commenced on November 13. The changes have been adopted and resubmitted to OAL.

New Regulations Covering Disclosure of Defects in Property. New legislation (commencing at Civil Code section 1102), which became effective January 1, 1987, limits the liability of real estate brokers for failure to disclose defects in the property they sell. The law was passed in the legislature last year in response to a California appellate court decision broadening brokers' liability for nondisclosure. In *Easton v. Strassburger*, 152 Cal. App. 3d 90, 199 Cal. Rptr. 383 (1984) agents were held liable for failing to disclose soil defects on property. The court held that a broker "had a responsibility to make more than a general inquiry of the seller." The decision has been interpreted to hold brokers liable not only for intentional concealment or misrepresentation of known defects, but also for failure to disclose defects they should have known about, thereby adopting a negligence standard.

The new law attempts to clarify that liability by setting forth a lengthy form which lists information brokers must ascertain from sellers and provide to potential buyers. The form requests information on the condition of the property, including drainage and flooding problems, and neighborhood noise. The law applies to real property transactions involving one to four residential units. The new legislation requires the broker to make the requisite inquiries, fill out the form, and have the seller sign it.

LEGISLATION:

AB 3746 (Lancaster-Montoya) becomes operative January 1, 1988. This bill establishes in law, for the first time, standards for the performance of real property appraisal services when the client specifies that a certified appraisal is desired. The standards are based on guidelines established by major appraisal organizations and may be enforced through civil actions or through injunction or other equitable relief. The use of a "certified appraisal" is not mandatory, but users can expect that when the designation of "certified" appears on an appraisal, the report was prepared pursuant to statutory standards.

AB 1034 (Connelly-Grisham) also becomes operative January 1, 1988. This bill will require that listing and selling agents in real estate transactions provide both buyers and sellers with specified written and oral disclosures. The listing agent must deliver a specified written disclosure form to the seller prior to the time of listing, and the selling agent must deliver the same disclosure to the buyer as soon as practicable, but prior to execution of an offer. The disclosure form sets forth the various forms of agency relationships between buyers and sellers and real estate licensees, and the duties owed by these licensees, depending on their agency relationship to the buyer and seller. The buyer and seller must sign for receipt of the disclosure.

The bill will also require that licensees disclose to the buyer and seller, as soon as practicable, whether he/she is acting as the seller's agent, the buyer's agent, or a dual agent. Finally, licensees must confirm the agency relationship in writing in a contract to purchase or lease or in a separate writing executed by the seller, buyer, and the selling agency. The law will apply to real property transactions involving one to four residential units. The law is meant to eliminate many problems which occur when a broker represents both the buyer and the seller in a single deal.

SB 491 (Montoya), sponsored by the Department of Real Estate, becomes operative July 1, 1987 and requires mandatory education for licensees on agency relationships in real estate transactions. The bill requires that after July 1, 1987, all real estate licensees must include, among 45 hours of continuing education courses, a three-hour course in agency relationships; the required number of hours of courses related to consumer protection is reduced from 21 to 18.

The change will provide a means for ensuring that licensees have a better understanding of the subject of agency and their duties and responsibilities as agents. The Department will publicize both the changes in educational requirements and the agency disclosures to be made in real property transactions involving one to four residential units throughout 1987.

Commissioner Edmonds stated that DRE is currently establishing the regulatory procedures and course approval mechanisms necessary for implementation of both of these agency-related bills. He believes that both licensees and consumers will significantly benefit from the new legislation. The Commissioner has also sent a letter to the California Association of Realtors setting forth his thoughts on enforcement of the new provisions in the law addressing agency relationships.

RECENT MEETINGS:

The Department of Real Estate, in conjunction with the California Association of Realtors, met in San Diego on October 10. Discussion topics included clarification of existing licensing and continuing education requirements, and the new requirements under SB 491 (Montoya).

DRE also clarified advertising requirements. Many inquiries are received by the Department regarding advertising of a licensee's availability to perform a service for which a real estate license is required. The applicable law is codified in section 10140.6 of the Business and Professions Code, and requires the licensee to include the appropriate designation (*i.e.*, broker, agent, realtor) in the advertisement and to disclose that the licensee is performing acts for which a real estate license is required. Further, a salesperson must also include the name of his/her employing broker (pursuant to Commissioner's Regulation 2770) in any advertisement in which the salesperson's name appears. These provisions must appear despite the fact that an agent's firm is easily recognized as a real estate firm.

FUTURE MEETINGS:

To be announced.

DEPARTMENT OF SAVINGS AND LOAN

Commissioner: William J. Crawford
(415) 557-3666
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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:

Commissioner's Actions. February, 1987 marks the end of William Crawford's second year as the Commissioner of the Department of Savings and Loan. During his second year, Commissioner Crawford has taken a tough regulatory stance toward savings and loan institutions in an effort to eliminate detrimental factors within the industry. Since

taking office in 1985, for example, he has allowed no new state chartered savings and loans in California, in the belief that California is an area already overserved by savings and loan institutions, and there is no need for new business. Additionally, the Federal Savings and Loan Insurance Corporation (FSLIC), which insures the savings and loan industry, is experiencing a cash flow problem. Until the federal government finds ways to fund FSLIC, the Department is unlikely to approve any new savings and loans.

Commissioner Crawford also worked closely with Senator Rose Ann Vuich to strengthen the laws governing savings and loans. In particular, SB 2452 (see CRLR Vol. 6, No. 4 (Fall 1986) p. 67) imposes a fiduciary duty on directors and officers of savings and loans to provide sound management to the association. The new law, which was signed by the Governor on September 25, requires that savings and loans inspect large properties after appraisals and restricts loan amounts to single borrowers. SB 2452 also gives the commissioner more control in that it requires his/her approval before a savings and loan may transact with its directors or employees, and allows him/her to remove savings and loan officers while court cases against them are pending. The stricter laws are aimed at alleviating problems in the industry, such as financial difficulties due to large real estate loans made on under-valued property and difficulties due in part to incompetent management.

Personnel Policies. The Department has announced a new personnel policy directed at reducing instances of unreported violations of law and regulations and other misconduct which, according to DSL, "have contributed to significant financial losses." The Department has determined, pursuant to section 8050 of the Financial Code, that the board of directors of each savings and loan association should adopt a resolution to publish and distribute to staff the board's policy and procedures through which staff may confidentially report incidents of violations of law and regulations and other misconduct. The published information should include at least a name, local address, and telephone number of the statutory auditor, and the name of an official with whom confidential contact can be made. DSL required distribution of the information on or before December 31, 1986, as well as upon hiring of new staff and upon any revision of the policy required by the Department. The association must review its policy annually and recommend either retention or changes as deemed necessary by the board of directors or the board of trustees. DSL cites "the fiduciary responsibilities [which] dictate the need for personnel policies that promote a free exchange of critical or sensitive information between an institution's staff and its statutory auditors, and regulatory agencies" as its reason for the new policy.



DEPARTMENT OF INDUSTRIAL RELATIONS

CAL-OSHA

Director: Ronald T. Rinaldi
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California's Occupational Safety and Health Administration (Cal-OSHA) is an integral part of the cabinet-level Department of Industrial Relations. It administers California's program ensuring the safety and health of California's wage-earners.

Cal-OSHA was created by statute in October 1973 and its authority is outlined in Labor Code sections 140-49. It is approved by, 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 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 strenuous 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 alternate process would provide equal or superior safety to their employees.

The seven members of the Board are appointed to four-year terms. Labor Code section 140 mandates the composition of the Board as 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, 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. This consultation guides employers in adhering to Cal-OSHA standards without the threat of citations or fines.

The Hazard Evaluation System and Information Service (HESIS) was developed to provide employers and workers with up-to-date critical information on the health effects of toxic substances and methods for using these substances.

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

MAJOR PROJECTS:

AB 1111. One of OSB's major ongoing projects is compliance with AB 1111, a process which has been moving very slowly. The OSB submitted a plan to the Office of Administrative Law (OAL) for review of Cal-OSHA's health and safety standards.

Proposed Budget Cuts. Governor Deukmejian recently proposed budget cuts which would eliminate Cal-OSHA's regulatory and appeals activity, as well as its enforcement of private business violations. Although the proposed budget cuts would allegedly eliminate state programs which are duplicated by federal programs, several legislators have expressed concern that a number of Cal-OSHA occupational safety laws have no federal counterpart. Thus, without a separate state enforcement agency, workers could lose some of the protections they now have through Cal-OSHA.