



REGULATORY AGENCY ACTION

Lender/Broker Alert. On October 14, the DSL released an alert concerning the provision of refinancing or second trust deed secured loans to purchasers of housing produced by the Century Freeway Housing Program (CFHP). The CFHP housing at issue is located in various cities and the County of Los Angeles, and is generally within a six-mile radius of the proposed interstate 105 freeway. The units were made available at below market sales price to those displaced by the "Century Freeway" now under construction between Los Angeles International Airport and the City of Norwalk. As a condition of making the below market sales, the purchasers have entered into and recorded agreements which prohibit any refinancing or further encumbrances without the express written consent of the State Department of Housing and Community Development (HCD). Approval of additional encumbrances may be approved by HCD only for limited amounts and only for purposes of repairing or maintaining the properties.

The DSL has asked all lenders and brokers to be alert for references to these agreements with HCD and to refrain from approving loans without the approval of HCD. The Department has warned that failure to obtain the required approval may subject the lender to a significant monetary loss.

Report on "Stripped Securities". Pursuant to the provisions of section 8151 of the Financial Code, DSL will prepare a report ascertaining the extent of association investments in "stripped securities." The Department required completion of a special reporting form by all state-chartered associations by November 30, 1987.

A "stripped security," often a U.S. Government obligation, results from separation of the principal and interest portion of the security. The holder of a "stripped security" has the right to receive either the principal balance at maturity or the periodic interest payments. These securities have limited marketability and are among the most volatile, interest-rate-sensitive investments in the market today.

LEGISLATION:

SB 1465 (Keene), a two-year bill regarding creation of a task force to examine the state's financial regulatory system, will not be pursued during this session.

H.R. 27. The federal Competitive Equality Banking Act of 1987 (H.R. 27), enacted August 10, 1987, has estab-

lished adjustable rate mortgage caps effective December 10, 1987. H.R. 27 requires that adjustable rate mortgages include a limitation on the maximum rate of interest applicable to the loan. It applies only to loans secured by a lien on a one-to-four-family dwelling unit made by persons who regularly extend credit for personal, family, or household purposes. A family dwelling unit may be a condominium or cooperative housing unit or a mobile home.

Rulemaking authority under the new statute is delegated to the Federal Reserve Board. Violations will be enforced by the primary regulators of each type

of financial institution and by the Federal Trade Commission. Each of the agencies may use its administrative enforcement powers to enforce the legislation and may, under the Truth-in-Lending Act, adjust finance charges where erroneously disclosed. Under the Truth-in-Lending Act's enforcement provisions, creditors failing to comply with the provisions of this legislation may be held civilly liable to individuals for actual damages and to classes for up to \$500,000.

(For further discussion of H.R. 27, see *supra* agency report on STATE BANKING DEPARTMENT.)



DEPARTMENT OF INDUSTRIAL RELATIONS

CAL-OSHA

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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 receives 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 for the adoption of standards more stringent than the federal standards. In addition, OSB may grant interim or permanent variances from occupational safety and health standards to employers who can show that an alternative process would provide equal or superior safety to their employees.

The seven members of the OSB are appointed to four-year terms. Labor Code section 140 mandates the composition of the Board, which is comprised of two members from management, two from labor, one from the field of occupational health, one from occupational safety, and one from the general public.

The duty to investigate and enforce the safety and health orders rests with the Division of Occupational Safety and Health (DOSH). DOSH issues citations and abatement orders (granting a specific time period for remedying the violation), and levies civil and criminal penalties for serious, willful, and repeated violations. In addition to making routine investigations, DOSH is required by law to investigate employee complaints and any accident causing serious injury, and to make follow-up inspections at the end of the abatement period.

The Cal-OSHA Consultation Service provides on-site health and safety recommendations to employers who request assistance. Consultants guide employers in adhering to Cal-OSHA standards without the threat of citations or fines.

The Appeals Board adjudicates disputes arising out of the enforcement of Cal-OSHA's standards.

MAJOR PROJECTS:

Initiative to Restore Cal-OSHA Private Sector Enforcement. Regardless of the outcome of litigation currently pending before the California Supreme Court (see *supra* LITIGATION), the California



Labor Federation plans to sponsor an initiative which would require the state to restore Cal-OSHA protections which were eliminated in July 1987 for private sector workers. The measure needs 372,178 valid signatures by late April to qualify for the November 1988 ballot.

Cal-OSHA Audit. An audit released by the State Controller's Office revealed that workplace inspections and enforcement of safety codes have decreased since the state's private sector worker safety program was transferred to the federal government. (See CRLR Vol. 7, No. 3 (Summer 1987) p. 106 and Vol. 7, No. 2 (Spring 1987) p. 82 for background information.) The audit showed greater rates of accidents, illness, and death in the workplace during the last six months. Auditors also found that 325 Cal-OSHA penalty cases are pending on appeal, yet there are no legal resources to handle them. In addition, an undetermined number of open cases have been in limbo since the transition from state to federal control of the private sector program in California. Between January 1 and June 30, private workplace safety inspections dropped by 21%; the number of citations issued for safety violations decreased by 20%; and penalties for unsafe conditions decreased by 45%. It is estimated that the state has lost \$1.4 million in potential revenue from penalties for violations.

After Governor Deukmejian eliminated \$7 million from the Cal-OSHA budget in early 1987, 385 employees were laid off. Over 200 of those OSHA employees were inspectors for private-sector projects who are being replaced with less than 100 federal inspectors. It is estimated that the federal inspectors will conduct less than one-third of the annual inspections formerly conducted by Cal-OSHA.

Legislative Hearing. On December 2, the Assembly Labor and Employment Committee held an interim hearing to discuss Cal-OSHA. Several individuals who testified contended that Cal-OSHA has recently settled or dropped many of the cases pending before the agency. In addition, numerous cases, many involving fatal accidents, have been dismissed. A representative from Cal-OSHA testified that the agency is doing the best it can with a limited budget, and attempted to justify its dismissal of several cases.

LEGISLATION:

AB 2433 (Agnos). Existing law requires the DIR and the state Department of Health Services to establish a repository of current data on toxic materials and harmful physical agents in use or

potentially in use in the workplace. AB 2433 would require that this repository be known as the Hazard Evaluation System and Information Services (HESIS).

The measure would require HESIS to conduct a pilot study to determine the quality and usefulness of material safety data sheets. Existing law requires hazardous substance manufacturers to issue the data sheets to purchasers of their hazardous products. HESIS would be required to (1) determine whether the information provided on the material safety data sheets adequately communicates information about chemical hazards; and (2) make recommendations on how the state can improve the quality of the information on the data sheets. AB 2433 is pending in the Senate Appropriations Committee as of this writing.

LITIGATION:

In *Ixta, et al. v. Rinaldi* (No. C002805), the Third District Court of Appeal unanimously ruled that Governor Deukmejian exceeded his authority when he vetoed \$7 million in Cal-OSHA funding from the state budget. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 81 for background information.) The opinion stated that although the Governor could generally reduce DIR appropriations, the DIR was required to spend the remaining funds on all of its legislatively-mandated programs, including Cal-OSHA private sector enforcement. The three-justice panel ordered the DIR Director to restore private sector enforcement with funds from the DIR's 1987-88 budget.

The administration appealed the *Ixta* ruling to the California Supreme Court, which decided in January to review the case. Governor Deukmejian has been criticized for appealing the *Ixta* decision in light of a recent California Supreme Court ruling in *Harbor v. Deukmejian* (No. 24837). In *Harbor*, the Court declared that the Governor could not use his line-item veto power to strike part of the state budget's trailer bill and further defined restraints on the Governor's veto authority. The trailer bill sets out substantive law required to implement the state's spending plan.

Deukmejian's appeal has also been criticized as a delay tactic in an attempt to force preemption of the Cal-OSHA program by federal law—something the federal Occupational Safety and Health Act requires, unless a state submits an acceptable plan for development and implementation of its own program. However, Department of Labor (DOL) officials have noted that recently amend-

ed federal legislation bars the DOL from taking such an action in a matter being heard in a state court system until the issue is resolved at the state level.

The Third District Court of Appeal recently dismissed a similar lawsuit filed by the California State Employees Association (see CRLR Vol. 7, No. 4 (Fall 1987) p. 81). The court declared the case moot because the issues raised were resolved in the *Ixta* lawsuit.

RECENT MEETINGS:

During its October 15 meeting in San Francisco, OSB adopted a proposed safety order regarding section 3041(e) of the Elevator Safety Orders and section 7-3041(e) of Title 24, concerning medical emergency elevators. The safety order has been sent to the State Building Standards Commission for approval.

Smyrna Lodge was granted a permanent variance from section 3000(d)(11) of Title 8 of the California Administrative Code. The applicant is a fraternal lodge with elderly members who need a stairway lift. After inspecting the site, the Division recommended that OSB grant the variance to allow the otherwise prohibited stairway lift.

The Board denied petition No. 254, brought by Advanced Manufacturing Engineering, General Motors Corporation, and Advanced Engineering Staff. The petition requested the addition of subsections (b) and (c) to section 3000 of the Elevator Safety Orders. The Advisory Board's consensus, however, was that the suggested language regarding material lifts and material handling conveyors did not belong under the Elevator Safety Orders.

During the November 19 business meeting in San Diego, OSB adopted two proposed safety orders which affected sections 450-467 of Articles 1-4, Title 8 of the California Administrative Code; sections 5-1601(a)-(g) of Part 5, Title 24; and Part 6, Articles 1, 5, and 7, sections T8-453, T8-475, T8-480, T8-481, T8-484, T8-485, T8-492, T8-493, T8-543, and T8-544 of Title 24, regarding unfired presser vessels. The adopted revisions, which resulted from deficiencies found during a review conducted pursuant to AB 1111, were submitted to the Office of Administrative Law (OAL) for review on January 4.

Also at the November meeting, OSB adopted a proposed safety order regarding section 5209, Article 110 of Title 8 (General Industry Safety Orders), dealing with carcinogens. This order was also submitted to OAL on January 14.



FUTURE MEETINGS:
March 24 in San Diego.



DEPARTMENT OF FOOD AND AGRICULTURE

DEPARTMENT OF FOOD AND AGRICULTURE

Director: Jack Parnell
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The Department of Food and Agriculture (CDFA) promotes and protects California's agriculture and executes the provisions of the Agriculture Code which provide for the Department's organization, authorize it to expend available monies and prescribe various powers and duties. The legislature initially created the Department in 1880 to study "diseases of the vine." Today the Department's functions are numerous and complex.

The Department works to improve the quality of the environment and farm community through regulation and control of pesticides and through the exclusion, control and eradication of pests harmful to the state's farms, forests, parks and gardens. The Department also works to prevent fraud and deception in the marketing of agricultural products and commodities by assuring that everyone receives the true weight and measure of goods and services.

The Department collects information regarding agriculture, and issues, broadcasts and exhibits that information. This includes the conducting of surveys and investigations, and the maintenance of laboratories for the testing, examining and diagnosing of livestock and poultry diseases.

The executive office of the Department consists of the director and chief deputy director who are appointed by the Governor. The director, the executive officer in control of the Department, appoints two deputy directors, one of whom serves as legislative liaison and as executive secretary of the Board of Food and Agriculture. In addition to the director's general prescribed duties, he may also appoint committees to study and advise on special problems affecting the agricultural interests of the state and the work of the Department.

The executive office oversees the activities of seven operating divisions:

1. Division of Animal Industry—

Provides inspections to assure that meat and dairy products are safe, wholesome and properly labeled and helps protect cattle producers from losses from theft and straying;

2. Division of Plant Industry—Protects home gardens, farms, forests, parks and other outdoor areas from the introduction and spread of harmful plant, weed and vertebrate pests;

3. Division of Inspection Services—Provides consumer protection and industry grading services on a wide range of agricultural commodities;

4. Division of Marketing Services—Produces crop and livestock reports, forecasts of production and market news information and other marketing services for agricultural producers, handlers and consumers; oversees the operation of marketing orders and administers the state's milk marketing program;

5. Division of Pest Management—Regulates the registration, sale and use of pesticides and works with growers, the University of California, county agricultural commissioners, state, federal and local departments of health, the United States Environmental Protection Agency and the pesticide industry;

6. Division of Measurement Standards—Oversees and coordinates the accuracy of weighing and measuring goods and services; and

7. Division of Fairs and Expositions—Assists the state's 80 district, county and citrus fairs in upgrading services and exhibits in response to the changing conditions of the state.

In addition, the executive office oversees the activities of the Division of Administrative Services, which includes Departmental Services, Financial Services, Personnel Management and Training and Development.

The Board of Food and Agriculture consists of the executive secretary, assistant executive secretary and 14 members who voluntarily represent different localities of the state. The Board inquires into the needs of the agricultural industry and the functions of the Department. It confers with and advises the Governor and the director as to how the Depart-

ment can best serve the agricultural industry. In addition, it may make investigations, conduct hearings and prosecute actions concerning all matters and subjects under the jurisdiction of the Department.

At the local level, county agricultural commissioners are in charge of county departments of agriculture. County agricultural commissioners cooperate in the study and control of pests that may exist in their county. They provide public information concerning the work of the county department and the resources of their county, and make reports as to condition, acreage, production and value of the agricultural products in their county.

MAJOR PROJECTS:

Tentative Approval for Second Test of Ice-Minus Bacteria. CDFA has approved a permit allowing Advanced Genetic Sciences, Inc. (AGS) to conduct a second field test on strawberries using genetically-engineered bacteria. (See CRLR Vol. 7, No. 2 (Spring 1987) p. 85 for background information.) AGS plans to use land in Contra Costa County for the upcoming test, where the first test was conducted. The bacteria will be sprayed on strawberry plants to test its effectiveness in preventing frost damage to blossoms. The first test showed no adverse effects.

Peach Fly Quarantine. Effective October 16, 1987, travelers are prohibited from carrying homegrown fruits or vegetables in or out of Los Angeles International Airport due to a CDFA quarantine. The quarantine zone includes Culver City, Marina del Rey, Inglewood, Westchester, Lennox, El Segundo, Hawthorne, and Ladera Heights. Commercial fruit must be approved and certified by agriculture officials before movement is permitted. The purpose of the quarantine is to eradicate the peach fruit fly (*dacus zonatus*). Crops which are damaged by this fly include guava, mango, apple, tomato, peach, and loquat. California crops which could be infested are pome and stone fruits, citrus, dates, figs, tomatoes, cucumbers, and melons. The first California infestation, which occurred in El Segundo in 1984, was successfully eradicated using the "male annihilation" method, which will be used in treating the current infestation.

Hoopa Indian Spray Refusal Threatens Apple Maggot Project. The Hoopa Indian Tribal Council has refused pesticide treatment of host trees to the apple maggot in the Hoopa Valley Indian Reservation. CDFA Assistant Manager Isi