The California Regulatory Law Reporter  Vol. 8, No. 3 (Summer 1988)
initiated to monitor continuing education offerings for compliance with DRE regulations. DRE employees have monitored approximately forty offerings statewide since January 1987. The monitors have paid particular attention to potential irregularities which include lack of proper attendance controls, radical digressions from the approved content of the offering, and questionable test administration procedures.

The DRE reported that of those classes monitored, the most frequently observed problems involve failure to properly verify attendee identification and failure to properly administer the closed-book final examination. Other problems include shortening the approved instruction time, observed cheating during the final examination, and extensive "sales pitches" during the approved instruction time.

When a problem is detected, the DRE normally writes a letter to the sponsor offering the course, citing the problem and requesting a response regarding the corrective actions which will be taken to prevent recurrence of the problem. In some instances the problem is directed to the appropriate DRE district office for further investigation. The DRE may decertify an offering if the sponsor does not correct the problem.

**Lender Referral Fees.** The real estate industry and lenders have voiced growing concern over whether real estate agents should solicit or accept fees for referring clients to lenders. The Federal Housing Administration (FHA) and the Veterans' Administration (VA) believe that the practice is illegal. However, real estate agents have expressed mixed feelings. Some realtors have described the referrals as "kickbacks," claiming that they demean the real estate industry and are costly to consumers. CAR and the National Association of Realtors are still examining the issue.

The federal Department of Housing and Urban Development (HUD) has taken the position that the Real Estate Settlement Procedures Act prohibits lenders from giving "anything of value" in exchange for referrals. However, the chief counsel for the DRE has stated that California state law does not prohibit a real estate licensee from accepting compensation from a lender for a referral if such compensation is disclosed to the client. The chief counsel did state, however, that federal law on the issue would preempt the state statute.

There is still uncertainty over whether mortgage loan activities are "home settlement procedures," as defined by federal regulations which include the anti-kickback statute. Currently there is a movement for further clarification of this issue.

**LEGISLATION:**

SB 2640 (Vuich), as amended April 11, would amend section 10232 of the Business and Professions Code, which requires real estate brokers intending or reasonably anticipating, during a successive twelve-month period, to negotiate twenty or more specified transactions in an aggregate amount of more than $2 million to file specified reports to the DRE. Under this bill, the reporting requirements would be triggered if the broker expects to negotiate ten or more loans in an aggregate value of $1 million. This bill would also impose specified penalties for late filing of reports and would provide that failure of a broker to pay such fines is grounds for license suspension or revocation. SB 2640 passed the Senate on May 27 and is pending in the Assembly Committee on Finance and Insurance.

AB 4258 (McClimontock) would clarify and make more specific the exemption from the broker licensing requirements for clerical help. This bill passed the Assembly on May 12 and is pending in the Senate Business and Professions Committee.

SB 2258 (C. Green), as amended, would require that the location of existing and proposed freeways be included in the notice of intention for a subdivision, offered for sale or lease within a city or county which has adopted an ordinance making the bill applicable. The bill passed the Senate on June 9 and is pending in the Assembly Committee on Housing and Community Development.

SB 1891 (Seymour) would permit the Commissioner to require proof concerning the honesty and truthfulness of the directors or persons owning more than 10% of the stock in any corporation making application for a real estate license. The bill would also authorize license revocation or suspension for any corporate licensee or applicant if an officer, director, or person owning more than 10% of the corporation's stock has committed any acts specifically prohibited under existing law. This bill is pending in the Assembly Ways and Means Committee.

AB 981 (Cortese), as amended, provides that for purposes of approvals under the Subdivision Map Act or the Professional Land Surveyors' Act, the land surveying functions of a city engineer may be performed by a city surveyor if that position is created by the local agency. Also, this bill requires the certificate for the final subdivision map to be signed, indicating the license or registration number of the registered civil engineer or licensed land surveyor approving the official map. This bill was signed by the Governor in May (Chapter 100, Statutes of 1988).

SB 1890 (Seymour) would revise the provision regarding non-transportation expenses of an inspection of an out-of-state subdivision intended to be offered for sale or lease in this state. This bill would also make sales of interests in undivided-interest subdivisions subject to a three-day right of rescission, with the owner required to inform purchasers of this right. SB 1890 has passed the Senate and is pending in the Assembly Ways and Means Committee.

The following is a status update on bills discussed in detail in CRLR Vol. 8, No. 2 (Spring 1988) at pages 89-90:

**SB 2521 (Beverly),** which would specify fee information required to be included in orders appointing receivers, is pending in the Senate Appropriations Committee.

**AB 3027 (Lancaster),** as amended, would specify maximum fees for real estate broker and salesperson licensure. The bill passed the Assembly on May 23 and is pending in the Senate Business and Professions Committee.

**AB 3114 (Lancaster),** which would repeal a specified prohibition involving commercial bank lending, passed the Assembly on April 17 and is pending in the Senate Committee on Banking and Commerce.

**AB 2803 (Spier),** requiring delivery of a loan appraisal to a loan applicant, as specified, has been dropped.

**AB 2781 (Costa) has been referred to the Senate Committee on Housing and Urban Affairs.**

**2185 (Wright),** concerning contracts for membership camping, is pending in the Senate Judiciary Committee.

**FUTURE MEETINGS:**

To be announced.