



shall be conditioned upon the licensee agreeing in writing to either (1) make the licensee's books, accounts, and files available to the Commissioner in California, or (2) pay the reasonable expenses for travel, meals, and lodging of the Commissioner incurred during any investigation made at the licensee's location outside California. [A. W&M]

SB 307 (Calderon). Existing law provides for the financing of real property and security for repayment of loans by means of a mortgage on real property. As amended March 9, this bill would provide that any homeowner whose home was destroyed because of the Northridge earthquake or November 1993 wildfires, and who is using temporary housing not covered by insurance, may delay payment of principal and interest on a mortgage, and of property taxes and assessments, for a period not to exceed two years, as specified. The bill would provide for repayment of the delayed mortgage payments over the life of the loan, but prohibit the assessment of penalties or interest on the unpaid amount during the period of delay. [A. B&F]

The following bills died in committee: **AB 2151 (Aguiar)**, which would have excluded certain representatives who are licensed real estate professionals from existing law which requires any defined representative of an equity purchaser, deemed to be the agent, employee or both of an equity purchaser, to provide specified proof of real estate licensure and bonding to the equity seller, and certain sworn statements regarding this licensure and bonding to all parties to the contract; **AB 647 (Frazee)**, which would have provided that an application by an aggrieved person to DRE for payment from the Real Estate Recovery Account specify that the application was mailed or delivered to the Department no later than one year after the most recent judgment became final; and **AB 2293 (Frazee)**, which would have—among other things—defined and regulated the sale or lease, or offering for sale or lease, of lots in an "improved out-of-state residential subdivision" and an "improved out-of-state time-share project."

DEPARTMENT OF SAVINGS AND LOAN

Interim Commissioner:
Keith Paul Bishop
(213) 897-8202

The Department of Savings and Loan (DSL) is headed by a commissioner who has "general supervision over all as-

sociations, savings and loan holding companies, service corporations, and other persons" (Financial Code section 8050). 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 three employees and regulates only 15 state-chartered S&L institutions.

LEGISLATION

AB 1923 (Peace). Existing state law provides for the disclosure of certain account charges and deposit information relative to savings associations, credit unions, and industrial loan companies. As amended April 7, this bill repeals those provisions in deference to recent federal regulatory changes. This bill was signed by the Governor on May 9 (Chapter 68, Statutes of 1994).

AB 2830 (Brulte), as amended May 9, contains the provisions formerly in **SB 1145 (Boatwright)**, which was rejected on a 5-4 vote by the Senate Judiciary Committee on January 11. The controversial bill would have superseded California caselaw and permitted supervised financial institutions to charge and collect any fee for late payments, over-the-limit usage, and bounced checks which is stated in its customer credit agreement and "commercially reasonable," defined as "less than or equal to a comparable fee used by at least one of the ten largest lenders headquartered outside of California providing a similar type of open-end credit." [14:1 CRLR 94] Although the bill's sponsors and proponents argued that it would put an end to expensive class action lawsuits against lenders, consumer groups branded it as a backdoor attempt to exempt credit card fees from the Civil Code requirement that penalty fees be reasonably related to the actual costs they are supposed to cover. Not to be outdone, the banking industry promptly amended the provisions of SB 1145 into AB 2830 (Brulte), which is currently pending in the Assembly Judiciary Committee.

SB 1542 (Kopp), as amended April 28, would move DSL from the Business, Transportation and Housing Agency to the Business and Housing Agency, which this bill would create. [A. Trans]

The following is a status update on bills reported in detail in CRLR Vol. 14, No. 1 (Winter 1994) at pages 111-12:

AB 1756 (Tucker), as amended June 9, 1993, would prohibit state, city, and county governments from contracting for

services with financial institutions with \$100 million dollars or more in assets unless those companies file Community Reinvestment Act reports annually with the Treasurer. The Treasurer would be required to annually submit a report to the legislature and to make summaries available to the public. These reports would include specified information regarding the nature of the governance of the companies, and their lending and investment practices, with regard to race, ethnicity, gender, and income of the governing boards and of the recipients of loans and contracts from the institutions. [A. Inactive File]

The following bills died in committee: **SB 202 (Deddeh)**, which would have provided that no savings association or subsidiary thereof, without the prior written consent of the Savings and Loan Commissioner, and except as otherwise permitted by law, shall enter into certain specified transactions; **SB 161 (Deddeh)**, which would have required financial institutions to furnish depositors, if not physically present at the time of the initial deposit into an account, with a statement concerning charges and interest not later than seven business days after the date of the initial deposit; **AB 320 (Burton)**, which would have prescribed a maximum interest rate or finance charge which could be charged on credit card accounts issued by a bank, savings association, or credit union; and **AB 1995 (Archie-Hudson)**, which would have authorized state-chartered banks, savings associations, and credit unions to restructure a loan or extend credit terms and obligations to minority or women business enterprises in accordance with safe and sound financial operations.

LITIGATION

At this writing, the California Supreme Court is reviewing the Second District Court of Appeal's decision in *People v. Charles H. Keating*, 16 Cal. App. 4th 280 (1993). In its ruling, the Second District affirmed a jury verdict in which the former savings and loan boss was found guilty of defrauding 25,000 investors out of \$268 million by persuading them to buy worthless junk bonds instead of government-insured certificates. [12:2&3 CRLR 169]

In his appeal (No. S033855), Keating primarily challenges the trial court's jury instructions stating that Keating could be convicted under theories that he was either the direct seller of false securities in violation of Corporations Code sections 25401 and 25540, or a principal who aided and abetted the violations. Keating was convicted on 17 counts, all violations of



sections 25401 and 25540. The major issue raised by Keating is whether aiding and abetting of a section 25401 crime statutorily exists; Keating claims that criminal liability is restricted to direct offerors and sellers, and that the evidence failed to prove he personally interacted with any of the investors. The Supreme Court unanimously voted to hear Keating's appeal of his state conviction, for which he received a ten-year prison term and a \$250,000 fine. However, even if his state conviction is set aside by the court, Keating must serve a twelve-year term in federal prison based on his January conviction by a federal jury for racketeering, conspiracy, and fraud. [13:4 CRLR 110] At this writing, the matter has been fully briefed; the court has not yet scheduled oral argument.



DEPARTMENT OF INDUSTRIAL RELATIONS

CAL-OSHA

Executive Director:
Steven Jablonsky
(916) 322-3640

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 standards 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 section 140 mandates the composition of the Board, which is comprised of two members from management, two from labor, one from the field of occupational health, one from occupational safety, and one from the general public. At this writing, OSB is functioning with a labor representative vacancy.

The duty to investigate and enforce the safety and health orders rests with the Division of Occupational Safety and Health (DOSH). DOSH issues citations and abatement orders (granting a specific time period for remedying the violation), and levies civil and criminal penalties for serious, willful, and repeated violations. In

addition to making routine investigations, DOSH is required by law to investigate employee complaints and any accident causing serious injury, and to make follow-up inspections at the end of the abatement period.

The Cal-OSHA Consultation Service provides on-site health and safety recommendations to employers who request assistance. Consultants guide employers in adhering to Cal-OSHA standards without the threat of citations or fines.

The Appeals Board adjudicates disputes arising out of the enforcement of Cal-OSHA's standards.

MAJOR PROJECTS

Long-Awaited Ergonomics Standards Proposed by OSB. After seven years of public complaints, political cajoling, and finally a legislative directive, OSB has proposed standards to deal with cumulative trauma disorders (CTDs)—injuries caused by poor workplace design in jobs that require long periods of repetitive physical movement, such as typing and assemblyline work. The incidence of CTD, also called repetitive stress injury, has increased so dramatically in the past decade that it is the leading occupational illness in America. Federal statistics reported 281,000 cases of CTDs in private industry in 1992, up from 22,600 cases in 1982. In California, DIR reports that CTD incidence grew from 13% of all occupational diseases in 1985 to 32% in 1991. Much of this rapid growth has been attributed to the advent of the computer age, with more people working at keyboards all day, or using machinery in a repetitive assemblyline fashion.

In 1987, OSB received a petition from the Communications Workers of America, the Northern California Newspaper Guild, and the Bay Area Typographical Union asking it to adopt standards to regulate the use of video display terminals (VDTs) (computer screens) in the workplace. The petitioners noted the rise in workers' compensation claims for injuries such as repetitive eyestrain and wrist and hand disorders caused by typing in front of a computer screen all day, and asked OSB to require employers to adopt preventive strategies to avoid future injuries. The petitioners noted that the general standards of the Board's then-existing Injury and Illness Prevention Program (IIPP) were