



REGULATORY AGENCY ACTION

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
(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 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



agent in connection with the sale, transfer, encumbering, or leasing of real or personal property. In response to the Assembly's request, the Department is proposing to adopt, amend, and repeal numerous regulations in Articles 1, 2, 3, 4, and 5 of Subchapter 10, Chapter 2, Title 10 of the California Code of Regulations. The public comment period on the proposed changes ended on April 11.

Court Upholds S&L Refund Claim to Taxes. On January 20, Los Angeles Superior Court Judge Vernon G. Foster signed a judgment in favor of California Federal Savings and Loan of Los Angeles requiring the City of Los Angeles to refund almost \$7.5 million in local taxes which the savings and loan paid between 1982 and 1984. The judge ruled that state law preempts the City of Los Angeles from imposing a business tax on savings and loan associations and other financial institutions. As a result of the ruling, Los Angeles alone could be refunding more than \$102 million in taxes and interest.

Michael Groynzka, the trial attorney for California Federal, contended in the suit that the city's imposition of the business license taxes on financial institutions was unlawful because section 23182 of the state Revenue and Taxation Code prohibits the imposition of any local tax or license on financial institutions other than that tax imposed by the state under the Bank and Corporation Tax Law.

The *Los Angeles Daily Journal* quoted Judge Foster as saying "there can be no uncertainty concerning the Legislature's intention in enacting section 23182 to preempt the field of taxation of financial corporations....In circumstances of conflicts between claims by charter cities and the Legislature as to whether under Article XI, section 5 of the [California] constitution the subject of legislation is of local or statewide concern, the issue is for the court to determine under the facts of each case, but the findings of the Legislature are entitled to great deference."

Los Angeles City Chief Administrative Officer Keith Comrie emphasized that the city will appeal. Assistant Los Angeles City Attorney Myrtle Dankers said, "it's a very important issue. In addition to the funds involved, what is at stake is the basic premise of whether the state can preempt charter cities' taxing authority in any situation."

Prior to section 23182, California law exempted banks from local tax action, while other financial institutions such as savings and loan associations

were being taxed. With the enactment of section 23182, cities were prohibited from taxing any financial institutions, but were promised refunds through a program called the Financial Aid to Local Agencies (FALA). In 1982, one year after Los Angeles promised to waive its business tax on financial institutions, the legislature repealed the FALA program and the state began keeping all the taxes collected by the cities. In response to this legislative action, Los Angeles refused to again waive its tax on financial institutions and the struggle for tax dollars began.

Regulations Approved. DSL's amendments to sections 107.600-107.603, Subchapter 7, Article 6, Title 10 of the California Code of Regulations, were approved by OAL and became effective in March. (For a detailed discussion of these changes, see CRLR Vol. 8, No. 1 (Winter 1988) p. 83.)

LEGISLATION:

AB 2855 (Bane), as amended on March 23, would revise existing law with respect to savings associations as follows: revise certain requirements with respect to the articles of incorporation; authorize the Savings and Loan Commissioner to enforce any statute or regulation of the Federal Deposit Insurance Corporation; revise provisions of existing law which provide that without the prior approval of the Commissioner no association shall acquire the assets or savings accounts liability from another financial institution, to instead provide that no association shall acquire all or

substantially all of the assets or savings account liability of a branch or branches of another financial institution; revise certain net worth requirements with respect to the computation of total assets; authorize an association to permit an organization which is maintained primarily for political purposes to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties; make revisions with regard to the authorized securities in which an association may invest pursuant to existing law; specify certain other authorized investments in bonds and securities; provide loan to value ratio guidelines for real estate loans; authorize the reorganization of mutual associations as mutual holding companies; require the board of directors of every association to establish standards for the maintenance of hazard insurance considered necessary to protect the institution's interest in real estate security for its loans; and revise specified provisions with respect to conservatorships and receiverships. At this writing, this bill is pending in the Assembly Committee on Finance and Insurance.

AB 2664 (Costa) was a two-year bill which died in committee. The bill would have exempted a person who performs the duties of a director of a savings association from liability based on alleged failure to discharge his/her obligations as a director, and would have authorized further limitations of, or indemnification for, such personal liability in the association's articles of incorporation or bylaws.



DEPARTMENT OF INDUSTRIAL RELATIONS

CAL-OSHA

Director: Ronald T. Rinaldi
(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 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 re-

ceives 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