average 20% rollback in premiums on current policies; and limit attorneys' contingency fees. The measure, which would make null and void any other insurance initiative which passes with less votes than this initiative receives, is sponsored by the insurance industry.

**Trial Lawyers' Initiative for "Good Drivers"**. This measure, which would mandate a 25% premium reduction for people designated as good drivers, is sponsored by the California Trial Lawyers Association.

**Polanco Initiative**. This initiative would cut in half premiums on the liability portion of auto insurance. It would also restrict pain and suffering damages. Assemblymember Polanco is sponsoring this measure.

- **AB 1080 (Moore)**, **AB 1201 (Cortese)**, **AB 1711 (Karz)**, **AB 2600 (Brown)**, **AB 2100 (Roos)**, **AB 2333 (Johnston)**, **AB 2339 (Johnston)**, **AB 256 (Johnson)**, **AB 2534 (Killea)**, **AB 2297 (Killea)**, **AB 2636 (Felando)**, **SB 1102 (Seymour)**, **AB 230 (Polanco)**, **AB 232 (Lancaster)**, **AB 243 (Lancaster)**, **AB 355 (Eaves)**, and **AB 356 (Eaves)**, all of which were previously reported in CCLR Vol. 7, No. 4 (Fall 1987) at pp. 77-78; Vol. 7, No. 3 (Summer 1987) at pp. 101-03; and Vol. 7, No. 2 (Spring 1987) pp. 77-78, have been dropped by their respective authors.

**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**:

- **Regulatory Changes.** On November 16, the Office of Administrative Law (OAL) approved the adoption of Article 18.6, sections 2920-2922, Title 10 of the California Administrative Code. The new regulations permit licensees to petition for a monetary penalty in lieu of a license suspension at any time after the filing of an accusation, and set the maximum penalty at $250 per day of suspension stayed with a cap of $10,000.

OAL also approved the amendment of numerous DRE regulations in Title 10, California Administrative Code, including changes to section 2792.17 regarding the notice and conduct of meetings of the members of common interest subdivision associations (the addition of a proxy voting provision); section 2792.22, regarding requirements that the governing body of a homeowners' association obtain and review certain financial reports; section 2792.23, regarding member and director access to the books and records of homeowners' associations; section 2806, to require sellers of out-of-state subdivision interests to provide specified documents to prospective buyers; section 2810.1, to repeal regulations applicable to timeshare projects; section 2812.8, regarding the employment contract of a managing agent for a timeshare project; section 2840, which amends the approved Mortgage Loan Disclosure Statement; section 2847.1 regarding submission of mortgage loan advertising to the DRE; section 2912, regarding criteria for rehabilitation of licensees disciplined because of conviction of a crime; sections 3000-3004, regarding DRE approval of equivalent courses of study at private vocational schools; and section 3101, regarding the application required for payment from the Real Estate Recovery Account.

**Budget and Fiscal Report.** At the October 9 Advisory Commission meeting in San Diego, Chief Deputy Commissioner John Liberator reported that the DRE had received a total of $18.6 million during the first eleven months of the 1986-87 fiscal year (fiscal data for the full year was not yet available). This represented a decrease of 21% from the same time period last fiscal year. The decrease in revenue was primarily attributed to a decline in real estate license examinations. This decrease in examinations was directly attributed to the imposition of SB 1042 (Chapter 66, Statutes of 1984) educational licensure prerequisites which became effective January 1, 1986, and the large influx of examination applications which were submitted in the latter part of 1985 by those applicants wishing to avoid the SB 1042 requirements.
REGULATORY AGENCY ACTION

DRE expenditures for the first eleven months of fiscal year 1986-87 totaled $18.3 million. This reflected an increase of 4% over 1985-86, attributed to the rental of off-site examination facilities, staff overtime, and equipment purchases. The DRE's budget for fiscal year 1987-88 is $22.2 million, as compared to $22 million for fiscal year 1986-87.

Continuing Education Requirements. Governor Deukmejian approved SB 24 (Montoya) on September 9 (Chapter 463, Statutes of 1987). SB 24, which was sponsored by CAR, removes the "sunset" provisions from DRE's existing continuing education requirements, thereby extending them indefinitely. The DRE supported SB 24 after reviewing results of an extensive study of its continuing education program, completed by Arthur Young and Company of Sacramento and funded from the DRE Education and Research Fund.

LEGISLATION:

The following is a status update on bills discussed in detail in previous issues of the Reporter:

- AB 1214 (Hughes), AB 486 (Fraze), and AB 1310 (Lancaster) have been dropped by their authors.
- SB 1370 (Seymour), SB 376 (Maddy), and SB 1465 (Keene) will not be pursued by their authors.
- AB 2482 (Hauser) died in the Senate.

RECENT MEETINGS:

At the October 9 meeting of the Advisory Commission, Thomas Hensley gave a report on real estate education. Mr. Hensley stated that the DRE has provided funding to real estate education programs in several California universities and community colleges. This funding is provided through the Real Estate Education and Research Fund.

Representatives of recipient institutions then reported to the Commission on how they are utilizing the DRE monies. Representing the University of California at Berkeley's Center for Real Estate and Urban Economics (Center) was Bob Edelstein. The Center promotes research in real estate finance and construction, land use, and urban and regional development. It serves as a practical forum for academics, government officials, and business leaders. It also sponsors creative and thoughtful academic research and executive education programs with the goal of promoting understanding and encouraging innovation in the field of real estate. The Center prepares a Quarterly Report with support from the DRE.

Representing Housing, Real Estate, and Urban Land Studies at the University of California at Los Angeles was Kathleen Connell. Donald Fletcher reported on the California State University Real Estate and Land Use Institute, while the California community colleges were represented by Rebecca Singleton and George Bairey.

FUTURE MEETINGS:
To be announced.

DEPARTMENT OF SAVINGS AND LOAN

Commissioner: William J. Crawford
(415) 357-3666
(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:

Proposed Regulation Changes. In early December, the commissioner declared that DSL's existing advertising regulations in Subchapter 4, Article 1, Chapter 2, Title 10 of the California Administrative Code, do not accurately reflect the changes in the law effected by Chapter 1091, Statutes of 1983. The 1983 statutory change added section 6523 to the Financial Code, authorizing an association to use advertising which is accurate and not misleading; authorizing the commissioner to require that the text of any advertising be filed prior to its use; and prohibiting associations from using advertising after notice in writing from the commissioner.

Section 6653 of the Financial Code prohibits an association from indirectly or directly distributing giveaways for the opening or increasing of an account, and authorizes the commissioner to impose by regulation restrictions on the distribution and advertising of giveaways, equivalent to those imposed on federal associations doing business in California. Section 7100 of the Financial Code, also enacted in 1983, permits associations to offer demand accounts, which were not allowed under the previous Savings Association Law.

In order to conform its regulation with the 1983 statute, the DSL proposed minor changes to numerous provisions of its Title 10 advertising regulations. Following a comment period which ended on January 18, the DSL submitted the proposed amendments to the Office of Administrative Law (OAL) for approval.

The DSL has also forwarded to OAL its proposed amendments to sections 107.600-107.603, Subchapter 7, Article 6, Title 10 of the California Administrative Code. These regulatory changes are also necessary because of the repeal and/or modification of various sections of the Financial Code; in particular, section 7650 of the Code now authorizes broad salvage authority to an association "to invest its funds,...or take any other action over whatever period of time may reasonably be necessary to avoid loss on a loan or investment...."

Proposed section 107.600 clarifies the scope and purpose of Article 6; section 107.601 establishes guidelines for approving or disapproving an insurer to underwrite insurance pursuant to Article 6; section 107.602 allows an association to advance credit to a borrower for payment of insurance premiums in connection with an unsecured loan; section 107.603 establishes conditions which an association must meet before it may accept an assignment by a borrower of a life or disability insurance policy on the borrower, as additional security for a loan made.

Notice Regarding Proper Evaluation of Borrowers' Creditworthiness. On November 13, the commissioner issued a notice and finding of unacceptable business practice representing a violation of Financial Code section 7450(a). Many federal and state-chartered institutions have recently advertised that they are willing to grant new loans on the basis of loan to value ratios only (the amount of the loan is in proportion to the value of security), and without evaluation of the borrower's creditworthiness. The law states that an association making a loan shall determine the provisions of the loan "in relation to the borrower's resources and credit standing...." Associations have been advised that compliance will be verified during field examinations. Commissioner Crawford has urged management of each institution to "assure itself that borrowers' creditworthiness is effectively evaluated in all loan transactions."

California Regulatory Law Reporter Vol. 8, No. 1 (Winter 1988)