



# Real Estate Bulletin

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS • BUREAU OF REAL ESTATE

FALL 2016

Vol. 75, No. 3



Wayne S. Bell  
*Commissioner*

## *Commissioner's Message*

We are pleased to present this special issue of the California Bureau of Real Estate ("CalBRE" or "the Bureau") "Bulletin." While it briefly discusses new legislation affecting owners of habitable structures located in rural areas, the Bulletin primarily contains relevant financial highlights and facts on CalBRE for the period from July 1, 2015 through the end of June 2016 -- including information pertaining to revenues, expenditures, and budget spending authority --, as well as reports covering the Bureau's operating programs and units for fiscal year 2015-2016.

It is my hope, as the chief officer of CalBRE, and that of the Bureau's entire Executive Committee, that the information provided is of interest and useful, and gives you a greater understanding of the fiscal state, operations, programs, and outcomes of the Bureau.

It is the dedication, good work, and sustained commitment of the talented employees of CalBRE that has delivered the value-added outcomes and made our positive results possible. To those employees, I offer my boundless appreciation.

They, their managers, and I, are committed to carrying out the statutory mandates of the Real Estate Law and Subdivided Lands Act, improving the efficiency and effectiveness of the Bureau, applying innovation, creativity, and thoughtful prioritization where and when we can, and providing transparency with regard to our resources, challenges, and performance. In addition, it is our collective commitment to achieve the mission of CalBRE, which is to safeguard and promote the public interests in real estate matters through licensure, regulation, education, and enforcement.

Finally, please know that we at CalBRE thank all of you who are interested in the work of the Bureau -- whether as a licensee, developer, consumer, employee, and/or member of the public or government -- for your continuing engagement and support. And if you have any questions, or need or desire additional information, please let us know.



**REAL ESTATE BULLETIN**

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## Fiscal Year 2015–16 Financial Statement

California Bureau of Real Estate (CalBRE) maintains five district offices throughout the state and has approximately 326 employees. For Fiscal Year 2015–2016, CalBRE’s budget spending authority was \$52,295,000. Our revenue for Fiscal Year 2015–2016 totaled \$51,471,166, and our expenditures totaled \$50,694,933. CalBRE’s revenues exceeded expenditures by \$776,233.

**CalBRE’s budget: \$52,295,000**

### Revenue from:

Examinations: \$4,010,334

Licensing: \$36,671,954

Subdivisions: \$8,387,758

Other: \$2,401,120

**Total revenue: \$51,471,166**

### Expenditures from:

Personnel: \$30,191,602

Facilities: \$3,943,925

Department of Consumer Affairs  
pro rata costs: \$4,940,000

Other: \$11,619,406

**Total expenditures: \$50,694,933**

## A Look Back at FY 2015–2016: CalBRE Units Hard at Work

Each section of the California Bureau of Real Estate (CalBRE/Bureau)—although performing separate functions—has the ultimate common goal of consumer protection. Find out what CalBRE’s Audit, Education and Research, Enforcement, Information Technology, Legal, and Licensing units have been up during Fiscal Year 2015–2016 to safeguard and promote the public’s interests in real estate matters.

### Audit Section

The mission of CalBRE’s Audit section is to protect consumers through financial compliance audits of real estate licensees and subdivision developments. The primary focus of CalBRE audits is trust fund handling by licensees and subdividers. Auditors determine if the operations of real estate brokers or subdividers, as reflected in their business records, comply with the requirements of the Real Estate Law and the Subdivided Lands Law.

CalBRE auditors perform two main types of audits. The first type is an investigative audit, which is an audit related to a complaint or a follow-up audit to some previous disciplinary action or report. The second type of audit is a proactive, focused (routine) audit. The subjects of these risk-based proactive audits are often brokers who handle a large volume of trust funds. In Fiscal Year 2015–2016 (covering July 1, 2015, to June 30, 2016), the Audit section closed 359 investigative audits and 231 routine audits.

Given our limited number of auditors as compared to the population of real estate practitioners, in Fiscal Year 2015–2016 we focused our audits on brokers who handle a high volume of trust funds. Audit cases completed in this fiscal year revealed a very high incidence and dollar amount of trust fund shortages. In completing 590 audits, audit staff found trust fund shortages totaling \$13,305,444.04. Eighty of these audits had trust fund shortage findings of greater than \$10,000. The highest incidence and dollar amount of shortage was found on audits of brokers involved with property management or broker escrow activities, as follows:

Broker Activity	Number of audits closed	Number (%) of audits with shortage	Dollar amount of shortage found
Property management	423	185 (43.7%)	\$11,419,174.31
Broker escrow	38	17 (44.7%)	\$1,073,885.03
Mortgage loan	69	12 (17.47%)	\$806,984.75
Sales	60	1 (1.67%)	\$5,399.95

Sixty-one percent of the audits closed in the fiscal year were investigative audits. Included in the investigative audit closings were 39 nonchargeable, follow-up audits on licensees who hold restricted licenses and handle trust funds. Seventy-two percent of our audits completed, or 423 audits in total, were focused on brokers who performed property management activities.

The tables on the right and on page 4 provide more information about the results of the audits completed in the recent fiscal year.

### Audit Statistics Fiscal Year 2015–2016

#### Audit Results

Major violations	156	26%
Cite and fine	56	10%
Corrective action letters	46	8%
Minor violations	207	35%
No violations	125	21%
<b>Total audits performed</b>	<b>590</b>	<b>100%</b>

(Continued on page 4)



A LOOK BACK AT FY2015–2016: CALBRE UNITS HARD AT WORK (CONTINUED FROM PAGE 3)

**Trust Fund Shortages**

Total found with shortages	215	36%
Total amount of shortages found		\$13,305,444
Total shortages cured during audit		\$3,298,849

In Fiscal Year 2016–2017, proactive audits will once again be an important means of our consumer protection outreach. The Audit section will continue to work with our Information Technology Systems Services section to refine and improve its ability to identify real estate practitioners who handle large volumes of trust funds.

**Education and Research Section**

CalBRE’s Education and Research section is responsible for the review and approval of all real estate license continuing education course offerings, as well as pre-license/statutory qualification courses offered by private schools. The section also assists the Real Estate Commissioner through research projects and two endowments for the California community colleges and the California state universities.

**Fiscal Year 2015–2016 accomplishments**

- Reviewed and approved 473 continuing education course offerings and pre-license/statutory qualification courses—an increase of 43 percent over the prior fiscal year.
- Reviewed and approved 29 continuing education equivalent activity petitions—an increase of 61 percent over the prior fiscal year.
- Implemented the provisions of Assembly Bill 345 (Frazier), which amended Section 10170.5 of the Business and Professions Code. This amendment, which became effective on January 1, 2016, requires all brokers who are renewing for the first time to take and pass a course in management and supervision and also makes content changes to the eight-hour survey course adding a management and supervision component. These changes affect all licensees whose license expired on or after January 1, 2016, or who renew on a late basis on or after January 1, 2016. The requirements for a salesperson renewing for the first time remain the same. CalBRE reviewed and approved 39 management and supervision courses and 17 survey courses.
- Revised and updated the forms required for continuing education and pre-license/statutory course approval.

**Goals**

The Education and Research section’s goals are to continue to provide excellent customer service and effective communication with continuing education and pre-license/statutory course providers, applicants, and licensees and to provide input on potential research projects that will benefit CalBRE.

**Enforcement Section**

The Enforcement section plays a vital role in the Bureau’s overall mission to enforce the provisions of the Real Estate Law and the Subdivided Lands Law. In doing so, the Enforcement team helps to provide protection for purchasers of real property and those persons conducting business with real estate licensees.

The Bureau accomplishes its mission by investigating complaints filed against real estate licensees. These investigations determine if violations of the Real Estate

Law occurred in a transaction and if the licensee would be a risk to the public if allowed to continue to operate.

The Bureau investigates the actions of any person engaged in the business of or acting in the capacity of a real estate licensee upon receipt of a verified written complaint. When a complaint is initially received, it is reviewed to determine whether the Bureau has jurisdiction in the matter. In order for the Bureau to have jurisdiction, the complaint must involve a real estate licensee, subdivider, or

(Continued on page 5)

## A LOOK BACK AT FY2015–2016: CALBRE UNITS HARD AT WORK (CONTINUED FROM PAGE 4)

unlicensed person who has performed acts that require a real estate license. Additionally, the issues of the complaint must present a potential violation of the Real Estate Law and be within the Bureau's statute of limitations.

Once a complaint is received and it is determined that the issues are within the Bureau's jurisdiction, it's assigned for investigation. After a case is set up for investigation, the Bureau must develop "clear and convincing evidence" that a violation of the Real Estate Law has occurred before disciplinary action can be taken. In many cases, sufficient evidence to establish a cause for discipline cannot be developed because the allegations made by the complainant prove to be either incorrect or unprovable.

### Fiscal Year 2015–2016 statistics

Complaints received and screened . . . . .	6,207
Complaints assigned for investigation . . . . .	2,850
Complaints closed (no discipline recommended) . . . . .	2,731
Complaints referred for disciplinary action . . . . .	1,144
Citations issued . . . . .	753

Once a case is developed that merits formal disciplinary action, it is sent to the Bureau's Legal section. Disciplinary actions are initiated by filing either a

statement of issues when challenging an applicant's qualifications for licensure, or an accusation when seeking to suspend or revoke an existing license. The Bureau also issues desist and refrain orders to stop ongoing violations of either the Real Estate Law or the Subdivided Lands Law, and bar orders enjoining unlicensed persons from working in real estate or related industries. The Bureau also has authority to issue citations and impose a fine for any violation of the Real Estate Law. Citations issued to real estate licensees are typically for relatively minor, or de minimis, violations of the law that do not merit the higher disciplinary action. Citation authority also permits the Bureau to issue a citation and impose a fine on an unlicensed person engaged in an activity for which a real estate license is required.

The investigative process can be time-consuming, as Enforcement staff must gather all pertinent documentation involved in the transaction, as well as carefully document the testimony of witnesses to the events that transpired. In its efforts to administer the Real Estate Law, the Bureau must approach the disciplinary process in a fair and impartial manner, mindful of the rights of both licensees and consumers in seeking to achieve justice and public protection.

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## Information Technology Systems Section

The Information Technology Systems (ITS) section has spent the past year providing a variety of technological services in support of CalBRE's mission to safeguard and promote public interests in real estate matters through licensure, regulation, education, and enforcement.

In the past year, the following enhancements were made to the CalBRE Enterprise Information System (EIS), which manages the information of more than 2,100,000 persons or entities that CalBRE has interacted with since EIS' rollout:

- CalBRE's EIS Oracle database was upgraded and an additional level of encryption was added to better safeguard the information contained in EIS. The upgrade was completed with minimal amount of downtime to lessen the impact on consumers, licensees, and examinees who use CalBRE's online eLicensing system to validate a license, renew a license, or schedule an exam.
- Previously, a letter was mailed to the examinee, which would add a delay in the scheduling process. ITS created a process to automatically send an e-mail to qualified exam applicants, notifying the examinee that they can schedule their initial exam using the CalBRE's eLicensing System.
- ITS created a process to automatically e-mail licensees that their license application/renewal had been completed and they can use eLicensing to print their updated license certificate.

(Continued on page 6)



#### A LOOK BACK AT FY2015–2016: CALBRE UNITS HARD AT WORK (CONTINUED FROM PAGE 5)

- ITS added a process to expedite the processing of license applications for honorably discharged service members of the U.S. military.
- Senate Bill 1159 became effective January 1, 2016, and removed the requirement to submit proof of legal presence as part of a real estate license application. EIS was modified to remove the proof of legal presence validation when issuing a real estate license.
- EIS was modified to support CalBRE's Development Complaint Intake Unit and Complaint Resolution Program.
- Modifications were made to EIS regarding Assembly Bill 345, which added a new continuing education course, management and supervision, to the system.

As part of its use of technology to better serve the industry, CalBRE launched eLicensing in September 2002, which allowed real estate salespersons and brokers to quickly and easily renew their real estate licenses and make changes to their license information. In the summer of 2004, eLicensing was expanded to allow examinees to schedule an exam, check their exam results, change their mailing address, and request duplicate notices. Licensee and examinee usage of the eLicensing system has increased significantly since its introduction. Currently, eLicensing is processing 74 percent of broker license renewals and 85 percent of the salesperson license renewals received by CalBRE.

CalBRE is continuing to expand its use of technology to distribute important information to the real estate industry with the creation of the CalBRE Alert and Advisory E-mail Notification System. By using this system, CalBRE can send out important alerts and advisories in a timely manner to the real estate industry.

In the coming year, to help expedite the process of an examinee getting a real estate license after passing the exam, eLicensing is being expanded to allow examinees who pass the real estate exam to download a license application form with a list of the additional required information needed to successfully apply for a license.

Although traditionally most of the focus of CalBRE's interactive website has been on real estate examinees and licensees, CalBRE is working on the Subdivisions Online Public Report Application System (SOPRAS). SOPRAS will streamline the subdivision application process for both CalBRE and industry by allowing for the electronic submission of an application and its supporting documentation. SOPRAS will perform an initial validation of the application to determine if it is substantially complete before submission to CalBRE for additional processing. SOPRAS will decrease the overall processing time frames by making information more readily available and eliminate processing steps through automatic validation.

For more information from CalBRE on real estate matters:

- Visit CalBRE's website at [www.calbre.ca.gov](http://www.calbre.ca.gov)
- Subscribe to CalBRE's RSS feed at [www.calbre.ca.gov/RSS.html](http://www.calbre.ca.gov/RSS.html) for CalBRE news to be delivered directly to an e-mail or desktop
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Let us know how we are doing by taking a customer service survey at <http://secure.dre.ca.gov/publicasp/survey.asp>.

A LOOK BACK AT FY2015–2016: CALBRE UNITS HARD AT WORK (CONTINUED FROM PAGE 6)

## Legal Section

CalBRE's Legal section remained busy during Fiscal Year 2015–2016, which ran from July 1, 2015, through June 30, 2016. The Legal section plays a critical role in CalBRE's application review and license discipline processes, including the preparation of statements of issues to deny license applications and accusations to discipline license rights. The Legal section's attorneys regularly appear before administrative law judges to argue in favor of application denials or license discipline.

Through its efforts, the Legal section protected consumers during Fiscal Year 2015–2016 by revoking 411 licenses (18 percent decrease from the prior fiscal year), suspending 120 licenses (15 percent increase from the prior fiscal year), accepting the voluntary surrender of 114 licenses (40 percent increase from the prior fiscal year), and denying 183 applications (0 percent change from the prior fiscal year).

In addition to administrative prosecutions described above, the Legal section also manages CalBRE's Consumer Recovery Fund, a fund of last resort from which victims of real estate fraud may recover some or all of their actual losses when a licensee lacks assets to pay for that loss. During Fiscal Year 2015–2016, the Fund received 73 new claims for payment, paid 81 claims for \$3.4 million, and denied 74 claims. The fact that CalBRE paid or denied more claims than it received during Fiscal Year 2015–2016 is not unusual since most claims were filed during prior fiscal years.

Here are statistics for Fiscal Year 2015–2016 administrative prosecutions:

Activity	Cases Filed	Orders Issued
Raps (background issues)	331	--
Transactional accusation cases	296	--
Desist and refrain cases	57	57
Petitions for reinstatement	--	153
License revocations (including restricted licenses)	--	411
License suspensions	--	120
Voluntary surrenders	--	114
Dismissals (accusations or statement of issues)	59	--
Public reprovals	--	13
License denials (including restricted licenses)	--	183
<b>Total</b>	<b>743</b>	<b>1,051</b>

## Licensing Section

The Licensing section is responsible for the administration of real estate license examinations and the issuance and renewal of salesperson and broker licenses, as well as the issuance and renewal of mortgage loan originator endorsements through the Nationwide Multistate Licensing System (NMLS). The section also manages a large and growing volume of phone and written inquiries. With the favorable real estate market and historically low interest rates, CalBRE has experienced a substantial increase in examination and license applications.

(Continued on page 8)



A LOOK BACK AT FY2015–2016: CALBRE UNITS HARD AT WORK (CONTINUED FROM PAGE 7)

### Licensing and examination activity

The workload statistics for the last four Fiscal Years of 2012–13 through 2015–16 are outlined in the graphs to the right and on page 9. The number of applications for examinations and licensure has steadily increased over the past four fiscal years. This includes a 78 percent increase in the number of salesperson exams administered and 61 percent increase in salesperson licenses issued when comparing Fiscal Year 2015–16 to Fiscal Year 2012–13.

The increase in workload as well as a large licensing population has led to a significant increase in calls to CalBRE. In Fiscal Year 2015–16, the Bureau handled 249,042 calls, which is an average of 20,753 calls per month or 1,037 calls per day.

At the end of Fiscal Year 2015–16, the licensee population totaled 408,357, which included 134,947 brokers and 273,410 salespersons. This is an increase of 2 percent over the number of licensees at the end of the previous fiscal year.

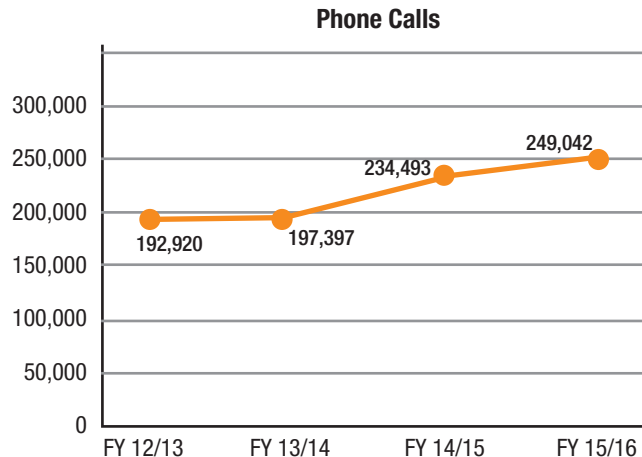
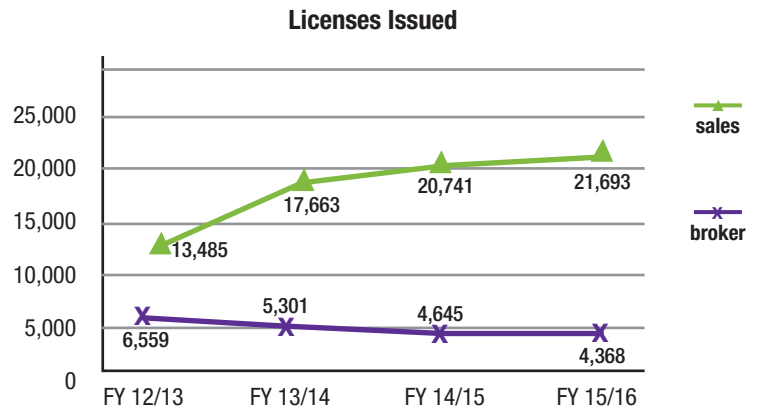
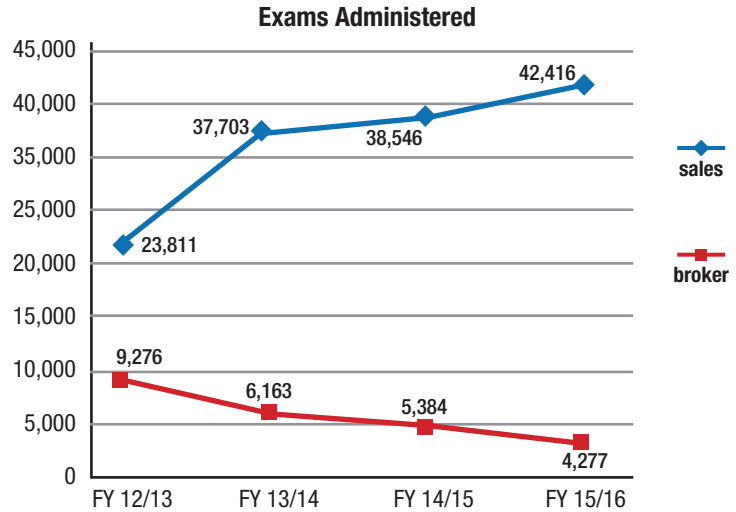
### Our challenges

As you can see by the statistics mentioned previously, the Licensing section is facing many challenges due to the increasing workload. However, over the past year, we always strived to address these significant increases and be responsive to the needs of licensees and examinees in those areas where we can make a difference.

### We need your help

Here are ways to help facilitate your interactions with us:

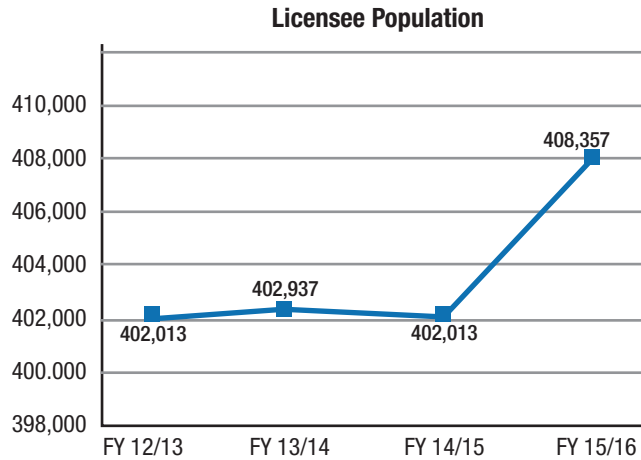
- Refer to our processing time frames on our website: The same service representatives who answer the phone also process applications. Please wait until the recommended time posted on the website has passed before calling if you have not heard from us.





## A LOOK BACK AT FY2015–2016: CALBRE UNITS HARD AT WORK (CONTINUED FROM PAGE 8)

- Know when your fee was accepted: If paying by credit card, please check your statements to determine if your fee has been charged. Otherwise, check your bank statement to determine if we have cashed your check. Most financial institutions have this information available online for faster service. It is important to have the date the fee was charged or cashed in the event you need to contact us.
- Submit only one application and fee: Applicants should be cautioned that multiple examination applications and fees submitted by any means (by mail and/or fax) take significantly longer to process thereby hindering their ability to get scheduled timely for an examination.
- Use the CalBRE eLicensing system to:
  - Find out when exams are being scheduled
  - Check your exam date
  - Find out your exam results
  - Reschedule your examination date
  - Renew salesperson and broker licenses
  - Change your mailing address



- Employ broker changes for a salesperson
- Certify a salesperson's employment
- Change a broker's main office address
- Print license certificates
- Update your e-mail address

## Accomplishments

Licensing implemented Senate Bill 1226 and a new e-mail notification enhancement to qualified examinees and licensees.

On September 27, 2014, the Governor signed SB 1226 (Correa), which added Section 115.4 of the Business and Professions Code, which requires programs under the Department of Consumer Affairs to expedite the initial licensure process for individuals honorably discharged from the United States Armed Forces. On July 1, 2016, CalBRE began expediting the examination and license applications of honorably discharged veterans who provided proof of condition of discharge to CalBRE. The salesperson and broker examination applications, combined exam/license applications, and original license applications have all been revised to include a question about the applicant's military discharge status and additional information on use of this service including the new military expedite post office box.

Recently, the Licensing section rolled out an e-mail notification enhancement for examinees and licensees. This improved notification process sends an e-mail to the licensee when a license is issued or renewed, and sends an e-mail to an applicant when the applicant is qualified to take the examination and has requested to self-schedule through our eLicensing system. This e-mail notification process saves CalBRE resources and increases our customer service to our clients.

## Goals

CalBRE's challenge is the timely delivery of services while preserving the integrity of the results. Going forward, CalBRE will build upon the licensing benchmarks by continuing to expand the use of technologies, such as improvements to our eLicensing system. This strategy will enable CalBRE to better meet the business needs of the industry as a whole by delivering timely and efficient services, promoting greater transparency of government, and providing more convenient access to information.



A LOOK BACK AT FY2015–2016: CALBRE UNITS HARD AT WORK (CONTINUED FROM PAGE 9)

## Mortgage Loan Activities Section

The Mortgage Loan Activities (MLA) section is responsible for a variety of functions associated with real estate brokers engaged mostly in the mortgage business. These functions include:

**Background investigations** – MLA performs background investigations for those applying for a mortgage loan origination (MLO) license endorsement, with respect to prior criminal convictions, disciplinary actions, civil litigation, and other financial responsibility issues, to determine if the licensing of that person would be a risk to the public. Last year, MLA performed approximately 375 MLO background investigations.

**Mortgage loan advertising** – MLA performs reviews of mortgage loan advertisements submitted voluntarily by brokers wishing to have their advertisements approved by CalBRE. Brokers may submit their advertisements with the Mortgage Loan Advertising Submittal form (RE 884), along with a fee for the review. MLA also reviews advertisements that have been referred to CalBRE may fail to comply with appropriate laws and regulations. Last year, approximately 30 advertisements were reviewed by MLA.

**Threshold and multilender reports** – MLA tracks and monitors the activities of brokers who meet a prescribed level of activity in specified types of mortgage transactions, primarily with private, individual investors. These brokers are required to submit quarterly and annual reports to CalBRE. There are currently 336 reporting threshold brokers and 137 reporting multilender brokers. Approximately 2,000 threshold and multilender reports are received and processed each year.

**Industry and consumer resource** – Each day, MLA receives numerous phone calls and correspondence from both licensees and consumers regarding various compliance issues, as well as questions concerning specific mortgage loan transactions. Approximately 4,000 such calls and letters are responded to each year.

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## Assembly Bill 301: Change in SRA Fee Apportionment

California Bureau of Real Estate licensees representing rural landowners should know about new legislation, Assembly Bill 301.

Since 2011, owners of habitable structures located in rural areas of the state of California—known as the SRA, the acronym for State Responsibility Area—have been assessed a fee for fire prevention services conducted in the SRA. The fee is assessed annually at the rate of \$152.33 (minus \$35 if the structure is located within the boundaries of a local fire protection agency) per habitable structure located in the SRA.

On January 1, 2016, AB 301 took effect that allows a property owner subject to the SRA fee who wishes to sell his or her property to negotiate the apportionment of the fee between the buyer and seller. Additional information regarding the SRA fee and the new legislation is available on the California Fire Prevention Fee website, [www.firepreventionfee.org](http://www.firepreventionfee.org).

## Broker-Controlled Escrow Activities: Should You be Reporting to the Bureau?

Since January 2014, brokers who engage in a threshold level of “controlled” escrow activities in a calendar year are required to file a report with the Bureau of Real Estate (Bureau).

More specifically, according to Business and Professions (B&P) Code Section 10141.6, brokers who engage in escrow activities for five or more transactions in a calendar year under the exemption from the Escrow Law contained in Section 17006 of the Financial Code, or whose escrow activities pursuant to that exemption equal or exceed \$1 million in a calendar year, are required to file a report with the Bureau within 60 days following the completion of the calendar year. (Note: It is the activity levels and not the broker’s income from the activities that matters.) For a broker to conduct “broker-controlled escrows” and be exempt from the Escrow Law, the relevant broker must be a party or an agent in connection with the escrow and performing services requiring a real estate license.

In 2013, 206 real estate brokers reported such broker escrow activities, totaling \$8.63 billion. In 2014, 161 brokers reported broker escrow activities, totaling

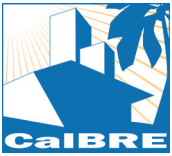
\$5.52 billion, and then in 2015, 143 brokers reported broker escrow activities, totaling \$8.45 billion.

Despite these reports of very large volumes of escrow activities statewide, the Bureau believes hundreds of brokers required to report escrow activities have failed to do so. This conclusion is based on prior audits and complaints received and/or investigated regarding brokers or broker-controlled escrows. The Bureau’s Audit section will conduct audits of the activities of some of these brokers to determine if these brokers are in compliance with B&P Code Section 10141.6 and are properly handling and accounting for the escrow trust funds. Brokers who fail to report may be subject to a Bureau audit, citations and/or fines, and disciplinary action.

The Escrow Activity Report must be submitted online to [www.calbre.ca.gov](http://www.calbre.ca.gov) by the broker. Designated officers should submit the Escrow Activity Report for real estate corporations. Information on escrow activity reporting and instructions on how to submit the report can be found at [www.dre.ca.gov/Licensees/EscrowActivityReporting.html](http://www.dre.ca.gov/Licensees/EscrowActivityReporting.html).



Have you met the levels of escrow activity that require reporting? If you have met these levels, **submit your Escrow Activity Report online as soon as possible** to avoid fines and penalties (B&P Code Section 10141.6 (c and d), B&P Code Section 10080.9) and/or possible disciplinary action against your license.



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## INSIDE THIS ISSUE

- *Commissioner's Message*
- *Fiscal Year 2015–16 Financial Statement*
- *A Look Back at FY 2015–2016:  
CalBRE Units Hard at Work*
- *Assembly Bill 301: Change in SRA Fee  
Apportionment*
- *Broker-Controlled Escrow Activities:  
Should You be Reporting to the Bureau?*



We'd like to hear from you!  
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