



REGULATORY AGENCY ACTION

refusing to issue such a policy of insurance based solely on the age of the automobile. This bill is pending in the Senate Committee on Insurance, Claims and Corporations.

AB 1205 (Waters) would have created the California Insurance Commission, but died in committee.

AB 1190 (Waters) would have removed the current exemption from anti-trust laws enjoyed by the insurance industry and created a no-fault insurance program called the California Motor Vehicle Repairs Act. The bill died in committee.

AB 2220 (Waters) contained a ban against discriminatory underwriting policies by insurers, and would have authorized increased penalties for insurance fraud. It died in committee.

AB 2787 (Waters). Existing law does not require health care service plans and other group insurance programs to offer treatment for infertility. This bill would require that infertility treatment be offered. The bill has been referred to the Assembly Finance and Insurance Committee.

AB 2900 (Johnston). Current law prohibits the use of AIDS blood tests for the determination of insurability. This bill would remove that prohibition, and authorize health care service plans, nonprofit hospital service plans, and life and disability insurers to establish mandatory and uniform minimum requirements for assessing AIDS risk for purposes of determining insurability. It would become operative only if AB 600 is enacted and becomes operative on or before January 1, 1989. This bill also indefinitely extends the Insurance Information and Privacy Protection Act, which governs the collection, use, and disclosure of information gathered in connection with insurance transactions. The bill is pending in the Assembly Committee on Finance and Insurance.

AB 600 (Isenberg), as amended February 29, would establish the California Catastrophic Health Insurance Program, which would provide health insurance to residents of the state who are not otherwise able to obtain health insurance. The bill would establish standards for the scope of coverage, rate limitations, and subscriber eligibility and enrollment.

AB 2845 (Calderon) would establish a no-fault automobile insurance program. It also includes public hearings and prior state approval of auto insurance rates. AB 2845 is pending in the Assembly Committee on Finance and Insurance.

AB 3421 (McClintock) would author-

ize AIDS blood testing for determination of insurability. AB 3421 is also pending in the Assembly Committee on Finance and Insurance.

AB 3798 (Floyd) would require the state to publish a comparison of insurance rates. This bill is pending in the Assembly Committee on Finance and Insurance.

AB 3683 (Frazee) would require insurance companies to reduce premiums for drivers between 18 and 25 years of age who have successfully completed a driving improvement course. AB 3683 is pending in the Assembly Committee on Finance and Insurance.

AB 4036 (Mojonnier) would also end the prohibition against using AIDS to determine a person's insurability. This bill is pending in the Assembly Finance and Insurance Committee.

AB 4460 (Connelly) would require the Insurance Commissioner to consider specified factors in determining whether a reasonable degree of competition exists within certain lines of insurance. This bill would, on and after January 1, 1989, prohibit insurers (with specified exceptions) from using any rate unless the insurer has made a filing with the Department with respect to that rate. Insurers would be required to make a filing for any change in rate; if the change exceeds applicable percentage amounts, it would be required to be approved by the Commissioner, based on specified criteria. The Commissioner would be authorized to hold public hearings concerning those changes. AB 4460 is pending in the Assembly Finance and Insurance Committee.

AB 4317 (Connelly) is very similar to *AB 1108 (Connelly)*, which was vetoed by the Governor last September. AB 4317 would establish standards for insurance policies which supplement Medicare benefits (also known as "medigap" insurance). The bill would require medigap policies to contain a notice that purchasers have a thirty-day examination period during which they may return the policy. The bill would require other specified disclosures in medigap policies; set minimum loss ratios for medigap policies; and require insurers to annually file those loss ratios. AB 4317 is pending in the Assembly Finance and Insurance Committee. (For a comprehensive discussion of medigap insurance issues, see CRLR Vol. 7, No. 1 (Winter 1987) p. 1.)

LITIGATION:

On February 16, the Commissioner announced that a settlement had been reached with the Hartford Group. The

Department of Insurance had initiated an administrative proceeding against seven companies in the group.

Under the settlement, Hartford agreed to pay a \$70,000 fine and to adopt internal procedures to eliminate Department concerns over its ratesetting practices for individual insurance policies. The Department's concerns arose last year in the course of a routine examination of commercial insurers' rating policies. The proceedings by the Department began in October 1987, when the companies were called to a hearing for non-compliance with California regulations.

The companies in the group are: Hartford Fire Insurance Company, Hartford Casualty Insurance Company, Twin City Fire Insurance Company, New York Underwriters Insurance Company, Hartford Accident and Indemnity, New England Insurance Company, and First State Insurance Company.

FUTURE MEETINGS:

To be announced.

DEPARTMENT OF REAL ESTATE

Commissioner: James A. Edmonds (916) 739-3684

The Real Estate Commissioner is appointed by the Governor and is the chief officer of the Department of Real Estate (DRE). The commissioner's principal duties include determining administrative policy and enforcing the Real Estate Law in a manner which achieves maximum protection for purchasers of real property and those persons dealing with a real estate licensee. The commissioner is assisted by the Real Estate Advisory Commission, which is comprised of six brokers and four public members who serve at the commissioner's pleasure. The Real Estate Advisory Commission must conduct at least four public meetings each year. The commissioner receives additional advice from specialized committees in areas of education and research, mortgage lending, subdivision and commercial and business brokerage. Various subcommittees also provide advisory input.

The Department primarily regulates two aspects of the real estate industry: licensees (185,878 salespersons, 89,548 brokers, 15,538 corporations) and subdivisions.

Licensee examinations require a fee of \$25 per salesperson and \$50 per broker. Exam passage rates average 45%



for salespersons and 53% for brokers. License fees for salesperson and broker are \$120 and \$165, respectively. Original licensees are fingerprinted and license renewal is required every four years.

In sales or leases of certain subdivisions, the Department protects the public by requiring that a prospective buyer be given a copy of the "public report." The report contains various disclosure statements relating to title, encumbrances and similar information. Recent legislation mandates that a purchaser be given the latest financial report for the project in addition to governing instruments and disclosure of any delinquent assessments. The commissioner will not issue the public report if the subdivider fails to comply with any provision of subdivision law.

The Department publishes three major publications. The *Real Estate Bulletin* is circulated quarterly as an educational service to all real estate licensees. It contains legislative and regulatory changes, commentaries and advice. In addition, it lists names of licensees against whom disciplinary action, such as license revocation or suspension, is pending. Funding for the *Bulletin* is supplied from a \$2 share of license renewal fees. The paper is mailed to valid license holders.

Two industry handbooks are published by the Department. *Real Estate Law* provides relevant portions of codes affecting real estate practice. The *Reference Book* is an overview of real estate licensing, examination, requirements and practice. Both books are frequently revised and supplemented as needed. Each book sells for \$10.

The California Association of Realtors (CAR), the industry's trade association, is the largest such organization in the state. Approximately 105,000 licensed agents are members. CAR is often the sponsor of legislation affecting the Department of Real Estate. The four public meetings required to be held by the Real Estate Advisory Commission are usually on the same day and in the same location as CAR meetings.

MAJOR PROJECTS:

Real Estate Specialists. Commissioner James A. Edmonds, Jr., has expressed concern about real estate licensees who hold themselves out as a specialist in an area in which they have no training or experience.

Presently, California law does not require a real estate licensee to have any special training or education in those areas of the real estate profession which

are considered to be specialized. Under the present requirements, a real estate licensee may be licensed by the DRE to commence business in a specialized field after the licensee has passed a license examination administered by the DRE, submitted a check to the Department, and received a license.

Commissioner Edmonds recommends that there be some form of prerequisite training and education for those specialized areas in which the licensee desires to conduct business. Commissioner Edmonds also suggests that real estate salespeople who have just received their licenses should not affiliate with a real estate broker and then immediately advertise themselves as a specialist in any brochure, Yellow Pages, or newspaper, without adequate experience and/or training in the subject area.

Finally, Commissioner Edmonds recommends the adoption of a license endorsement procedure whereby an endorsement is issued to the real estate licensee's license after certain prerequisites have been met. These endorsements would identify the licensee's area(s) of specialized knowledge.

Budget and Fiscal Report. For the first quarter of fiscal year 1987-88, DRE revenue received totalled \$5,218,000. This represents an 8.4% increase from the same period in fiscal year 1986-87.

Total DRE expenditures for the first quarter of fiscal year 1987-88 were \$4,677,000. This represents an 11.9% increase as compared to the preceding fiscal year. The increase in expenditures is due primarily to the payment of Recovery Fund claims for that period. The Recovery Fund expenses for the first quarter of 1987-88 were \$700,000, as compared to \$246,000 in the same period in 1986-87.

The DRE's total reserves reported on an accrual basis as of October 1, 1987, were \$15.1 million, as compared to \$16.7 million which existed as of October 1, 1986. The DRE desires to maintain reserves equivalent to twelve months' operating expenses because of economic uncertainties. This sum would be approximately \$22 million. In order to achieve this, the DRE is sponsoring legislation which would increase the licensing fees for real estate brokers and salespersons. The DRE plans to raise the fee for real estate brokers from the current \$165 to \$195, and the salesperson's fee from \$120 to \$150. (See *infra* LEGISLATION.)

Regulatory Report. At the October 30, 1987 meeting of the Real Estate Advisory Commission, Assistant Com-

missioner Betty Ludeman presented a detailed report on the function and duties of the Regulatory Program of the DRE. The Assistant Commissioner stated that law enforcement is a major function of the DRE. It is the Commissioner's statutory duty to enforce the Real Estate Law in a manner which achieves the maximum protection for the purchasers of real property and those persons dealing with real estate licensees.

The Real Estate Law requires that the Commissioner, upon receipt of a verified written complaint, shall investigate the actions of any person engaged in the business of or acting in the capacity of a real estate licensee within this state. The Commissioner may also investigate on his own motion.

The majority of the investigations handled by DRE staff involve complaints filed by consumers against real estate licensees. The purpose of DRE's inquiry into these complaints is to determine whether or not a violation of the Real Estate Law has occurred. Investigations may result in certain penalties as specified by law, or in the issuance of desist and refrain orders. These orders are issued to prohibit certain conduct, such as prohibiting the sale of lots in a subdivision if the investigation indicates that there is fraud or misrepresentation in connection with the sales. The DRE will also issue a desist and refrain order to an unlicensed person who is conducting activities requiring a real estate license.

A major support unit to the Regulatory Program is the DRE's Audit Division. The main function of the Audit Division is to conduct audit examinations of the books and records of licensees to determine whether trust monies are being properly handled.

The DRE assigned 4,785 complaints for investigation during fiscal year 1986-87. In that period, the DRE denied, suspended, or revoked 608 licenses and issued 242 desist and refrain orders.

LEGISLATION:

AB 3027 (Lancaster) would change the fees for real estate brokers and salespersons to an unspecified amount. This bill is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 3114 (Lancaster) would repeal the prohibition on commercial banks from lending in the aggregate an amount in excess of 70% of the amount of its savings and other time deposits upon the security of real property in addition to specified loans guaranteed by the



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Administrator of Veterans' Affairs, the Federal Housing Administration, and the Farmer's Home Administration. This bill passed the Assembly Finance and Insurance Committee and was sent to the consent calendar.

AB 2803 (Speier) would require the delivery of a copy of a real property loan appraisal to a loan applicant in cases in which the cost of the appraisal is borne by the loan applicant. This bill is pending in the Assembly Finance and Insurance Committee.

AB 2781 (Costa) would delete the January 1, 1989, repeal of the existing law which requires a local agency, in approving or disapproving a tentative subdivision map, to apply only those ordinances, policies, and standards which were in effect at the date of the completion of the subdivider's application. This bill passed the Assembly on March 24 and is awaiting committee assignment in the Senate.

AB 2185 (Wright), as amended January 12, would repeal existing provisions of the Civil Code which regulate contracts for membership camping and require membership camping operators and brokers to make specific disclosures when a purchaser signs a contract. This bill would make the creation of a membership campground project subject to the act regulating the offering for sale of subdivided lands. A membership campground project would be excluded from regulations as an undivided interest subdivision, and persons selling membership campground contracts would be exempted from real estate licensure requirements. This bill passed the Assembly on January 27 and is pending in the Senate Judiciary Committee.

SB 2521 (Beverly). Existing law authorizes the Real Estate Commissioner to bring an action for injunctive relief against anyone who has violated or is about to violate any provision of the Real Estate Law. It also provides that, after a hearing, the court may order the appointment of a receiver.

This bill would require the order appointing the receiver to specify the source of funds from which the fees of the receiver and the cost of administering the estate are to be paid. This bill would also provide that unless provided for in the order, the Commissioner shall not be liable for payment of those fees or costs. This bill was set for an April 11 hearing in the Senate Business and Professions Committee.

FUTURE MEETINGS:

To be announced.

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 9001 of the California Financial Code. Departmental regulations are in Title 10, Chapter 2, of the California Administrative Code.

MAJOR PROJECTS:

Notice of Proposed Changes. The Savings and Loan Commissioner has published the Department's intent to amend regulations in Title 10, Chapter 2, Subchapter 4, Article 3, entitled Appraiser Classifications and Qualifications. Amendments to Subchapter 4, Article 3 update obsolete regulations in order to comply with amended section 7500 of the Financial Code (Savings Association Law). Section 7500 of the Financial Code prohibits an association from investing in real property or a real estate loan until a written appraisal report, prepared at the request of the association or its agent, has been submitted to the association by a person meeting the qualification standards for an appraiser as set forth in DSL's regulations (Title 10, Chapter 2 of the California Code of Regulations). The person must be appointed and qualified as an appraiser by the board of directors of the association prior to a commitment to disburse.

The amended regulations by section include the following: section 104.300 would set forth the new provisions required to appoint an appraiser. Section 104.301 would correct regulatory and statutory references. Section 104.302 would set forth the qualifications for the Appraiser I classification, and would upgrade the education requirement from the possession of a high school diploma to graduation from a junior college or completion of an equivalent number of course units from an accredited four-year college, university, or extension program. Section 104.304 would set forth the qualifications for an Appraiser II and qualification criterion of six months' full-time experience as an Appraiser I. Currently, an Appraiser II is qualified

based on three months' full-time experience as an Appraiser I and completion of certain specified coursework, or one year of appraisal experience as a staff or fee appraiser.

Section 104.305 would be amended to provide current regulatory and statutory references related to an Appraiser III; section 104.306 would delete reference to the American Savings and Loan Institute and authorize the Institute of Financial Education or other entity to conduct instruction approved by the Commissioner. As amended, section 104.307 would provide current regulatory and statutory references with no regulatory change; section 104.308 would clarify the qualifications for an Appraiser IV, which requires designation as a member of a professional appraiser society as an appraiser qualified to appraise all types of real property. Section 104.309 would clarify the process of approval of persons meeting the qualifications set forth in the Article. Finally, sections 104.311, 104.312, and 104.313 would be renumbered. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 105 and Vol. 7, No. 2 (Spring 1987) p. 81 for background information.)

The comment period on these proposed regulations closed on March 28.

Appraisers' Inspections of Property. The Department has issued a warning that the use of exterior-only inspections to appraise property for general loan purposes is an unacceptable practice. Commissioner Crawford stated that "incomplete information about the major physical characteristics of a property preclude an accurate appraisal." The Commissioner has declared this practice a clear violation of section 7500 of the Financial Code and section 107.102(a) of DSL's regulations, which requires a fully documented appraisal report, and section 104.313, which requires a certification from the approved appraiser that he/she had made a physical inspection of the property.

The Commissioner urges management of each association to review the property inspection practices of its appraisers to assure compliance with the association's policies and regulatory requirements.

Notice of Proposed Changes. In April 1987, the Assembly passed a resolution requesting the DSL to promulgate and adopt regulations for the purpose of administering section 6521, Division 2 of the California Financial Code. As amended in 1985, section 6521 provides that an association or service corporation may act as an independent escrow