be accompanied by the real estate broker or salesperson license examination fee. This bill was signed by the Governor on September 20 (Chapter 640, Statutes of 1989).

The following bills were made two-year bills, and may be pursued when the legislature reconvenes in January: AB 339 (Hauser), which would require any person intending to offer subdivided land for sale or lease to disclose to DRE whether the adjacent land is zoned for timberland production; SB 1216 (Beverly), which would enact the Real Estate Appraisers Licensing and Certification Law prohibiting a person from engaging in real estate appraisal activity without being licensed by DRE; AB 527 (Hannigan), which, as amended August 29, would enact several regulations regarding real estate appraisals, including the provision that any person acting as a real estate appraiser without a real estate appraiser's license or real estate broker's license would be guilty of a crime, as specified; AB 2242 (Costa), which would include within the list of acts requiring licensure as a real estate broker, assisting or offering to assist another in filing an application for conducting a business or offering services in connection with a loan secured by a lien on real property shall inure to the owner on the loan. This bill was signed by the Governor on September 6 (Chapter 305, Statutes of 1989).

SB 251 (Craven), as amended September 1, makes several changes in the current law governing real property securities and mortgage brokers. This bill, among other things, deletes the prohibition against the payment of interest on specified funds retained by real estate brokers pursuant to the terms of a promissory note or real property contract. This bill was signed by the Governor on October 1 (Chapter 1275, Statutes of 1989).

SB 1128 (Green) requires a prescribed general notice on balloon payments to be included in written disclosures by real estate brokers who negotiate loans to be secured by a dwelling. This bill was signed by the Governor on September 15 (Chapter 493, Statutes of 1989).

SB 743 (Seymour), as amended June 15, makes it a crime to knowingly make, issue, publish, deliver, or transfer as true and genuine any subdivision public report which is false, forged, altered, or counterfeit, or to make or participate in the making, issuance, delivery, transfer, or publication of a public report with knowledge that it is forged, altered, false, or counterfeit. This bill was signed by the Governor on September 6 (Chapter 296, Statutes of 1989).

SB 1316 (Seymour). Existing law requires a real estate broker to retain for three years copies of certain documents and to make such documents available for examination and inspection by the Commissioner of Real Estate or his/her designated representative, as specified. As amended July 17, this bill provides that these documents are to be made available for copying as well as examination and inspection. This bill also specifies that an application for the real estate broker license examination must be made in writing to the Commissioner and specifies that the Commissioner may prescribe the format and content of the broker or salesperson examination application. This bill specifies that the application for the broker or salesperson examination must be accompanied by the real estate broker or salesperson license examination fee. This bill was signed by the Governor on September 20 (Chapter 640, Statutes of 1989).

The following bills were made two-year bills, and may be pursued when the legislature reconvenes in January: AB 339 (Hauser), which would require any person intending to offer subdivided land for sale or lease to disclose to DRE whether the adjacent land is zoned for timberland production; SB 1216 (Beverly), which would enact the Real Estate Appraisers Licensing and Certification Law prohibiting a person from engaging in real estate appraisal activity without being licensed by DRE; AB 527 (Hannigan), which, as amended August 29, would enact several regulations regarding real estate appraisals, including the provision that any person acting as a real estate appraiser without a real estate appraiser's license or real estate broker's license would be guilty of a crime, as specified; AB 2242 (Costa), which would include within the list of acts requiring licensure as a real estate broker, assisting or offering to assist another in filing an application for conducting a business opportunity upon lands owned by the state or federal government; SB 910 (Vuiich), which, as amended August 21, would appropriate $730,000 from the Education and Research Account in the Real Estate Fund to DRE as an advance, repayable as specified, in order to establish a regulatory structure for the licensing and certification of real estate appraisers; and SB 988 (Beverly), which would expand certain exemptions regarding real estate licenses to include bank subsidiaries, bank holding companies and their subsidiaries, savings banks and their subsidiaries, subsidiaries of savings and loan associations, holding companies of savings banks and savings and loan associations, and subsidiaries of those holding companies.

FUTURE MEETINGS:
January 19 in Anaheim.

DEPARTMENT OF SAVINGS AND LOAN
Commissioner: William J. Crawford
(415) 557-3666
(213) 736-2798

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:
Federal Bailout Bill Signed. On August 9, President Bush signed the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), a sweeping savings and loan industry reform bill which is expected to cost over $166 billion over the next ten years, and a total of $306 billion over the next 33 years. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 90; Vol. 9, No. 2 (Spring 1989) p. 90; Vol. 9, No. 1 (Winter 1989) p. 79 for background information.)

The bill, which completely overhauls the federal regulatory and insurance frameworks and requires thrifts to abandon speculative investments which have nearly destroyed the industry, authorizes state and federal regulators to close down or sell more than 500 insolvent S&Ls. The bill abolishes the Federal Home Loan Bank Board, which formerly regulated the nation’s S&Ls, and creates the Office of Thrift Supervision in its place. The bill also created the Resolution Trust Corporation, which will close off and sell the assets of the nation’s failed associations under management of the Federal Deposit Insurance Corporation (FDIC). The bill also creates the Savings Association Insurance Fund (SAIF) to replace the Federal Savings and Loan Insurance Corporation, which is now depleted. Higher premiums from S&Ls will replenish the SAIF.

Among other things, the bill more than doubles previous capital requirements (which is intended to force S&L investors to put up more of their own money in order to receive deposit insurance, and discourage risky investments); prohibits any thrift from investing in low-rated corporate debt securities (“junk bonds”); requires that 70% of an institution’s loans go toward housing and housing-related investments; and raises civil penalties for wrongdoing by officers and directors of insured institutions to $1 million per day.

The virtual collapse of the savings and loan industry is being blamed on a variety of sources. The Reagan administration is faulted for cutting back on thrift regulation and encouraging thrift owners to pursue high-risk investments in order to buy themselves out of debt.
State regulators, especially in California and Texas, also encouraged risky practices. Congress neglected to probe the problem. Eventually, fraud became widespread in the industry.

State S&L Woes. State officials in California are awash in scandal emanating from the failure of the Irvine-based Lincoln Savings and Loan Association. Federal regulators seized Lincoln on April 14, the day after its parent company, American Continental Company, filed for Chapter 11 bankruptcy in Arizona. In August, federal regulators declared Lincoln insolvent and put it in receivership. The projected cost to taxpayers from the sale or closure of Lincoln is $2.5 billion. These losses significantly overshadow the $230.9 million aggregate earnings of California S&Ls reported in the first quarter of 1989, which had been considered an indication of the relative health of the California thrift industry compared to other states. The magnitude of Lincoln's losses is now expected to make it the costliest thrift failure in the country.

The Lincoln Savings failure is shaping up as a case study in the variety of factors contributing to the near-collapse of the thrift industry. Fraud and risky investments nurtured in an environment of relaxed state regulation appear to be the primary reasons for Lincoln's failure. Lincoln had turned away from making traditional home loans in favor of funding large real estate developments, a new direction permitted under federal deregulation in the industry which allowed S&Ls to invest federally insured deposits in a variety of risky ventures. At this writing, the role of state regulators and politicians is as yet undetermined, but is being investigated.

LEGISLATION:
The following is a status update on bills described in detail in CRLR Vol. 9, No. 3 (Summer 1989) at pages 90-92:

- **AB 438 (Lancaster)**, which exempts banks, savings associations, and credit unions from existing 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 certain real property, was signed by the Governor on July 20 (Chapter 188, Statutes of 1989).

- **SB 1217 (Beverly)**. Current law authorizes commercial banks and savings associations to obtain specified criminal record information on prospective employees by submitting fingerprints to the Department of Justice or a local law enforcement agency. These financial institutions are authorized to deny employment on the basis of unreasonable risk to the institution or its customers. As amended August 21, this bill makes these provisions applicable to affiliates of banks and subsidiaries and affiliates of savings associations as well. This bill, which also includes numerous provisions outlined in CRLR Vol. 9, No. 3 (Summer 1989) at page 91, was signed by the Governor on September 25 (Chapter 868, Statutes of 1989).

The following bills were made two-year bills, and may be pursued when the legislature reconvenes in January:

- **SB 1213 (Keene)**, which, as amended August 21, would expressly exempt, until January 1, 1992, those persons or employees thereof doing business under any law relating to bank subsidiaries, bank holding companies and their subsidiaries, savings banks or savings associations and their subsidiaries, and savings bank or savings association holding companies and their subsidiaries from the application of specified provisions of law relating to prohibited real estate acts; **AB 643 (Calderon)**, which would require banks, credit unions, savings associations, and industrial loan companies to provide handicapped access to automated teller machines after July 1, 1990; **AB 2401 (Chacon)**, which would provide tax credits for banks, savings and loan institutions, and mortgage lenders equal to the amount of interest and fee income earned from loans which are secured by residential property located in a low-income area within the state; **AB 2452 (Bane)**, which would make investments by savings and loan associations or savings banks subject to authorization by specific provisions of law if the investment has not received previous approval in writing by the Savings and Loan Commissioner; **SB 476 (Robbins)**, which would specify that time deposits include certificates of deposit; **SB 590 (Vuich)**, which would make technical, clarifying changes in provisions specifying the maximum percentage of assets that an association may invest in particular loans for agriculture, business, commercial, or corporate purposes; **SB 988 (Beverly)**, which would expand the list of specified financial institutions which are exempted, under current law, from real estate licensure and certain provisions applicable to real estate brokers and real estate securities dealers, to include bank subsidiaries, bank holding companies and their subsidiaries, savings banks and their subsidiaries, savings and loan association subsidiaries, holding companies of savings banks and savings and loan associations, and subsidiaries of those holding companies; **SJR 21 (Watson)**, which memorializes the President and Congress to include anti-redlining provisions in any bailout of savings and loan associations; and **SB 1540 (Keene)**, which would create a new division in the Financial Code providing for the establishment, operation, and supervision of California savings banks, as defined and specified, to take effect January 1, 1991.

LITIGATION:
On June 8, Attorney General John Van de Kamp issued an opinion concluding that DSL may copy and furnish to other governmental agencies, without the permission of the copyright holder, copyrighted materials prepared in connection with an audit of a savings and loan association and received by DSL in the normal course of the performance of its statutory duties. Under current law, every S&L doing business in the state must have an annual audit of its books and accounts performed at its own expense and must file the audit report together with certified financial statements with the DSL Commissioner. Any information acquired by the Commissioner or the Department in this manner is confidential, but the Commissioner may disclose it on a limited basis to other governmental agencies which are responsible for supervising financial institutions or investigating unsafe or unsound business practices, and to state, local, and federal law enforcement agencies.

The federal Copyright Act of 1976 provides that a copyright holder has exclusive rights of controlling reproduction, adaptation, publication, performance, and display of the copyrighted materials with the exception that any individual may reproduce a copyrighted work for a "fair use". Regarding certain copyright-protected materials submitted to DSL in connection with a required audit, the Attorney General employed the "fair use" doctrine codified in the federal copyright statute, and determined that copyright-protected documents submitted and used by the Department constitutes a "fair use" which does not violate the Copyright Act. In weighing the public interest served by DSL's audits, whose purpose is to test the financial integrity of savings and loan associations, against the lack of economic harm to the copyright holder due to the absence of harm to any commercial market for the work, the Attorney General concluded that the Department's statutory use of the documents is in fact a "fair use" under federal law.