or service corporation of the association. This bill would prohibit a bank or savings and loan association from so acting as a depository, paying agent, trustee, or fiscal agent if the board of directors includes any member of the legislative body of the local agency or any person with investment decisionmaking authority.

Existing law permits all money belonging to, or in the custody of, a local

agency to be invested in specified instruments including negotiable certificates of deposit issued by banks, savings and loan associations, or credit unions. However, existing law prohibits the investment or deposit of local agency funds or funds in the custody of the local agency in negotiable certificates of deposit issued by a credit union if a member of the local legislative body or any of specified local agency employees also serves on the board of directors or certain committees of the credit union issuing the negotiable certificates of deposits. This bill would substitute for an employee any person with investment decisionmaking authority, as specified, would delete service on those committees from the prohibition, and would impose the same prohibition on the investment of those funds in negotiable certificates of deposits issued by banks and savings and loan associations.

Existing law prohibits the deposit of money belonging to, or in the custody of, a local agency in a state or federal credit union if a member of the legislative body of a local agency, or an employee of specified offices of the local agency, also serves on the board of directors, the credit committee, or supervisory committee of the credit union. This bill would substitute for an employee any person with investment decisionmaking authority, as specified, would delete service on those committees from the prohibition, and would additionally provide that funds shall not be deposited in any bank or savings and loan association if the board of directors of the bank or savings and loan association includes any of the same persons. The bill would provide that a local agency may hold investments prohibited under this bill until their maturity dates.

Existing law authorizes the treasurer of a local agency to deposit moneys in, and to enter into contracts with a state or national bank, savings association or federal association, or federal or state credit union unless a member of the local legislative body or any of specified local agency employees also serves on the board of directors or certain committees of the state or federal credit union. This bill would substitute for an employee any person with investment decisionmaking authority, would delete service on those committees from the prohibition, and would make the same prohibition applicable when a member of the local legislative body or any person with investment decisionmaking authority also serves on the board of directors of the bank or savings or federal association.

Existing law permits the deposit of all money belonging to a local agency under the control of any of its officers or employees, other than the treasurer, or a judge or officer of a justice or municipal court, in a state or national bank or state or federal association or state or federal credit union, unless the officer, employee, or judge also serves on the board of directors or certain committees of the credit union. This bill would substitute for an employee any person with investment decisionmaking authority, would delete service on those committees from the prohibition, and would extend that prohibition to cases where the officer, employee, or judge serves on the board of directors of a bank or state or federal association. [A. Desk]



DEPARTMENT OF INDUSTRIAL RELATIONS

CAL-OSHA

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California's Occupational Safety and Health Administration (Cal-OSHA) is part of the cabinet-level Department of Industrial Relations (DIR). The agency administers California's programs ensuring the safety and health of California workers.

Cal-OSHA was created by statute in October 1973 and its authority is outlined

in Labor Code sections 140-49. It is approved and monitored by, and receives some funding from, the federal OSHA. Cal-OSHA's regulations are codified in Titles 8, 24, and 26 of the California Code of Regulations (CCR).

The Occupational Safety and Health Standards Board (OSB) is a quasi-legislative body empowered to adopt, review, amend, and repeal health and safety orders which affect California employers and employees. Under section 6 of the Federal Occupational Safety and Health Act of 1970, California's safety and health stan-

dards must be at least as effective as the federal standards within six months of the adoption of a given federal standard. Current procedures require justification for the adoption of standards more stringent than the federal standards. In addition, OSB may grant interim or permanent variances from occupational safety and health standards to employers who can show that an alternative process would provide equal or superior safety to their employees.

The seven members of the OSB are appointed to four-year terms. Labor Code