FUTURE MEETINGS:
July 7 in San Diego.
September 29 in Los Angeles.
January 19 in Anaheim.
March 30 in Sacramento.

DEPARTMENT OF SAVINGS AND LOAN

Commissioner: William J. Crawford
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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 holds no regularly scheduled meetings, except when required by the Administrative Procedure Act. The Savings and Loan Association Law is in sections 5000 through 10050 of the California Financial Code. Departmental regulations are in Title 10, Chapter 2, of the California Code of Regulations.

MAJOR PROJECTS:

Proposed Changes to DSL's Public Information Regulations. Changes to DSL's regulatory provisions relating to information which is available to the public were approved by the Office of Administrative Law (OAL) and became effective on February 4. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 79 and Vol. 8, No. 4 (Fall 1988) pp. 89-90 for background information.) The new regulations appear in Chapter 2, Title 10 of the California Code of Regulations (CCR).

Proposed Delayed Funds Availability Regulations. DSL has adopted regulatory changes to repeal sections 106.200-.205 and adopt new sections 106.200-.202, Chapter 2, Title 10 of the CCR, in order to comply with the federal Expedited Funds Availability Act (Title VI of Public Law 100-86, enacted on August 10, 1987). The federal law shortens the hold period which a financial institution may place on checks deposited by customers. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 79; Vol. 8, No. 4 (Fall 1988) pp. 80-81; and Vol. 8, No. 1 (Winter 1988) p. 78 for background information.) The new regulations require savings institutions under DSL's jurisdiction to conform to all funds availability requirements established by the Federal Reserve Board in 12 C.F.R. Part 220 *et seq.* At this writing, these regulations are undergoing review by OAL.

FSLIC Deficit. The national crisis of failing savings and loans continues unabated. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 79 and Vol. 8, No. 4 (Fall 1988) p. 90 for background information.) A report issued in January by the federal General Accounting Office (GAO) revealed that extensive fraud and other criminal behavior may have played a much larger role than has previously been disclosed. The GAO intensively investigated 26 failed or failing institutions—including some of the largest—that were merged, liquidated, or helped by federal regulators. GAO found that fraud or insider abuse existed in every case.

In early February, the GAO told Congress that regulators should take control of the nation's remaining insolvent savings and loan associations—which number at least 350—as soon as Congress settles on a plan to resolve the crisis. The purpose of isolating these institutions from the rest of the industry is to prevent them from competing with healthy institutions. Ailing savings associations offer high interest rates to attract deposits, thus driving up the cost of doing business for the entire industry and endangering healthy institutions. After a rescue plan is finally adopted, regulators should put the 350 institutions in receivership, install new management, and limit permissible activities until a buyer can be found or the institution is liquidated. The GAO advised Congress that the longer troubled institutions are kept open, the higher the total cost will be.

In early February, President Bush unveiled his plan to deal with the savings and loan crisis: the expenditure of $50 billion over the next three years which would be financed by the sale of thirty-year bonds by a new agency whose fiscal activities would not be included in the federal budget. At the same time, savings and loan regulation would be changed to prevent risky investments allowed by some state-charted thrifts such as those in California. No longer would S&Ls be allowed to invest in areas outside of housing such as shopping centers, restaurants, and race horses. Total spending including interest costs is expected to be $148 billion through 1999, but costs for the succeeding twenty years have not been calculated. The plan envisions seizure of 200 currently insolvent associations, plus another 100 or more nearly insolvent ones if Congress approves.

As for structural reform, the Federal Savings and Loan Insurance Corporation (FSLIC) would be separated from the Federal Home Loan Bank Board, with the latter abolished. A single chair, reporting to the Secretary of the Treasury, would charter savings and loans and also savings banks. The FSLIC and the Federal Deposit Insurance Company (FDIC) would be merged administratively into the Savings Association Insurance Fund (SAIF), but their insurance funds would be kept separate. Savings institutions would be prohibited from becoming banks (and thus switching to FDIC) for five years. The proposal would also raise the premiums charged to S&Ls for federal deposit insurance from $.20 per $100 to a maximum of $.75 per $100 in deposits. S&Ls would also have to double the amount of capital backing their loans so that they could meet the current standards required of banks. Finally, civil and criminal penalties for insider abuse by officers of banks and savings institutions would be sharply raised. For example, the new maximum criminal penalty would be twenty years in prison. A Justice Department strike team would be formed to investigate fraud and other criminal behavior.

In early March, Richard Darman, Director of the Office of Management and Budget (OMB), presented the Bush administration's plan for the savings and loan industry. Of the 3,024 institutions in existence in mid-1988, only 1,856 are expected to survive. There were 223 closed or merged in the second half of 1988; 345 are now insolvent; 200 are marginally solvent and likely to fail; and 400 will probably be unable to meet the new capital reserve standards previously mentioned.

In California, 19 savings and loan institutions have been closed or sold since January 1, 1988. For example, Gilbraltar Financial, one of California's ten largest thrift companies, is considered by federal regulators to be in unsound condition, with 1988 losses of approximately $75 million. Gibraltar Savings, with about 85 branch offices in California, has now replaced American Savings as the largest problem thrift in the state. American Savings and Loan of Stockton was sold to a Texas investment group for $350 million in cash, supplemented by an additional $150 million over the next three years. The Federal Home Loan Bank Board will also inject $1.7 billion in federal aid.

Beverly Hills Savings and Loan has been sold to a commercial banking company in Michigan. The financial institution reportedly failed because of bad investments in commercial real estate and in high-yield securities known as junk bonds. Carver Savings and Loan

Association in Escondido has been closed, costing the Federal Home Loan Bank Board $57.3 million. According to DSL Chief Deputy William Davis, most of Carver's problems stemmed from an ill-fated foray into mortgage banking in which the institution was unable to generate and sell mortgages properly.

LEGISLATION:

AB 438 (Lancaster) would exclude certain supervised financial organizations, including banks, savings associations, and credit unions, from current requirements relating to the contents of mortgage contracts, deeds of trust, real estate sales contracts, or any note or negotiable instrument issued in connection with any of these documents used to finance the purchase or construction of real property when the security document or evidence of debts provides for a variable rate of interest. AB 438 is pending in the Assembly Finance and Insurance Committee.

SB 391 (Vuich) would ease the ability of the Savings and Loan Commissioner to take over troubled institutions by removing the requirement for a formal finding of impaired condition before the Commissioner may appoint a conservator. This bill is pending in the Senate Banking and Commerce Committee.

SB 1217 (Beverly) would make several changes in the law governing savings and loan operations, including adopting federal standards for minimum liquidity requirements; requiring that unsound business activities must have been knowing and willful before sanctions may be applied; adding the sanction of prohibiting such an individual from participating in the institution's operations in any way; and permitting the DSL to submit fingerprints of specified persons to law enforcement agencies. This bill is pending in the Senate Banking and Commerce Committee.

SB 1540 (Keene) would allow both federal and state savings and loan institutions to become state chartered savings banks, regulated by the state Banking Department and insured by FDIC rather than the FSLIC. This bill is pending in the Senate Banking and Commerce Committee.

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 government employees at the state and local levels.

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.

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 government 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.

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:

Implementation of Proposition 97. OSB staff is continuing to work toward full restoration of Cal-OSHA, following the November passage of Proposition 97 (see CRLR Vol. 9, No. 1 (Winter 1989) p. 80 and Vol. 8, No. 4 (Fall 1988) p. 91 for background information). At its January 19 meeting, OSB staff reported that funding to augment the current budget was available. Additionally, DIR had sent letters regarding possible re-employment to virtually all employees who left Cal-OSHA since January 1987. At its February 23 meeting, OSB staff noted that the Board was currently authorized to fill 17 positions. OSB staff announced that four former Board safety engineers would be returning to their previous positions. Additionally, two former senior industrial hygienists returned to work for the Board, one working full-time and one working part-time. Also, staff announced that one of the three needed clerical support staff was due to return to work on March 2. Finally, staff announced that it intended to develop a work plan within the next thirty days for adopting the backlog of standards comparable to recently adopted federal standards. In adopting such standards, OSB plans to update those which fell behind during the absence of the private sector worker safety program.

Disapproval of Regulatory Action. On November 23, OSB submitted proposed revisions to Title 8, Boiler and Unfired Pressure Vessel Safety Orders, Article 5, section 779(a) and (b) of the California Code of Regulations (CCR), to the Office of Administrative Law (OAL). (See CRLR Vol. 9, No. 1 (Winter 1989) p. 80 for background information.) The proposed regulatory action would amend the experience and education requirements for certifying inspectors of boiler and pressure vessels to make such requirements consistent with the revised 1988 bylaws of the National Board of