

OFFICIAL RECORDS

REGULATIONS

1971

Original Distribution

Interested persons - 182

LA  
SD  
SF  
F  
Sac

Final Mailing

SF 60  
LA 115  
SD 25  
SAC 100  
F 20

2/10/74

NOTICE OF PROPOSED CHANGES  
IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

Notice is hereby given that Robert W. Karpe, Real Estate Commissioner, pursuant to the authority vested in him by Sections 10080, 10226, 10249.2, 10312, 11001, 11011.8 and 11018.9 of the Business and Professions Code and to implement, interpret or make specific Sections 10153.4, 10177, 10209, 10209.5, 10210, 10214.5, 10215, 10240, 10249.5, 10249.15, 11000.1, 11000.6, 11010, 11011, 11011.1, 11012, 11018, 11018.5, 11025, 11028 and 11029 (among others) of the Business and Professions Code, proposes to adopt, amend or repeal regulations in Title 10, California Administrative Code, as follows:

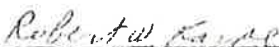
- (1) Amend Sections 2705, 2790.7, 2790.8, 2795, 2795.1, 2801.5, 2807, 2813, 2814, 2814.3, 2814.5, 2817, 2819, 2819.5 and 2819.96 to encompass undivided interests subdivisions under the coverage of the aforesaid sections.
- (2) Add Section 2716 pertaining to real estate license fees.
- (3) Amend Section 2725 relating to delegation of broker supervision of salesmen.
- (4) Add Section 2726 covering written agreements between broker and salesman.
- (5) Amend Section 2790 to delete existing inconsistency with Section 2791.
- (6) Repeal Section 2791 as inconsistent with existing Section 2790.
- (7) Amend Section 2790.1 dealing with subdivision filing fees.
- (8) Repeal Sections 2792.1 and 2792.2 pertaining to planned developments with minimal common facilities.
- (9) Amend Section 2792.6 and repeal Section 2792.7 to effect a consolidation of requirements of both sections as written.
- (10) Amend Section 2792.8 relating to management and control of planned development and undivided interestssubdivisions.
- (11) Amend Section 2792.9 relating to financial arrangements for operation and maintenance of planned developments and condominium projects during start-up.
- (12) Amend Section 2792.11 relating to documents for undivided interests subdivisions.
- (13) Repeal Section 2792.12 as superfluous with amendment of Section 2792.8.

- (14) Add new Section 2792.12 for undivided interests subdivisions.
- (15) Amend Section 2792.13 pertaining to undivided interests subdivisions, stock cooperatives and community apartment projects.
- (16) Amend Section 2801 to include provisions covering community apartment projects, condominiums and stock cooperatives.
- (17) Amend Section 2801.5 to clarify and to include undivided interests subdivisions.
- (18) Amend Section 2819.6 and 2819.7 concerning rescission rights in land project subdivisions.
- (19) Repeal Section 2819.9 to conform to repeal of Section 11018.6 of the Business and Professions Code.
- (20) Add new Section 2819.9 relating to specific findings in land project subdivision filings.
- (21) Repeal Section 2819.95 to conform to repeal of Section 11018.6 of the Business and Professions Code.
- (22) Amend Section 2819.96 to conform to new code section.
- (23) Amend Section 2840 setting forth new approved form of mortgage loan brokers statement.
- (24) Add Sections 3000 through 3004 relating to approval of courses of private vocational schools and supervised courses of study.

Notice is also given that any interested person may present statements, arguments or contentions, written or oral, relevant to the aforesaid proposed changes at a hearing to be held in Room 1138, State Building, 107 South Broadway, Los Angeles, California, at 1:30 p.m. on the 2nd day of December 1971. At such time or thereafter, the Real Estate Commissioner on his own motion or at the instance of any interested person may amend the above proposals and adopt the same as amended without further notice.

Prior to said hearing, any interested person may transmit statements, arguments or contentions in writing pertaining to the aforesaid proposed changes to the Real Estate Commissioner at 714 P Street, Sacramento, California.

Dated: November 5, 1971

  
\_\_\_\_\_  
ROBERT W. KARPE  
Real Estate Commissioner

EX-104

NOTICE OF PROPOSED CHANGES  
IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

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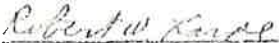
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Dated: November 5, 1971

  
\_\_\_\_\_  
ROBERT W. KARPE  
Real Estate Commissioner

Office of Administrative Procedure  
Room 456, Office Building No. 1  
915 Capitol Mall  
Sacramento, California 95814

8 December 1971

Attn: Inez Burrow

714 P Street, Sacramento, CA. 95814

We herewith transmit to you for filing with the Secretary of State and with the Rules Committee of each House of the Legislature a certified copy and six duplicate copies of Regulations adopted, amended or repealed by the Real Estate Commissioner.

It is extremely important to this Department that the filing with the Secretary of State be made on December 10, 1971. Your cooperation in meeting this deadline will be very much appreciated.

Assuming that the filing is made on December 10, all of the new sections, the amendments and the orders of repeal are to be effective January 10, 1972, except as follows:

| <u>Regulation</u>   | <u>Effective Date</u> |
|---------------------|-----------------------|
| 2716 (adoption)     | 4/1/72                |
| 2819.6 (amendment)  | 3/6/72                |
| 2819.7 (amendment)  | 3/6/72                |
| 2819.9 (repeal)     | 3/6/72                |
| 2819.9 (adoption)   | 3/6/72                |
| 2819.95 (repeal)    | 3/6/72                |
| 2819.96 (amendment) | 3/6/72                |
| 3000 (adoption)     | 3/6/72                |
| 3001 (adoption)     | 3/6/72                |
| 2726 (adoption)     | 4/1/72                |

Office of Administrative Procedure  
Page Two  
8 December 1971

| <u>Regulation</u> | <u>Effective Date</u> |
|-------------------|-----------------------|
| 3002 (adoption)   | 3/6/72                |
| 3003 (adoption)   | 3/6/72                |
| 3004 (adoption)   | 3/6/72                |

Please inform me when endorsed, filed copies of these regulation changes are available so that we may arrange to pick them up.

W. Jerome Thomas  
Chief Legal Officer

WJT/pk

# Memorandum

To : G. E. HARRINGTON  
Assistant Commissioner  
Sacramento

Date: 2 December 1971

From : HENRY BLOCK

## DECEMBER 2 REGULATION HEARINGS IN L.A.

I heard the following comments at the subject hearing:

### Proposed 2726

4/1 OK Doug Gillies, representing CREA, said Association has no objection to the proposal, however, he questions if effective date 30 days after filing is not too soon to communicate the change to all licensees. Gillies recommended more lead time.

### Proposed 2792.8

Maury Hall said he thought the proposal shouldn't apply to out-of-state offerings.

Gillies had a question - Due to wording of sub-section 16 and 18, is there is a possibility changes in assessments provided in by-laws could be made by only 12½% of the ownership?

### Proposed 2819.7

OK Gillies asked elimination to reference to telegram. Commissioner said he would consider.

Maury Hall said to give developers copies of notice and preferably attach notices to PR.

### Proposed 2840

Gillies, representing CREA, requests form not be amended. He referred to Dymally's SB 1609. He stated language in proposal is not as precise as industry believes it should be. He said efforts should be made to coordinate State and Federal Law.

Commissioner - Do you feel this can amalgamate with Truth in Lending Law? Gillies indicates this was a possibility.

Commissioner - Do you believe you could come up with concrete proposal? Gillies indicated in the affirmative.

G. E. HARRINGTON

2 December 1971

Page Two

DECEMBER 2 REGULATION HEARINGS IN L.A.

Max Kahn of Pizer's office said he represented Mortgage Brokers Institute. He joined in Gillies' comments and asked proposal be referred to advisory committee with a goal to work out a better form. Kahn indicated form tended to give prospective borrower low image of mortgage loan broker. Kahn cited Item 2 on page 55 of the Proposed Regulations tells the prospective borrower too much.

Leonard Smith identified himself as an attorney who represented ten mortgage loan brokers. He said as an attorney he doubts that one form can satisfy both Federal and State requirements. He went on to state the proposal is poorly timed as he understands Truth in Lending people are coming out with a new form. Smith said he thinks the form is too verbose and because of this the borrowers don't read it. Smith concluded by recommending Commissioner appoint committee to work out meaningful form.

Commissioner - We think we will delay until we have more interaction on this proposal with industry.

Proposed 3000

Vince - What does 45 clock hours of instruction mean? Does it include a recess for instance. Hempel and Harrington said the intent is to have the same meaning as in the educational system. Hempel said we will check with the educators and if the proposal needs clarification we can do so.

Vince - Will Department accept apps before effective date of law. Hempel said we will accept apps and work on them so if feasible, decision can be made on effective date.

Vince - Are application forms available? Harrington said forms were available and we will send them out to you.

Commissioner adjourned hearing at 2:40 p.m.

*Henry Bloch*  
HENRY BLOCH

HB:ja

714 P Street  
Sacramento, CA. 95814

1  
December  
1971

Mr. E. W. Christensen  
Director  
Veterans Administration  
Regional Office  
49 Fourth Street  
San Francisco, California 94103

Re 343/27

Dear Mr. Christensen:

I am replying to your letter of November 30, 1971, to Commissioner Karpe relative to the proposed changes in the Regulations of the Real Estate Commissioner.

The objection that you raise is to subsection 11(e) of Regulation 2792.8. This subsection replaces one that is dissimilar in wording but not in content. Existing Regulation 2792.8(b) includes the contracting and paying of premiums for fire, casualty, liability and other insurance among the duties of the management body of the owners association.

We are aware of the FHA and VA policies against an owners association carrying fire and hazard insurance on individually owned dwellings within a PUD. Regulation 2792.8(11)(e) should not contradict or conflict with the VA and FHA policy with regard to hazard insurance in any respect. We anticipate that in any filing for a planned development which is insured through VA or FHA, the Declaration of Restrictions for the development or the Bylaws for the homeowners association will limit the power of the Board of Directors to contract for insurance only on the common property. This is perfectly acceptable to the Department of Real Estate and we would not impose any additional requirement that the association carry insurance on individually owned dwellings under the amended regulation any more than we have under the existing regulation.

Sincerely,

W. Jerome Thomas  
Chief Legal Officer

WJT/pk

Date: November 30, 1971

In Reply  
refer to: 343/27

VETERANS ADMINISTRATION  
REGIONAL OFFICE  
49 FOURTH STREET  
SAN FRANCISCO, CALIFORNIA 94103



Mr. Robert W. Karpe  
Commissioner  
Department of Real Estate  
714 P Street  
Sacramento, CA 95814

We have received a copy of proposed changes in the Regulations of the Real Estate Commissioner, dated November 5, 1971, which will affect Title 10 of the California Administrative Code.

We have noted with particular interest proposed amendments to Regulation 2792.8 governing the management, regulation and control of planned development and undivided interest subdivisions.

It is proposed that Section 11(e) of Regulation 2792.8 will provide among other enumerated powers of the governing body for "contracting for fire, casualty, liability and other insurance on behalf of the owners' association."

While we are not certain of the exact connotation of this proposed Section 11(e), we wish to point out that both the Veterans Administration and Federal Housing Administration have taken the position that provisions dealing with hazard insurance of dwellings have no proper place in land covenants for the reasons outlined in the enclosed copy of DVB Circular 26-70-32, dated August 3, 1970.

The form of "By-Laws" approved for use in VA-FHA processing of planned-unit developments provides in pertinent part that it shall be the duty of the Board of Directors to "procure and maintain adequate liability and hazard insurance on property owned by the Association."

May we respectfully suggest that your Department re-consider the inclusion in your proposed changes to your Regulations of any provision which might have the effect of infringing upon the normal privilege and freedom of any homeowner in the purchase of hazard insurance for his dwelling.

  
E. W. CHRISTENSEN  
Director

*Show veteran's full name, VA file number, and social security number on all correspondence.*

5 cys. recd. 8-12-70  
26-1; 261-1; 262-1; 263-1

27-1

Department of Veterans Benefits  
Veterans Administration  
Washington, D. C. 20420

Mr. Beachel

Mr. Paquette

DVB Circular 26-70-32

August 3, 1970

LAND COVENANTS -  
PLANNED-UNIT DEVELOPMENTS -  
HAZARD INSURANCE PROVISIONS

1. VA Form 26-8201, Suggested Legal Documents for Homes Associations - Declaration of Covenants, Conditions and Restrictions, contains no provision about hazard insurance of dwellings in Planned-unit Developments. The omission was intentional. In increasing numbers recent submissions of PUDs for review pursuant to DVB Circular 26-67-38 include elaborate land covenant provisions on hazard insurance. It is not unlikely that the motivation for inclusion of such provisions is provided in many instances by insurance brokers and counsellors who hope to corral all of the subdivision's hazard insurance business. These persons apparently see in the automatic membership homes association a medium through which they can deal to secure all of such business for entire subdivisions, without the necessity for selling individual homeowners. To further tie the business down, provisions have been included in some instances which authorize and require the homes association to designate an "insurer of record" and a "broker of record" for all such insurance on all homes in the covered development. We have objected specifically to these provisions. In addition we have objected to inclusion of requirements for blanket policies on all properties subjected to the covenants. We have objected also to provisions purporting to empower the homes association to collect or otherwise obtain the proceeds of hazard insurance policies to which the homes association is not a party or to control or have a voice as to the adequacy of a proposed loss settlement.

2. Many of such covenant provisions on insurance are believed to have been borrowed from organizational documents for condominium projects. For such projects provisions requiring the homeowners organization (Council of Co-Owners) to purchase blanket hazard insurance policies covering all the destructible portions thereof are a practical necessity.

August 3, 1970

They are, however, in no sense necessary in conventional subdivisions. Nor is there anything about planned-unit developments which makes such provisions necessary. In such developments the individual home, be it a detached home or a "townhouse", is capable of being owned, and is in fact owned, in severalty. No part of such homes is owned under tenancy in common with the owners of other homes, as is the case in respect to the so-called "common elements" of condominium structures.

3. We recognize that in row and townhouse type developments the joinder or near proximity of one dwelling to another necessarily creates a certain "community of interest" between adjacent owners. The lack of adequate maintenance, or the destruction of one home which is part of a block of adjacent homes, affects the owners of neighboring homes both in respect to value and from an aesthetic standpoint. There is a risk that without insurance coverage a damaged or destroyed unit may not be restored or rebuilt. In view, however, of the fact that practically without exception mortgage lenders advancing purchase money on new (or used) homes will require hazard insurance, and the fact that the cash purchaser who does not insure is rare indeed, we are satisfied that the risk of the uninsured town or row house is exceedingly small. Moreover, the compulsory membership homes association set-up is still the exception rather than the rule in townhouse or rowhouse subdivisions. Hence, the risk inherent in the uninsured privately owned townhouse is present without regard to the existence or nonexistence of a homes association that can be empowered to undertake insurance responsibility. Because of this, we could not, for example, properly require that in planned-unit developments the land covenants include a provision making the homes association responsible for hazard insurance coverage for all residences therein, even if we were disposed to do so.

4. We are aware also that in some circumstances there may be a saving on hazard insurance premiums if the insurer is able to insure many homes under one policy or is required to deal with but one party in writing coverage for many homes.

2.

August 3, 1970

DVB Circular 26-70- 32

However, compared to other costs of home ownership the cost of hazard insurance is relatively small. Hence, any such savings are not significant in the overall picture. They are, moreover, outweighed by numerous disadvantages.

5. We are concerned especially about the effect on resale of these attempts to control hazard insurance by land covenants. The moving spirit in the purchase of residential hazard insurance is often the mortgage lender. To the extent of his monetary interest in the property he is concerned with the type and amount of coverage and the manner of payment of insurance proceeds. When an insured loss occurs he may prefer to apply the insurance proceeds to reduction of the mortgage debt, rather than to reconstruction of the home. The typical covenant provision we have seen would deprive (or appear to deprive) the mortgage lender of the choice he would otherwise have in respect to such matters as identity of insurer, amount of coverage, or application of his share of insurance proceeds. Notwithstanding this, we have encountered no instance to date of objections by mortgage lenders to acceptance of homes as mortgage security on account of land covenant provisions regarding hazard insurance. On the contrary we are told that the mortgage lenders involved favor such provisions. In all of such cases, however, available information indicated that only one or a very limited number of lenders were expected to be making take-out loans. We anticipate that subjection of single-family residential properties to such covenants will adversely affect the acceptability of the properties as loan security to lenders who are asked to provide mortgage financing for resales. The limitation which such covenants impose on the normal privileges of the mortgage lender and of the homeowner in regard to hazard insurance could impede resale by veteran purchasers, notwithstanding acceptance thereof by the original mortgage lender(s).

6. Our concern and that of FHA about the effect of such provisions and about the increasing amount of time being spent analyzing them in the course of VA and FHA legal reviews resulted in a number of joint staff discussions to work out a mutually acceptable policy. Reflecting the conclusion on the part of both agencies that provisions dealing with hazard insurance of dwellings owned by

August 3, 1970

individual homeowners have no proper place in land covenants, it was agreed that, effective immediately, both VA and FHA will require the elimination from land covenants covering proposed residential construction submitted for subdivision approval or appraisal of provisions which in any way affect the right of the individual homeowner to contract for customary hazard insurance to the extent of his insurable interest or the customary right of the mortgagee to require a minimum amount of coverage by an acceptable insurer. This policy is not limited to planned-unit developments or subdivisions involving homes associations. The only exceptions are:

- a. Properties currently in process covered or proposed to be covered by insurance covenants which have been accepted by VA or which have been accepted subject to specified amendments of the insurance provisions.
  - b. Properties on which CRVs or MCRVs are outstanding.
  - c. Properties on which FHA firm commitments are outstanding.
  - d. Existing properties on which insurance covenants are outstanding.
7. Sponsors, developers and lenders who inquire or submit Planned-unit Developments for approval will be advised accordingly.

  
OLNEY B. OWEN  
Chief Benefits Director

Distribution: RPC 2021  
FD

714 P Street  
Sacramento, Ca. 95814

24 November 1971

Mr. M. R. Griffin  
Mason-McDuffie Company  
2850 Telegraph Avenue  
Berkeley, California 94705

Dear Mr. Griffin:

Thank you for your letter of November 19. It will be added to the packet of comments concerning the proposed regulations in connection with the projected December 2 hearing.

We think that this falls in the same pattern as the "initialing regulation." That is, it will induce brokers, in many cases, to have a memorandum of understanding where none had existed before.

From an enforcement point of view we believe our investigative techniques could dovetail into the routine office surveys which are a part of trust account checks and those which would be indicated under the existing initialing regulation.

We feel the understanding is an element of supervision, and we have deliberately avoided specific reference to what must be covered in the contracts so that reference to policy manuals, job descriptions, and the like, can constitute the understanding.

I don't want to appear argumentative, but you have taken the trouble to give me your point of view, and I wanted you to know that we are attempting to give this a practical flavor.

In any event, none of the regulations will be filed until all of the written and verbal comments have been received and digested.

Sincerely,

Robert W. Karpe  
Commissioner

JEH:mb



# MASON-McDUFFIE Co.

REALTORS ■ MORTGAGE BANKERS ■ INSURANCE ■ PROPERTY MANAGERS  
2850 Telegraph Avenue, Berkeley, California 94705  
(415) 845-0200

RECEIVED  
CASHIER NO. 4

NOV 22 1971

DEPT. OF REAL ESTATE

November 19, 1971

Real Estate Commissioner  
714 P Street  
Sacramento, California

Dear Commissioner:


It is respectfully submitted that proposed Regulation Section 2726 regarding written employment contracts as set forth in your notice dated 11/5/71 should not be adopted for the following reasons:

1. It would serve no purpose sufficiently related to the functions of the Department of Real Estate. A written contract is of course frequently desirable as between the parties for the purpose of clarification. However, individual signed and dated written employment contracts are not always used because the employment agreement can be adequately expressed by oral agreements, customs, policy manuals, job descriptions, etc. For example, the Department of Real Estate does not use or need such contracts with its personnel.

Furthermore, any need for clarification of the usual provisions of employment agreements is not a function of the Department of Real Estate. The matter of supervision is such a function but the proposed regulation does not provide for any details of the provisions for such supervision and if it did, it could provide for only those required by statute and regulation and this would be unnecessary since such statutes and regulations already sufficiently state such details or can do so.

2. It would cause meaningless creation and retention of paperwork and purposeless investigations by the Department of Real Estate. No means of accomplishing adequate employment arrangements other than a dated, written contract signed by both parties would be sufficient to comply. But such a contract would comply if it covers the listed subjects even if it is a poorly drafted form. The existence of such pieces of paper will be another matter for deputies to investigate to no purpose except to determine technical compliance without regard to the existence of adequate supervision.

Sincerely,

  
M. R. Griffin

MRG:amc

214 P Street  
Sacramento, CA. 95814

26  
November  
1971

Mr. Ralph W. Pann  
Lumblau Real Estate School  
519 South Western Avenue  
Los Angeles, California 90005

Dear Mr. Pann:

Earlier today we mailed out amendments to proposed changes in the regulations. Included in these changes was a revised page 56, which is part of the proposed Mortgage Loan Brokers Statement. The copy that we sent out is not the one that is proposed. I include the page 56 that should have been included as part of the amendments. You will see that it incorporates the suggestions that you made to Mr. Hempel by telephone.

Sincerely,

W. Jerome Thomas  
Chief Legal Officer

WJT/pk

# Amendments to Regulation Changes

|   |                             |          |
|---|-----------------------------|----------|
| 8 | Commission Members          | 1 each   |
| 1 | Beckstead                   | 1        |
| 3 | Gallie                      | 3        |
| 3 | McCarroll                   | 3        |
| 1 | Jay                         | 1        |
| 1 | Shamond Smith               | 1        |
| 1 | Western Development Council | Original |
| 1 | Package of Amendments       | 1        |
| 1 | Plans                       | 1        |

19

(Done)

1 each to named on attached list  
except Beckstead

PERSONS INVITED TO ATTEND

PRIVATE SCHOOL MEETING

NOVEMBER 4, 1971

---

\* Will attend

\* Maurice A. Kimball, President  
Anthony Schools  
1112 W. Olympic Blvd.  
Los Angeles, California 90015

LEON Attorney

\* VINCENT  
John Lumbleau, President  
Lumbleau Real Estate School  
519 S. Western Avenue  
Los Angeles, California 90005

\* Brian Roper, President  
Roper School of Real Estate  
2831 Fruitridge Road  
Sacramento, California 95820

\* Harold Goettsch  
CREA Education Committee Chairman  
P. O. Box 212  
Norwalk, California 90650

\* *Curtis*  
Dr. John R. Humphreys, President  
Humphreys College  
6650 Inglewood Avenue  
Stockton, California 95207

\* Don Cooley  
Anthony Schools of Santa Clara Valley, Inc.  
2858 Stevens Creek Blvd.  
San Jose, California 95128

\* William Wright  
Piver School  
2320 Judah Street  
San Francisco, California 94122

Zan Beckstead  
Executive Vice President, CREA  
520 South Grand Avenue  
Los Angeles, California 90017

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

714 P Street  
Sacramento, CA. 95814

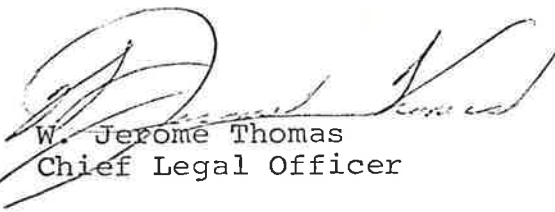


26  
November  
1971

To Whom It May Concern:

Recently you received from this office PROPOSED CHANGES IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER along with the published Notice of Changes and comments on the nature and purpose of each proposal.

Enclosed you will find AMENDMENTS TO THE PROPOSED CHANGES which will be presented at the hearing on December 2, 1971.

  
W. Jerome Thomas  
Chief Legal Officer

WJT/pk

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

714 P Street  
Sacramento, CA. 95814




26  
November  
1971

TO: MEMBERS OF THE STATE REAL ESTATE COMMISSION

FROM: W. Jerome Thomas

We recently mailed you copies of PROPOSED CHANGES IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER with notice of the time and place of hearing and comments.

Attached are AMENDMENTS TO THE PROPOSED CHANGES with comments immediately below the suggested amendment.

  
W. Jerome Thomas  
Chief Legal Officer

WJT/pk

Amendments to  
PROPOSED CHANGES IN THE REGULATIONS  
of the  
REAL ESTATE COMMISSIONER  
WITH COMMENTS

---

At PAGE 14, amend proposed Section 2792.8(4) to read:

"Procedures for calculating and collecting regular assessments to defray expenses attributable to the ownership, use and operation of common areas and facilities with said assessments to be levied against each owner, including the subdivider, according to the ratio of the number of lots or units owned by each owner to the total of lots or units subject to the assessment or upon some other reasonable and equitable basis such as the ratio of the selling price of a unit to the aggregate selling prices of all units subject to the assessment."

COMMENT: The purpose of this amendment is to allow assessments to be levied on some basis other than the number of lots or units. Assessments based upon fair market value or selling price are particularly appropriate in the case of high rise condominiums where there is a wide variance in the selling prices of units depending upon location, square footage, etc.

At PAGE 28, amend Section Section 2792.12 to read:

"In undivided interests subdivisions which do not involve a right of exclusive occupancy or use of a lot, parcel or unit, provisions shall ordinarily be made in the setup of the offering whereby owners, and their successors in interest, absolutely waive the right to partition the real property in kind and waive the right to seek partition for the purpose of a sale of the real property, or any portion of it, unless the bringing of a suit for partition has been approved by the vote or written agreement of a prescribed percentage of the ownership interests in the subdivision that are not owned or controlled by the subdivider."

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(7) a copy of any regulatory agreement with a governmental agency where such agreement is a feature of the subdivision project;

(8) an exemplar of completed escrow instructions for the sale of an interest in the subdivision;

(9) where applicable, copies of resolutions of the governing body of the project authorizing the filing of the subdivision questionnaire and otherwise relating to the creation and operation of the project;

(10) a copy of any proposed management agreement between the owners' association and the subdivider or other management agent;

(11) such additional documents as the commissioner may require in connection with a particular project.

17. Repeals Section 2792.12 of Article 12.

18. Adopts new Section 2792.12 of Article 12 to read:

2792.12. Undivided Interests Subdivisions - Conveyance of the Property. In undivided interests subdivisions which do not involve a right of exclusive occupancy or use of a lot, parcel or unit, provision shall ordinarily be made in the setup of the offering whereby owners and their successors in interest, absolutely waive the right to partition the real property in kind and waive the right to seek partition for the purpose of a sale of the real property, or

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any portion of it, unless the bringing of a suit for partition has been approved by the vote or written agreement of a prescribed percentage of the ownership interests in the subdivision that are not owned or controlled by the subdivider.

The commissioner may approve any alternative provisions under the setup of the offering that provide a feasible means for conveyance or encumbering of the real property or some portion thereof, upon the vote or written agreement of the prescribed percentage of the ownership interests that are not owned or controlled by the subdivider.

Ordinarily the aforesaid "prescribed percentage" shall not be less than 66 2/3%.

19. Amends Section 2792.13 of Article 12 to read:

2792.13. Undivided Interests Subdivisions - Impound of Funds. All funds received from prospective buyers to be applied to the purchase of undivided subdivision interests, including community apartment projects and stock cooperatives, shall be deposited and held intact in an escrow depository acceptable to the Real Estate Commissioner until bona fide offers have been obtained for the purchase of a prescribed percentage of all of the interests being offered for sale.

In the event that the prescribed percentage of offers have not been obtained within two years from the date of the issuance of the public report, or such other period as the commissioner may approve, all funds theretofore collected shall

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be promptly returned by the escrow depository to owners without deduction.

The prescribed percentage shall be determined by the commissioner based upon the facts and circumstances of each such offering. Ordinarily this percentage shall be not less than 60% of the interests being offered for sale provided, however, that the commissioner may prescribe a lesser percentage if the plan of the offering includes other financial arrangements to lessen the possibility of foreclosure of a non-delinquent interest on account of the delinquencies of other owners.

20. Amends Section 2795 of Article 12 to read:

2795. Delivery of Copy of Public Report to Prospective Purchaser. No person engaged in the sale or lease of interests in subdivided land shall take a written offer to purchase or lease a subdivision interest nor shall he solicit or accept any money or other consideration toward such purchase or lease until the prospective purchaser or lessee has been afforded the opportunity to read the Final Subdivision Public Report for the subdivision and has acknowledged in writing the receipt of a copy of said public report.

A preliminary public report may be issued by the commissioner upon receipt of a filing fee and a questionnaire completed, except as to one or more particulars when in the judgment of the commissioner it is reasonable to expect that all of the requirements for issuance of a Final Subdivision Public Report

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will be satisfied by the applicant in due course.

When a preliminary public report has been issued for subdivided lands, the subdivider and his agents may solicit and accept reservations to purchase or lease subdivision interests provided that there is compliance with each of the following:

(a) The person making the reservation has been afforded an opportunity to read the preliminary public report and has acknowledged in writing the receipt of a copy of said preliminary public report before the reservation is executed by him and before any deposit has been taken in connection with the reservation.

(b) A copy of the reservation signed by the person making the reservation and by or on behalf of the subdivider, along with a deposit taken in connection therewith, is placed in a neutral escrow depository acceptable to the commissioner.

(c) The reservation instrument contains a provision whereunder the person making the reservation may at any time unilaterally cancel the reservation and receive back the total deposit given in connection with the reservation.

A preliminary public report shall expire and shall not be used after a Final Subdivision Public Report covering the same subdivision has been published or one year from date of issuance of the preliminary public report, whichever is sooner.

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A receipt taken for a final or preliminary public report shall be retained by the subdivider or his agent for a period of three years from the date of the receipt and all such receipts shall be made available for inspection by the commissioner or his designated representative during regular business hours and on reasonable notice.

A subdivider may prepare or cause to be prepared for his use, exact reproductions of the public report published by the commissioner; provided however, that an exemplar of the reproduction of the public report shall be filed with the commissioner before it is used.

21. Amends Section 2795.1 of Article 12 to read:

2795.1. Form for Receipt for Public Report.

The form set forth hereinbelow is the form approved by the commissioner for the acknowledgment of receipt of a copy of the public report required to be taken under Regulation 2795.

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RECEIPT FOR PUBLIC REPORT

The Law and Regulations of the Real Estate Commissioner require that you as a prospective purchaser or lessee be afforded an opportunity to read the public report for this subdivision before you make any written offer to purchase or lease a subdivision interest or before any money or other consideration toward purchase or lease of a subdivision interest is accepted from you.

In the case of a preliminary subdivision public report, you must be afforded an opportunity to read the report before a written reservation or any deposit in connection therewith is accepted from you.

DO NOT SIGN THIS RECEIPT UNTIL YOU HAVE RECEIVED A COPY OF THE REPORT AND HAVE READ IT.

I have read the commissioner's public report on

\_\_\_\_\_  
 \_\_\_\_\_  
 (File No.) (Tract No. or Name)

I understand the report is not a recommendation or endorsement of the subdivision, but is for information only.

The date of the public report which I received and read is

\_\_\_\_\_  
 \_\_\_\_\_  
 (Name)  
 \_\_\_\_\_  
 (Address)  
 \_\_\_\_\_  
 (Date)

22. Amends Section 2801 of Article 12 to read:

2801. Notification of Option or Sale by Owner.

If the owner of any subdivision sells or options, to another, five

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or more lots, parcels or undivided interests, or two or more units or shares in a community apartment project, condominium or stock cooperative, the sale or option shall constitute a material change within the meaning of Section 11012 of the Business and Professions Code, and the owner shall immediately notify the commissioner of the sale or option.

23. Amends Section 2801.5 of Article 12 to read:

2801.5. Amended Public Report Required of Purchaser.

The purchaser of five or more lots, parcels or undivided interests in a planned development or conventional or undivided interest subdivision, and the purchaser of two or more units or shares in a community apartment project, condominium or stock cooperative may not offer the subdivision interests for sale until he has obtained from the commissioner a Public Report expressly authorizing the sale of the subdivision interests by him.

The commissioner may issue an Amended Public Report to the aforesaid purchaser if there are no substantive changes in the setup of the subdivision offering from the Public Report as originally issued.

24. Amends Section 2807 of Article 12 to read:

2807. Notice to Purchaser of Speculative Nature of Mineral, Oil and Gas Subdivision Offering The owner, subdivider or agent of each subdivision to be sold or leased for

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speculation based upon its mineral, oil and gas possibilities, shall agree in writing that each purchaser of subdivision interests will be informed that such subdivision interests are being sold as a speculative investment only; that in event mineral, oil or gas in paying quantities are not discovered on the property, the purchaser probably will receive no return on his investment and will obtain nothing except a lease or a proprietary interest in land.

25. Amends Section 2813 of Article 12 to read:

2813. Bond in Lieu of Impound. The amount of the bond that is required under Section 11013.2(c) of the Business and Professions Code shall be 100 percent of the money paid or advanced by any purchaser on the purchase of any subdivision interest for which a release is not obtained.

26. Amends Section 2814 of Article 12 to read:

2814. Impound Requirement Where Contracts of Sale are Used. When subdivision interests in a subdivision are sold or are to be sold, under a contract of sale as defined by Section 2985 of the Civil Code, and the subdivider elects to comply with the provisions of Section 11013.4(a) of the Business and Professions Code, all deposits and contract installment payments shall be deposited immediately upon receipt in a trust account or neutral escrow depository qualified to do business in California and acceptable to the Real Estate Commissioner until legal title evidenced by a recordable deed to the property described in the contract has been delivered to the purchaser.

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The requirements of this regulation shall apply to any subdivision public report issued on or after the effective date of this regulation (and based upon a subdivision filing made with the commissioner on or after the date of filing of this regulation with the Secretary of State).

27. Amends Section 2814.3 of Article 12 to read:

2814.3. Impound Alternatives (Unimproved Property).

All deposits or payments made by the purchaser under a contract of sale shall be deposited in a neutral escrow depository acceptable to the Real Estate Commissioner until the subdivider has complied with all of the terms and conditions of the alternative plan or method selected.

When subdivision interests in land without on-site improvements (in the nature of residential or commercial structures) in a subdivision which is not subject to a blanket encumbrance as defined in Section 11013 are sold under a contract of sale as defined by Section 2985 of the Civil Code, the commissioner will approve, but will not necessarily be limited to, one of the following as an acceptable alternative plan or method under Section 11013.4(f):

(1) When the property is free and clear of all liens and encumbrances other than assessment bonds or current property taxes and evidence thereof has been submitted to the Real Estate Commissioner, the subdivider shall convey the property in trust or record

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the contract, which contract shall contain a provision precluding the vendor from subsequently encumbering the property without the written consent of the contract vendee.

(2) When subdivision interests are subject to individually amortizable liens or encumbrances securing obligations to private individual obligees, or to banks, savings and loan associations, insurance companies or other corporate lenders, the subdivider shall convey the property in trust or shall record the contract, which contract shall contain a provision precluding the vendor from further encumbering the property without the written consent of the buyer. The subdivider shall direct the purchaser to make his payments directly to a trustee or to a neutral escrow depository located in California and acceptable to the commissioner, which trustee or escrow agent shall be authorized to use such funds to pay the monthly installments on the encumbrances, current installments on real property taxes and remit the balance of the payment to the owner or subdivider, or the nominee of the owner or subdivider. The trustee or escrow agent may at its discretion appoint the owner or subdivider, their nominee, or regulated lending agency its agent for collection of the installment payment.

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(3) When the subdivision interests are subject to individually amortizable liens or encumbrances held by a bank, savings and loan association, insurance company or other corporate lender acceptable to the commissioner and authorized to do business in California, the subdivider shall assign all contracts of sale to the first lien holder and shall cause said assignments to be properly and duly recorded. The subdivider or the assignee shall give notice of the assignment to each contract purchaser and shall direct that all payments due under the contract shall be paid direct to the assignee, which assignee shall be authorized to use such funds to pay the monthly payments on the encumbrances and the payment to the owner or subdivider, or the nominee of the owner or subdivider. The assignee may at its discretion appoint the owner, subdivider, their nominee, or any regulated lending agency its agent for collection of the contract installment payments.

(4) When all encumbrances on the property other than assessment bonds and current property taxes are individually amortizable and permit amortization in equal monthly installments, the total installments of which shall not exceed the monthly payments payable under the contract of sale, the subdivider shall convey the property in trust

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or shall record the contract, which contract shall contain a provision precluding the vendor from subsequently encumbering the property without the written consent of the contract vendee.

(a) The subdivider shall enter into an agreement with the holders of all such existing encumbrances on the property which shall, in part, provide:

(i) That the subdivider will furnish to the holder of the encumbrance the name and address of the contract vendee of the property within ten (10) days after the execution of the contract;

(ii) That in the event any installment payable on the encumbrance on the property is not paid by the primary obligor thereof on its due date, such holder may, at any time thereafter, and must within twenty-five (25) days from the date such installment remains unpaid, notify any contract vendee whose name and address has been so furnished to such holder, of the default by mailing a copy of such notice, postage prepaid, to such contract vendee;

(iii) That the holder of the encumbrance shall not file or record a notice of default

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until ten (10) days after the date of mailing such notice to the contract vendee; and

(iv) That the contract vendee shall have the same rights as the primary obligor of the encumbrance to perform or make any payments together with late charges, if any, as to such encumbrance and the obligations secured thereby.

(b) The subdivider shall deliver to the contract vendee at the time the contract of sale is executed a copy of said agreement together with a notice that such vendee may, but is not obligated to, exercise the rights provided in said agreement and that such vendee has the legal right to set off and credit all such payments or performance against the payments due the subdivider under the contract of sale.

28. Amends Section 2814.5 of Article 12 to read:

2814.5. Impound Alternatives (With Unconditional Release). All deposits or payments made by the purchaser under a contract of sale shall be deposited in a neutral escrow depository acceptable to the Real Estate Commissioner until the subdivider has complied with all of the terms and conditions of the alternative plan or method selected.

When subdivision interests without on-site improvements (in the nature of residential or commercial structures) in a

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subdivision subject to a recorded blanket encumbrance in which there exists an unconditional release clause complying with Section 11013.1 are sold under a contract of sale as defined by Section 2985 of the Civil Code, the commissioner will approve, but will not necessarily be limited to, one of the following as an acceptable plan or method in lieu of the impound of all contract installment payments, as long as said blanket encumbrance remains of record.

(1) When the property is free and clear of all liens and encumbrances other than said blanket encumbrance, assessment bonds or current property taxes, and evidence thereof has been submitted to the Real Estate Commissioner and the blanket encumbrance containing such a release clause has been recorded, whether as part of the deed of trust evidencing said blanket encumbrance or by separate covenant or other instrument, impoundment of funds shall not be required as long as such conditions exist, provided all of the following conditions have been met:

(a) A signed land sales contract is delivered to the buyer, which contract shall contain a provision precluding the vendor from subsequently encumbering the property without the written consent of the contract vendee.

(b) The subdivider has filed with the city or county all surety bonds required by the city or

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county for the completion of all off-site improvements shown on the map recorded with the county prior to the issuance of the Final Subdivision Public Report; or in the alternative the subdivider furnishes evidence that all such required off-site improvements have been completed and approved by the city or county and the surety bonds for the performance thereof have been released by the city or county.

(c) The contract between the subdivider and purchaser contains a provision precluding the vendor from undertaking any additional off-site improvements or performing any other work on the lot covered by such contract which may result in the creation of a mechanic's lien subsequent to the date of the contract, without the written consent of the buyer and without filing a surety bond with the city or county for the performance and payment of materials and labor costs requisite to such additional improvements.

(d) The contract states that in the event that such additional improvements or work are undertaken by the subdivider he will furnish to the contractor making such improvements or performing such work a copy of the Final Subdivision Public Report pertaining to such tract and lot.

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(e) The subdivider has submitted to the commissioner a statement under penalty of perjury that all surety bonds required have been filed.

(f) The subdivider undertakes to furnish at regular periodic intervals specified by the Real Estate Commissioner a statement under penalty of perjury that no such additional improvements or work have been undertaken or performed without such surety bond, and that no liens of any kind whatsoever have been placed on the property subsequent to the date of the contract.

(2) When such subdivision interests are subject to individually amortizable liens or encumbrances (in addition to the blanket encumbrance) securing obligations to private individual obligees, or to banks, savings and loan associations, insurance companies or other corporate lenders, the subdivider shall comply with the requirements of subparagraphs (a) through (f) of subdivision (1) hereof and, further, the subdivider shall convey the property in trust or shall record the contract and shall direct the purchaser to make his payments directly to a trustee or to a neutral escrow depository located in California and acceptable to the commissioner, which trustee or escrow agent shall be authorized to use such funds to pay the

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monthly installments on the encumbrances, current installments on real property taxes and remit the balance of the payment to the owner or subdivider, or the nominee of the owner or subdivider. The trustee or escrow agent may at its discretion appoint the owner or subdivider as its agent for collection of the installment payment.

(3) When such subdivision interests are subject to individually amortizable liens or encumbrances (in addition to the blanket encumbrance) held by a bank, savings and loan association, insurance company or other corporate lender acceptable to the commissioner and authorized to do business in California, the subdivider shall comply with the requirements of subparagraphs (a) through (f) of subdivision (1) hereof, and shall assign all contracts of sale to the first lien holder and shall cause said assignment to be properly and duly recorded. The subdivider or the assignee shall give notice of the assignment to each contract purchaser and shall direct that all payments due under the contract shall be paid directly to the assignee, which assignee shall be authorized to use such funds to pay the monthly payments on the encumbrances and current installments on real property taxes and remit the balance of the payment to the owner or subdivider, or the nominee of the owner

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or subdivider. The assignee may at its discretion appoint the owner or subdivider, their nominee, or any regulated lending agency its agent for collection of the contract installment payments.

(4) When all encumbrances on the property other than said blanket encumbrance, assessment bonds and current property taxes are individually amortizable and permit amortization in equal monthly installments, the total installments of which shall not exceed the monthly payments payable under the contract of sale, the subdivider shall, in addition to the requirements of subparagraphs (a) through (f) of subdivision (1) hereof, comply with the following:

(a) The subdivider has entered into an agreement with the holders of all such existing encumbrances on the property which shall, in part, provide:

(i) That the subdivider will furnish to the holder of the encumbrance the name and address of the contract vendee of the property within ten (10) days after the execution of the contract;

(ii) That in the event any installment payable on the encumbrance on the property is not paid by the primary obligor thereof on its

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due date, such holder may, at any time thereafter, and must within twenty-five (25) days from the date such installment remains unpaid, notify any contract vendee whose name and address has been so furnished to such holder, of the default by mailing a copy of such notice, postage prepaid, to such contract vendee;

(iii) That the holder of the encumbrance shall not file or record a notice of default until ten (10) days after the date of mailing such notice to the contract vendee; and

(iv) That the contract vendee shall have the same rights as the primary obligor of the encumbrance to perform or make any payments together with late charges, if any, as to such encumbrance and the obligations secured thereby.

(b) The subdivider has delivered to the contract vendee at the time the contract of sale is executed a copy of said agreement together with a notice that such vendee may, but is not obligated to, exercise the rights provided in said agreement and that such vendee has the legal right to set off and credit all such payments or performance against the payments due the subdivider under the contract of sale.

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(c) The subdivider has delivered to the commissioner a copy of the agreement referred to in (a) above and a copy of the notice referred to in (b) above; said documents shall be accompanied by a statement by the subdivider under penalty of perjury that an exact copy thereof will be delivered to each contract vendee.

29. Amends Section 2817 of Article 12 to read:

2817. Progress Payments. In case the subdivider elects to comply with Section 11013.4(e) of the Business and Professions Code, the escrow instructions may provide that the escrow holder may disburse to the owner or his authorized agent money paid or advanced by the purchasers upon receipt of paid bills, or certified copies thereof, together with an affidavit from the owner or his authorized agent, in an amount equal to the amount of such paid bills. Such affidavit shall state that such paid bills cover labor or materials actually performed or used in the construction of residential or other structures within the subdivision.

30. Amends Section 2819 of Article 12 to read:

2819. Subdivider's Records of Receipts and Disbursements. Subdivider shall maintain books and records of all funds received for the purchase or lease of subdivision interests in accordance with good accounting principles.

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Such books and records shall clearly reflect the amounts, the names of the persons from whom the funds were received, and the dates the funds are received and disbursed, and shall be maintained for a period of three (3) years following receipt or disbursement.

31. Amends Section 2819.5 of Article 12.5 to read:

2819.5. Definitions.

(a) "Registered voters" referred to in Section 11000.5 means voters registered at or about the time the subdivision questionnaire is filed, within the confines of the subdivision and within two miles of any point on the perimeter of the boundaries of the subdivision.

(b) "Builders" as used in Section 11000.6 means licensed general contractors.

(c) "Developer" as used in Section 11000.6 means any person or entity who, directly or indirectly, acquires for sale or lease 50 or more subdivision interests.

32. Amends Section 2819.6 of Article 12.5 to read:

2819.6. Rescission Rights. The purchaser or prospective purchaser may exercise his rights of rescission granted by Section 11028 by notifying the developer by mail, telegram or other writing of his decision to do so.

Where mail is used, notification shall be considered given at the time of mailing; when telegram is used, notification shall be considered given at the time of filing; and notification

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by other writing shall be considered given at the time delivered to the developer's designated place of business.

33. Amends Section 2819.7 of Article 12.5 to read:

2819.7. Disclosure of Rescission Rights. To inform a purchaser of his rights under Section 11028, the developer shall deliver with the Public Report as an attachment to the front page thereof, the following notice printed in not less than 12 point Roman bold type face capital letters and numerals:

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(Pursuant to Government Code Section 11380.1)

RESCISSION RIGHTS

IF YOU ENTER INTO AN AGREEMENT TO PURCHASE OR  
LEASE AN INTEREST IN THE LAND COVERED BY THE  
PUBLIC REPORT TO WHICH THIS NOTICE IS ATTACHED,  
YOU HAVE A LEGAL RIGHT TO RESCIND (CANCEL) THE  
AGREEMENT AND TO THE RETURN OF ANY MONEY OR  
OTHER CONSIDERATION THAT YOU HAVE GIVEN TOWARD  
THE PURCHASE OR LEASE UNTIL MIDNIGHT OF THE  
14th CALENDAR DAY FOLLOWING THE DAY YOU EXECUTE  
THE CONTRACT TO PURCHASE OR LEASE.  
YOU MAY EXERCISE THIS RIGHT WITHOUT GIVING ANY  
REASON FOR YOUR ACTION AND WITHOUT INCURRING ANY  
PENALTY OR OBLIGATION BY NOTIFYING \_\_\_\_\_  
\_\_\_\_\_  
(Name of Developer)  
AT \_\_\_\_\_  
\_\_\_\_\_  
(Address of Developer's Place of Business)  
OF SUCH CANCELLATION BY TELEGRAM, MAIL OR OTHER  
WRITTEN NOTICE SENT (IN THE CASE OF A TELEGRAM  
OR MAIL) OR DELIVERED (IN THE CASE OF OTHER WRITTEN  
NOTICE) NOT LATER THAN MIDNIGHT OF \_\_\_\_\_  
(Date)

YOU MAY USE THIS NOTICE FOR THE PURPOSE OF  
CANCELLING THE AGREEMENT TO PURCHASE OR LEASE  
BY COMPLETING THE BLANKS AND BY DATING AND SIGNING

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BELOW. THE USE OF REGISTERED OR CERTIFIED MAIL  
WITH RETURN RECEIPT REQUESTED IS RECOMMENDED FOR  
TRANSMITTAL OF THIS NOTICE OF CANCELLATION.

- -

I HEREBY RESCIND MY AGREEMENT TO PURCHASE LOT  
(PARCEL) NO. \_\_\_\_\_ IN \_\_\_\_\_

\_\_\_\_\_  
(Name or Identifying Number of Subdivision)

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Signature of Purchaser)

\_\_\_\_\_  
(Signature of Purchaser)

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34. Repeals Section 2819.9 of Article 12.5.

35. Adopts new Section 2819.9 of Article 12.5 to read:

2819.9. Submission of Evidence for Specific

Findings. The subdivider, owner or his agent shall submit evidence to substantiate a request for specific findings referred to in Section 11025 of the Business and Professions Code to allow issuance of the Public Report. No specific findings as required by subsections (1) through (6) thereof will be made unless there is evidence submitted, along with such verification as the commissioner may require to warrant such findings.

36. Repeals Section 2819.95 of Article 12.5.

37. Amends Section 2819.96 of Article 12.5 to read:

2819.96. Report of Withdrawals. Where the rate of withdrawal exceeds 10% of the total subdivision interests sold within the last year, the subdivider shall report such withdrawals pursuant to Section 11029 beyond the three year period until 13 months after 90% of the subdivision interests have been sold or conveyed.

38. Adopts Section 3000 of Article 24 to read:

3000. Criteria for Courses of Study. The Real Estate Commissioner when acting on an application for approval of a course of study at a private vocational school to determine if a course of study is equivalent in quality to the course offered

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by a college or university accredited by the Western Association of Schools and Colleges will consider but not be limited to the following conditions:

(a) Courses must have at least 45 classroom hours of instruction or, in the case of a correspondence course, at least 15 separate lesson assignments. Classroom hours are 50 minute sessions.

(b) The school has facilities, instructional material, and instructor personnel to provide training of the quality needed to obtain the objective of the particular course or courses.

(c) Instructors must have credentials issued by the Board of Governors of the California community colleges or comparable California credentialing agency, or meet the criteria for obtaining such credentials, or in the judgment of the commissioner is otherwise qualified by education or experience, or both.

(d) The school maintains written records of the student's performance.

(e) A copy of the course outline, grading policy and rules of operation and conduct is available to students upon enrollment.

(f) Maintenance of adequate records by the schools relating to attendance, progress and grades and in the

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case of correspondence courses, the dates of (1) mailing of lessons; (2) return of lessons for correction; and (3) actual correction.

(g) The use of advertising which is not deceptive or misleading.

The use of advertising in any form which does not comply with the requirements set forth below will be considered by the commissioner to be deceptive or misleading:

(1) In any reference to a course or courses approved by the commissioner as being equivalent to college courses, it must be clearly set forth that the course or courses are equivalent only for the purpose of qualifying for the real estate broker license examination unless the course of instruction has been approved for credit by an institution of higher learning.

(2) An advertisement which contains an express or implied guarantee, promise or assurance to qualify a student for the real estate broker license examination must include a complete explanation of the nature and extent of the "guarantee" including all conditions thereto.

(3) Use of the word "approved" or "accredited" or the like with respect to the school or the courses

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being offered must be fully explained.

(4) Any advertisement by a school operating under a corporate or fictitious name or style that is the same as, or similar to, the name or style of other schools shall not advertise or otherwise indicate course approval by the Real Estate Commissioner unless the advertisement clearly sets forth the address or location of the school whose courses have been approved.

(5) Students shall not be solicited in a "Help Wanted" column of a newspaper, magazine or other publication or through the use of any advertising solicitation which fails to identify the advertiser as a private vocational school or the operator of a supervised course of study.

(6) In advertising which makes reference to courses of study approved by the commissioner, the specific course or courses that have been approved must be set forth.

Nothing contained herein shall limit the commissioner determining that advertising is deceptive or misleading for reasons other than failure to comply with the afore-said criteria.

(h) Upon successful completion of training, the school will award an appropriate written document to the

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student indicating the training and attendance completed.

(i) A completed written application has been filed with the commissioner's office with the appropriate fee. The fees are not refundable.

(j) The commissioner may refuse to approve real estate courses when, after investigation, he determines that the private vocational school or supervised course of study is not equivalent in quality to similar courses at institutions of higher learning which have been accredited by the Western Association of Schools and Colleges or a comparable accrediting agency.

(k) The school is either duly qualified by the State Department of Education or is exempt therefrom.

(l) Any person, corporation, partnership or association operating a private vocational school offering real estate courses or operator of a supervised course of study who objects to the commissioner's refusal to approve a real estate course may, within 30 days after receipt of the order of denial, file a written request for hearing. The commissioner shall hold the hearing within 20 days thereafter unless the party requesting the hearing shall have requested a postponement. If the hearing is not held within 20 days after a request for hearing is received plus the period of any such postponement, or

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if a decision is not rendered within 30 days after the hearing, the order of denial shall be rescinded and a certificate of approval issued.

(m) If the commissioner determines the course or courses previously approved are no longer equivalent in quality to those offered in institutions of higher learning which have been accredited by the Western Association of Schools and Colleges or a comparable accrediting agency, he shall give written notice of withdrawal of approval stating the reasons therefor. Such withdrawal of approval will be effective 30 days from the date of the notice of withdrawal unless the party served with the withdrawal notice files a written request for hearing before the effective date. If a request for hearing is filed, the withdrawal of approval shall not be effective unless and until so ordered by the commissioner upon findings made at said hearing. The hearing shall be held within 20 days after receipt of the request therefor unless postponed by order of the commissioner or by mutual consent.

39. Adopts Section 3001 of Article 24 to read:

3001. Persons Authorized to Administer Supervised Courses of Study. A supervised course of study within the purview

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of Sections 10153.4 and 10153.5 of the Business and Professions Code means the pursuit of real estate knowledge under direction of, but not limited to, a:

(1) Licensed real estate broker who is, and for at least five years last past continuously has been, engaged in the active practice of real estate; or

(2) Member of the State Bar of California who is, and for at least five years last past continuously has been, engaged in the active practice of law; or

(3) Properly credentialed teacher of real estate courses who is or has been engaged in the practice of teaching; or

(4) Properly licensed or certificated person who is engaged in the business of appraisal, finance and/or related real estate occupations and for at least five years last past continuously engaged in such practice; or

(5) A person who, in the judgment of the commissioner, is qualified by experience or education, or both, to supervise a course of study within the letter and spirit of this section.

40. Adopts Section 3002 of Article 24 to read:

3002. Criteria and Reports for Supervised Courses of Study. It shall be the duty of the person or persons referred

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to in Regulation 3001, paragraphs 1, 2, 3, 4 and 5, to render periodic reports as the commissioner may require relevant to the student's course of study, and

(a) A course of study shall mean one and separate learning programs devoted to each course offered, and

(b) Each course of study and instruction under supervision shall be a minimum of 135 hours, assignments, reading, testing and study for the student who holds a valid salesman license.

(c) Each course of study and instruction under supervision shall be a minimum of 180 hours including assignments, reading, testing and study for a student who does not hold a valid real estate salesman license.

(d) The supervisor shall make application, pay the appropriate fee and obtain approval from the commissioner prior to offering the supervised course of study, and

(e) The commissioner shall not consider any course of supervised study equivalent to a college curriculum unless he finds that it does, in fact, contain academic qualities similar thereto.

41. Adopts Section 3003 of Article 24 to read:

3003. Private Vocational School Defined. The simultaneous instruction of two or more students in courses listed

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in Section 10153.4 or 10153.5 constitute a private vocational school for the purposes of said sections.

42. Adopts Section 3004 of Article 24 to read:

3004. Fees for Course Approval. The fees for application for approval as authorized by Section 10153.4 of the Business and Professions Code are the fees set forth in Section 10209 of the California Business and Professions Code.

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Effective Dates of Appended Regulation Changes. All of the regulation changes contained in pages 1 through 49 hereof shall become effective on the 30th day after the date of filing with the Secretary of State, except as follows:

| <u>Regulation</u>   | <u>Effective Date</u> |
|---------------------|-----------------------|
| 2716 (adoption)     | 4/1/72                |
| 2726 (adoption)     | 4/1/72                |
| 2819.6 (amendment)  | 3/6/72                |
| 2819.7 (amendment)  | 3/6/72                |
| 2819.9 (repeal)     | 3/6/72                |
| 2819.9 (adoption)   | 3/6/72                |
| 2819.95 (repeal)    | 3/6/72                |
| 2819.96 (amendment) | 3/6/72                |
| 3000 (adoption)     | 3/6/72                |
| 3001 (adoption)     | 3/6/72                |
| 3002 (adoption)     | 3/6/72                |
| 3003 (adoption)     | 3/6/72                |
| 3004 (adoption)     | 3/6/72                |

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RECEIVED FOR FILING

DEC 8 1971

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING  
(Gov. Code 11380.1)

DEC 10 1971

Office of Administrative Procedure

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

DEPARTMENT OF REAL ESTATE

(Agency)

Dated: December 8, 1971

By: Robert W. Karpe

Real Estate Commissioner

(Title)

ENDORSED  
FILED

In the office of the Secretary of State  
of the State of California

DEC 10 1971

At 3:55 o'clock P.M.

EDMUND G. BROWN Jr., Secretary of State

By DAVID M. WEETMAN  
Deputy

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ORDER ADOPTING, AMENDING AND REPEALING  
REGULATIONS OF THE REAL ESTATE COMMISSIONER

Pursuant to the authority vested in him by Sections 10080, 10226, 10249.2, 10312, 11001, 11011.8 and 11018.9 of the Business and Professions Code, Robert W. Karpe, Real Estate Commissioner of the State of California, hereby adopts, amends and repeals regulations of the Real Estate Commissioner in Chapter 6, Title 10, California Administrative Code, as follows:

1. Amends Section 2705 of Article 2 to read:

2705. Definitions. The Real Estate Law for the purpose of these regulations is that law contained in Division 4, Part 1 and Chapter 1 of Part 2 of the Business and Professions Code of California.

(a) "Department" shall mean the Department of Real Estate, State of California.

(b) "Commissioner" means the Real Estate Commissioner.

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(c) "Deputy" shall include all deputy real estate commissioners, administrative assistants, and investigators appointed by the commissioner.

(d) "Applicant" shall mean any person, or corporation applying for a broker or salesman license or permit.

(e) "Examination" shall mean the examination to qualify for any license issued by authority of the Real Estate Law.

(f) "License" shall include all licenses authorized to be issued by authority of the Real Estate Law.

(g) "Broker" shall mean an individual, or corporation licensed as a broker under the Real Estate Law.

(h) "Salesman" shall mean a licensed salesman in the employ of a broker licensed under the Real Estate Law.

(i) "Hearing" shall mean a formal hearing at which testimony is taken under oath in accordance with the provisions of the Administrative Procedure Act.

(j) "Subdivision" shall include any type of subdivision falling within the definition set forth in Sections 11000, 11000.1, 11000.5 and 11004.5 of the Business and Professions Code.

(k) "Report" shall mean the public report on subdivisions authorized under Section 11018 of the Business and Professions Code.

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(1) "Permit" shall mean the authorization issued by the commissioner to a licensed real estate broker or salesman under Section 10507(b) of the Business and Professions Code to engage in a mineral, oil and gas transaction; the authorization issued by the commissioner to sell real property securities under the provisions of Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code; and the authorization by the commissioner to offer for sale or lease lots or parcels in an out-of-state land promotion under the provisions of Article 6 (commencing with Section 10237) and Article 8 (commencing with Section 10249) of Chapter 3, Part 1, Division 4 of the Business and Professions Code.

(m) "Subdivision interest" or "subdivision interests" as used herein shall include lots, parcels, units or undivided interests subject to regulation under the provisions of Chapter 1, Part 2, Division 4 of the Business and Professions Code.

2. Adopt Section 2716 of Article 3 to read:

2716. License Fees. All license fees shall be the maximum set forth in the Real Estate Law, except the following:

(1) The license fees under Sections 10209.5 and 10210 of the Business and Professions Code shall be \$75.

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(2) The license fees under Sections 10214.5 and 10215 of the Business and Professions Code shall be \$50.

3. Amends Section 2725 of Article 4 to read:

2725. Review of Agreements. All real estate agreements prepared or signed by a salesman which would materially affect the rights or duties of the parties to the transaction shall be reviewed and initialed by his broker within five working days of execution thereof or before the close of escrow, whichever occurs first; provided, however, while retaining overall responsibility for supervision, specific authority to review and initial such agreements may be delegated by the broker as follows:

(1) To any licensed real estate broker who has entered into a written agreement relating thereto with the broker;

(2) Where circumstances warrant to a real estate salesman licensed to him, providing such salesman has entered into a written contract relating thereto with the broker, and has accumulated at least two years full-time real estate salesman experience during the preceding five year period.

As used herein, "working days" does not include Saturdays and holidays referred to in Government Code Section 6700.

4. Adopts Section 2726 of Article 4 to read:

2726. Broker-Salesman Relationship Agreements.

Every real estate broker shall have a written agreement with each

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of his salesmen, whether licensed as a salesman or as a broker under a broker-salesman arrangement. The agreement shall be dated and signed by the parties and shall cover material aspects of the relationship between the parties, including supervision of licensed activities, duties and compensation.

Signed copies of the agreement shall be retained by the parties thereto for a period of three (3) years from the date of termination of the agreement. The agreement shall be available for inspection by the commissioner or his designated representative on request.

5. Amends Section 2790 of Article 12 to read:

2790. Filing Fee and Questionnaire. A Notice of Intention filed pursuant to Section 11010 of the Business and Professions Code shall be accompanied by a filing fee and a completed questionnaire on a form prescribed by the commissioner unless the commissioner shall waive the filing of the questionnaire and fee when in his opinion the facts and circumstances justify a waiver.

6. Amends Section 2790.1 of Article 12 to read:

2790.1. Filing Fees. All subdivision filing fees shall be the maximum set forth in the Real Estate Law except the following:

- (1) The filing fee under Section 11011 of the Business and Professions Code shall be \$50 plus \$2 for

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each lot in the subdivision to a maximum of \$3,000.

(2) The filing fee under Section 10249.5 of the Business and Professions Code shall be \$100.

(3) The filing fee under Sections 11011.1 and 10249.3 of the Business and Professions Code shall be:

(a) \$50 for each lot, parcel, apartment, unit or undivided interest for subdivisions containing nine or less.

(b) \$500 plus \$3 for each lot, parcel, apartment, unit or undivided interest for subdivisions containing ten or more to a maximum of \$5,000.

7. Amends Section 2790.7 of Article 12 to read:

2790.7. Out-of-State Subdivisions. Any person selling or leasing or offering for sale or lease subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code shall comply with and come within the purview of:

(1) Such of the provisions of Chapter 1, Part 2, Division 4, Business and Professions Code, and the Regulations pertaining thereto as the commissioner deems applicable to the particular subdivision filing; and

(2) Sections 10237.2, 10237.6, 10237.7, 10237.8, 10237.9, 10238, 10238.1, 10238.2, 10238.3, 10238.4, 10238.5, 10238.6 and Regulations adopted pursuant to Section 10249.2, Business and Professions Code.

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The term "real property securities dealer" as used in Sections 10237.6, 10237.7, 10237.8, 10237.9, 10238, and 10238.1 of the Business and Professions Code includes a subdivider and any person offering for sale or lease, or selling or leasing subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.

The term "real property security" or "real property securities" as used in Sections 10237.2, 10238.2, 10238.3, 10238.4, and 10238.6 includes subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.

The report required by Section 10238.1 shall be limited to such information as the commissioner may determine is material to the filing and the report or permit issued thereon.

8. Amends Section 2790.8 of Article 12 to read:

2790.8. Appraisal of Out-of-State Subdivision Offerings. An appraisal of the subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 3 of the Business and Professions Code shall be made by a qualified independent appraiser and shall be submitted to the Real Estate Commissioner prior to the issuance of any subdivision public report.

9. Repeals Section 2791 of Article 12.

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10. Repeals Section 2792.1 of Article 12.

11. Repeals Section 2792.2 of Article 12.

12. Amends Section 2792.6 of Article 12 to read:

2792.6. Planned Development Subdivisions - Required Documents. The subdivider, owner or agent of a subdivision included in Section 11004.5 of the Business and Professions Code (except an undivided interest subdivision, stock cooperative or community apartment project) should submit the following with the subdivision questionnaire or in any event shall submit prior to issuance of the final public report:

(1) a current policy of title insurance or preliminary title report issued after recordation of the subdivision map;

(2) evidence of the financial arrangements to assure completion of the project, including on-site and off-site improvements;

(3) a detailed statement pertaining to the method of financing sales of lots or units to purchasers;

(4) a schedule of the fractional interests in the common areas appurtenant to each lot or unit, where appropriate;

(5) a copy of the declaration of covenants, conditions and restrictions (evidence of recordation to be filed prior to issuance of final public report);

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(6) where applicable, a copy of the management agreement, articles of incorporation, bylaws, organizational rules or other documents pertaining to control and management of the project;

(7) a copy of escrow instructions completed in sample form to show substance of the transaction, which instructions shall provide for return of purchase funds to non-defaulting buyers in event the escrows are not closed on a reasonable and specific date (the foregoing does not preclude penalties to defaulting purchasers for bona fide extras); and the name of the escrow depository; if no escrow depository is to be utilized, a description of the closing procedure to be employed;

(8) a copy of an agreement entered into with an assessor pursuant to Section 2188.3 of the Revenue and Taxation Code, where appropriate;

(9) if applicable, a copy of the plan recorded pursuant to Section 1351 of the Civil Code;

(10) if applicable, a copy of the recorded subdivision map;

(11) a copy of any agreement, deed, note, deed of trust, mortgage, conveyance, lease, sublease, to be issued to, or to be entered into with, the purchaser, which copy or copies shows substance of the transaction;

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(12) if the applicant is a corporation, a copy of the resolution of its Board of Directors authorizing the filing of the questionnaire; and,

(13) such other information as the commissioner may require;

(14) a detailed pro forma budget reflecting estimated ownership, operational and maintenance costs for the project with comparative or other data supporting said estimates.

13. Repeals Section 2792.7 of Article 12.

14. Amends Section 2792.8 of Article 12 to read:

2792.8. Planned Development and Undivided Interests Subdivisions - Management, Regulation and Control. The covenants, conditions and restrictions (hereinafter restrictions), articles of incorporation, bylaws and other instruments for the management, regulation and control of the types of subdivisions includes in Section 11004.5 shall ordinarily provide, but need not be limited to:

(1) creation of an association of lot, parcel, unit or undivided interest owners;

(2) a description of the areas or interests to be owned or controlled by owners in common;

(3) transfer of title and/or control of common areas, common facilities and/or mutual and reciprocal rights of use to the owners in common or to an association thereof;

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(4) procedures for calculating and collecting regular assessments to defray expenses attributable to the ownership, use and operation of common areas and facilities with said assessments to be levied against each owner, including the subdivider, according to the ratio of the number of lots or units owned by each owner to the total of lots or units subject to the assessment, or on some other reasonable and equitable basis such as the selling price of the unit to the aggregate selling prices of all units subject to the assessment;

(5) procedures for establishing and collecting special assessments for capital improvements or other purposes on the same basis as for regular assessments with suitable monetary limitations on special assessments or expenditures without the prior approval of a majority of the owners affected;

(6) where appropriate, liens against privately owned subdivision properties and the foreclosure thereof on account of the non-payment of assessments duly levied;

(7) where appropriate, annexation of additional land to the existing development with suitable substantive and procedural safeguards against increased per capita assessments on account of such annexation;

(8) monetary penalties and/or use privilege and voting suspensions of members for breaches of the

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restrictions, bylaws or other instruments for management and control of the subdivision with procedures for hearings for disciplined members;

(9) creation of a board of directors or other governing body for the owners' association with the members of said body to be elected by a vote of members of the association at an annual or special meeting to be held not later than six months after the sale of the first lot, unit or undivided interest of the subdivision;

(10) procedures for the election and removal of members of the governing body which shall include concurrent terms for members and cumulative voting features in the election and removal of such members;

(11) enumeration of the powers of the governing body which shall normally include at least the following:

(a) the enforcement of applicable provisions of the restrictions, bylaws, and the other instruments for the management and control of the subdivision;

(b) payment of taxes and assessments which are or could become a lien on the common area or some portion thereof;

(c) delegation of its powers to committees, officers or employees;

(d) contracting for materials and/or services for the common area or the owners' association with

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the term of any service contract limited to a duration of one year, except with the approval of a majority of the members of the owners' association, except in those subdivisions where the terms of the management contract have been approved by the Federal Housing Administration or Veterans Administration;

(e) contracting for fire, casualty, liability and other insurance on behalf of the owners' association;

(f) entry upon any privately owned lot or unit where necessary in connection with construction, maintenance or repair for the benefit of the common area or the owners in common;

(12) allocation of voting rights to members of the owners' association on the basis of lot or unit ownership or on some other reasonable and equitable basis;

(13) preparation of an annual operating statement reflecting income and expenditures of the association for its fiscal year with provision for distribution of a copy of said report to each member within 90 days after the end of the fiscal year;

(14) annual and special meetings of members within the subdivision or as close thereto as practicable;

(15) reasonable -- and in no case less than 10 days -- written notice to members of annual and special meetings

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specifying the place, day and hour, and in the case of special meetings, the nature of the business to be undertaken;

(16) quorum requirements for members' meetings ranging from 25% to 50% of the total membership depending upon the nature of the subdivision and other relevant factors;

(17) voting proxies for members' meetings;

(18) amendment of those provisions of the restrictions, bylaws or rules which relate to the management, operation and control of the owners' association and/or the common areas, common facilities or interests.

Depending upon the nature of the right or obligation to be affected by the amendment, the Real Estate Commissioner will ordinarily consider as reasonable amendments enacted as follows:

(a) Restrictions - 51% to 75% of all of the owners;

(b) Bylaws or Rules - 51% of a quorum to 51% of all of the owners;

(19) prohibition or restrictions upon the severability of commonly owned interests through partition or otherwise;

(20) action to be taken and procedures to be followed in the event of destruction or extensive damage to the common areas or facilities including provisions respecting the use and disposition of insurance proceeds payable to the association on account of such destruction or damage.

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15. Amends Section 2792.9 of Article 12 to read:

2792.9. Planned Developments and Condominiums - Operating and Maintenance Funds During Start-up. To assure the availability of funds for ownership, operation and maintenance of the common areas and facilities in planned developments and condominium projects during the initial stages of ownership and operation by an owners' association, the commissioner will ordinarily require that the subdivision offering include one or more of the following features:

(1) posting of a surety bond or other adequate security in an amount and subject to such terms, conditions and coverage as the commissioner may require;

(2) postponement of closing of any sales escrow until 60% (or a lesser percentage approved by the commissioner) of all lots, parcels or units have been sold and are simultaneously closed;

(3) deposit with an escrow acceptable to the commissioner of funds equal to estimated ownership, maintenance and operational expenses for common areas and facilities for a six month period with said funds to remain available to defray maintenance and operational expenses until the close of sale of 60% of the lots, parcels or units;

(4) an alternative plan acceptable to the commissioner.

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16. Amends Section 2792.11 of Article 12 to read:

2792.11. Undivided Interests Subdivisions - Required Documents. An applicant for a public report for the sale of undivided interests in subdivided land including community apartment projects and stock cooperatives shall submit the following in connection with the application for a public report:

- (1) a current policy of title insurance or a preliminary title report;
- (2) a detailed pro forma budget reflecting estimated ownership, operational and maintenance costs for the project with comparative or other data supporting said estimates;
- (3) a copy of the declaration of covenants, conditions and restrictions recorded or to be recorded on the real property comprising the project;
- (4) a narrative statement of the plan for the formation and operation of the project including financial arrangements for completion of all improvements included in the offering;
- (5) copies of all instruments under which an association of owners of property comprising the project will be organized and will function;
- (6) where applicable, a copy of the subscription, membership, and/or occupancy agreement to be executed by the purchaser of an interest in the project;

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(7) a copy of any regulatory agreement with a governmental agency where such agreement is a feature of the subdivision project;

(8) an exemplar of completed escrow instructions for the sale of an interest in the subdivision;

(9) where applicable, copies of resolutions of the governing body of the project authorizing the filing of the subdivision questionnaire and otherwise relating to the creation and operation of the project;

(10) a copy of any proposed management agreement between the owners' association and the subdivider or other management agent;

(11) such additional documents as the commissioner may require in connection with a particular project.

17. Repeals Section 2792.12 of Article 12.

18. Adopts new Section 2792.12 of Article 12 to read:

2792.12. Undivided Interests Subdivisions- Conveyance of the Property. In undivided interests subdivisions which do not involve a right of exclusive occupancy or use of a lot, parcel or unit, provision shall ordinarily be made in the setup of the offering whereby owners and their successors in interest, absolutely waive the right to partition the real property in kind and waive the right to seek partition for the purpose of a sale of the real property, or

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any portion of it, unless the bringing of a suit for partition has been approved by the vote or written agreement of a prescribed percentage of the ownership interests in the subdivision that are not owned or controlled by the subdivider.

The commissioner may approve any alternative provisions under the setup of the offering that provide a feasible means for conveyance or encumbering of the real property or some portion thereof, upon the vote or written agreement of the prescribed percentage of the ownership interests that are not owned or controlled by the subdivider.

Ordinarily the aforesaid "prescribed percentage" shall not be less than 66 2/3%.

19. Amends Section 2792.13 of Article 12 to read:

2792.13. Undivided Interests Subdivisions - Impound of Funds. All funds received from prospective buyers to be applied to the purchase of undivided subdivision interests, including community apartment projects and stock cooperatives, shall be deposited and held intact in an escrow depository acceptable to the Real Estate Commissioner until bona fide offers have been obtained for the purchase of a prescribed percentage of all of the interests being offered for sale.

In the event that the prescribed percentage of offers have not been obtained within two years from the date of the issuance of the public report, or such other period as the commissioner may approve, all funds theretofore collected shall

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be promptly returned by the escrow depository to owners without deduction.

The prescribed percentage shall be determined by the commissioner based upon the facts and circumstances of each such offering. Ordinarily this percentage shall be not less than 60% of the interests being offered for sale provided, however, that the commissioner may prescribe a lesser percentage if the plan of the offering includes other financial arrangements to lessen the possibility of foreclosure of a non-delinquent interest on account of the delinquencies of other owners.

20. Amends Section 2795 of Article 12 to read:

2795. Delivery of Copy of Public Report to Prospective Purchaser. No person engaged in the sale or lease of interests in subdivided land shall take a written offer to purchase or lease a subdivision interest nor shall he solicit or accept any money or other consideration toward such purchase or lease until the prospective purchaser or lessee has been afforded the opportunity to read the Final Subdivision Public Report for the subdivision and has acknowledged in writing the receipt of a copy of said public report.

A preliminary public report may be issued by the commissioner upon receipt of a filing fee and a questionnaire completed, except as to one or more particulars when in the judgment of the commissioner it is reasonable to expect that all of the requirements for issuance of a Final Subdivision Public Report

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will be satisfied by the applicant in due course.

When a preliminary public report has been issued for subdivided lands, the subdivider and his agents may solicit and accept reservations to purchase or lease subdivision interests provided that there is compliance with each of the following:

(a) The person making the reservation has been afforded an opportunity to read the preliminary public report and has acknowledged in writing the receipt of a copy of said preliminary public report before the reservation is executed by him and before any deposit has been taken in connection with the reservation.

(b) A copy of the reservation signed by the person making the reservation and by or on behalf of the subdivider, along with a deposit taken in connection therewith, is placed in a neutral escrow depository acceptable to the commissioner.

(c) The reservation instrument contains a provision whereunder the person making the reservation may at any time unilaterally cancel the reservation and receive back the total deposit given in connection with the reservation.

A preliminary public report shall expire and shall not be used after a Final Subdivision Public Report covering the same subdivision has been published or one year from date of issuance of the preliminary public report, whichever is sooner.

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A receipt taken for a final or preliminary public report shall be retained by the subdivider or his agent for a period of three years from the date of the receipt and all such receipts shall be made available for inspection by the commissioner or his designated representative during regular business hours and on reasonable notice.

A subdivider may prepare or cause to be prepared for his use, exact reproductions of the public report published by the commissioner; provided however, that an exemplar of the reproduction of the public report shall be filed with the commissioner before it is used.

21. Amends Section 2795.1 of Article 12 to read:

2795.1. Form for Receipt for Public Report.

The form set forth hereinbelow is the form approved by the commissioner for the acknowledgment of receipt of a copy of the public report required to be taken under Regulation 2795.

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RECEIPT FOR PUBLIC REPORT

The Law and Regulations of the Real Estate Commissioner require that you as a prospective purchaser or lessee be afforded an opportunity to read the public report for this subdivision before you make any written offer to purchase or lease a subdivision interest or before any money or other consideration toward purchase or lease of a subdivision interest is accepted from you.

In the case of a preliminary subdivision public report, you must be afforded an opportunity to read the report before a written reservation or any deposit in connection therewith is accepted from you.

DO NOT SIGN THIS RECEIPT UNTIL YOU HAVE RECEIVED A COPY OF THE REPORT AND HAVE READ IT.

I have read the commissioner's public report on

\_\_\_\_\_  
 \_\_\_\_\_  
 (File No.) (Tract No. or Name)

I understand the report is not a recommendation or endorsement of the subdivision, but is for information only.

The date of the public report which I received and read is

\_\_\_\_\_  
 \_\_\_\_\_  
 (Name)  
 \_\_\_\_\_  
 (Address)  
 \_\_\_\_\_  
 (Date)

22. Amends Section 2801 of Article 12 to read:

2801. Notification of Option or Sale by Owner.

If the owner of any subdivision sells or options, to another, five

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or more lots, parcels or undivided interests, or two or more units or shares in a community apartment project, condominium or stock cooperative, the sale or option shall constitute a material change within the meaning of Section 11012 of the Business and Professions Code, and the owner shall immediately notify the commissioner of the sale or option.

23. Amends Section 2801.5 of Article 12 to read:

2801.5. Amended Public Report Required of Purchaser.

The purchaser of five or more lots, parcels or undivided interests in a planned development or conventional or undivided interest subdivision, and the purchaser of two or more units or shares in a community apartment project, condominium or stock cooperative may not offer the subdivision interests for sale until he has obtained from the commissioner a Public Report expressly authorizing the sale of the subdivision interests by him.

The commissioner may issue an Amended Public Report to the aforesaid purchaser if there are no substantive changes in the setup of the subdivision offering from the Public Report as originally issued.

24. Amends Section 2807 of Article 12 to read:

2807. Notice to Purchaser of Speculative Nature of Mineral, Oil and Gas Subdivision Offering The owner, subdivider or agent of each subdivision to be sold or leased for

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speculation based upon its mineral, oil and gas possibilities, shall agree in writing that each purchaser of subdivision interests will be informed that such subdivision interests are being sold as a speculative investment only; that in event mineral, oil or gas in paying quantities are not discovered on the property, the purchaser probably will receive no return on his investment and will obtain nothing except a lease or a proprietary interest in land.

25. Amends Section 2813 of Article 12 to read:

2813. Bond in Lieu of Impound. The amount of the bond that is required under Section 11013.2(c) of the Business and Professions Code shall be 100 percent of the money paid or advanced by any purchaser on the purchase of any subdivision interest for which a release is not obtained.

26. Amends Section 2814 of Article 12 to read:

2814. Impound Requirement Where Contracts of Sale are Used. When subdivision interests in a subdivision are sold or are to be sold, under a contract of sale as defined by Section 2985 of the Civil Code, and the subdivider elects to comply with the provisions of Section 11013.4(a) of the Business and Professions Code, all deposits and contract installment payments shall be deposited immediately upon receipt in a trust account or neutral escrow depository qualified to do business in California and acceptable to the Real Estate Commissioner until legal title evidenced by a recordable deed to the property described in the contract has been delivered to the purchaser.

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The requirements of this regulation shall apply to any subdivision public report issued on or after the effective date of this regulation (and based upon a subdivision filing made with the commissioner on or after the date of filing of this regulation with the Secretary of State).

27. Amends Section 2814.3 of Article 12 to read:

2814.3. Impound Alternatives (Unimproved Property).

All deposits or payments made by the purchaser under a contract of sale shall be deposited in a neutral escrow depository acceptable to the Real Estate Commissioner until the subdivider has complied with all of the terms and conditions of the alternative plan or method selected.

When subdivision interests in land without on-site improvements (in the nature of residential or commercial structures) in a subdivision which is not subject to a blanket encumbrance as defined in Section 11013 are sold under a contract of sale as defined by Section 2985 of the Civil Code, the commissioner will approve, but will not necessarily be limited to, one of the following as an acceptable alternative plan or method under Section 11013.4(f):

- (1) When the property is free and clear of all liens and encumbrances other than assessment bonds or current property taxes and evidence thereof has been submitted to the Real Estate Commissioner, the subdivider shall convey the property in trust or record

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the contract, which contract shall contain a provision precluding the vendor from subsequently encumbering the property without the written consent of the contract vendee.

(2) When subdivision interests are subject to individually amortizable liens or encumbrances securing obligations to private individual obligees, or to banks, savings and loan associations, insurance companies or other corporate lenders, the subdivider shall convey the property in trust or shall record the contract, which contract shall contain a provision precluding the vendor from further encumbering the property without the written consent of the buyer. The subdivider shall direct the purchaser to make his payments directly to a trustee or to a neutral escrow depository located in California and acceptable to the commissioner, which trustee or escrow agent shall be authorized to use such funds to pay the monthly installments on the encumbrances, current installments on real property taxes and remit the balance of the payment to the owner or subdivider, or the nominee of the owner or subdivider. The trustee or escrow agent may at its discretion appoint the owner or subdivider, their nominee, or regulated lending agency its agent for collection of the installment payment.

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(3) When the subdivision interests are subject to individually amortizable liens or encumbrances held by a bank, savings and loan association, insurance company or other corporate lender acceptable to the commissioner and authorized to do business in California, the subdivider shall assign all contracts of sale to the first lien holder and shall cause said assignments to be properly and duly recorded. The subdivider or the assignee shall give notice of the assignment to each contract purchaser and shall direct that all payments due under the contract shall be paid direct to the assignee, which assignee shall be authorized to use such funds to pay the monthly payments on the encumbrances and the payment to the owner or subdivider, or the nominee of the owner or subdivider. The assignee may at its discretion appoint the owner, subdivider, their nominee, or any regulated lending agency its agent for collection of the contract installment payments.

(4) When all encumbrances on the property other than assessment bonds and current property taxes are individually amortizable and permit amortization in equal monthly installments, the total installments of which shall not exceed the monthly payments payable under the contract of sale, the subdivider shall convey the property in trust

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or shall record the contract, which contract shall contain a provision precluding the vendor from subsequently encumbering the property without the written consent of the contract vendee.

(a) The subdivider shall enter into an agreement with the holders of all such existing encumbrances on the property which shall, in part, provide:

(i) That the subdivider will furnish to the holder of the encumbrance the name and address of the contract vendee of the property within ten (10) days after the execution of the contract;

(ii) That in the event any installment payable on the encumbrance on the property is not paid by the primary obligor thereof on its due date, such holder may, at any time thereafter, and must within twenty-five (25) days from the date such installment remains unpaid, notify any contract vendee whose name and address has been so furnished to such holder, of the default by mailing a copy of such notice, postage prepaid, to such contract vendee;

(iii) That the holder of the encumbrance shall not file or record a notice of default

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until ten (10) days after the date of mailing such notice to the contract vendee; and

(iv) That the contract vendee shall have the same rights as the primary obligor of the encumbrance to perform or make any payments together with late charges, if any, as to such encumbrance and the obligations secured thereby.

(b) The subdivider shall deliver to the contract vendee at the time the contract of sale is executed a copy of said agreement together with a notice that such vendee may, but is not obligated to, exercise the rights provided in said agreement and that such vendee has the legal right to set off and credit all such payments or performance against the payments due the subdivider under the contract of sale.

28. Amends Section 2814.5 of Article 12 to read:

2814.5. Impound Alternatives (With Unconditional Release). All deposits or payments made by the purchaser under a contract of sale shall be deposited in a neutral escrow depository acceptable to the Real Estate Commissioner until the subdivider has complied with all of the terms and conditions of the alternative plan or method selected.

When subdivision interests without on-site improvements (in the nature of residential or commercial structures) in a

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subdivision subject to a recorded blanket encumbrance in which there exists an unconditional release clause complying with Section 11013.1 are sold under a contract of sale as defined by Section 2985 of the Civil Code, the commissioner will approve, but will not necessarily be limited to, one of the following as an acceptable plan or method in lieu of the impound of all contract installment payments, as long as said blanket encumbrance remains of record.

(1) When the property is free and clear of all liens and encumbrances other than said blanket encumbrance, assessment bonds or current property taxes, and evidence thereof has been submitted to the Real Estate Commissioner and the blanket encumbrance containing such a release clause has been recorded, whether as part of the deed of trust evidencing said blanket encumbrance or by separate covenant or other instrument, impoundment of funds shall not be required as long as such conditions exist, provided all of the following conditions have been met:

(a) A signed land sales contract is delivered to the buyer, which contract shall contain a provision precluding the vendor from subsequently encumbering the property without the written consent of the contract vendee.

(b) The subdivider has filed with the city or county all surety bonds required by the city or

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county for the completion of all off-site improvements shown on the map recorded with the county prior to the issuance of the Final Subdivision Public Report; or in the alternative the subdivider furnishes evidence that all such required off-site improvements have been completed and approved by the city or county and the surety bonds for the performance thereof have been released by the city or county.

(c) The contract between the subdivider and purchaser contains a provision precluding the vendor from undertaking any additional off-site improvements or performing any other work on the lot covered by such contract which may result in the creation of a mechanic's lien subsequent to the date of the contract, without the written consent of the buyer and without filing a surety bond with the city or county for the performance and payment of materials and labor costs requisite to such additional improvements.

(d) The contract states that in the event that such additional improvements or work are undertaken by the subdivider he will furnish to the contractor making such improvements or performing such work a copy of the Final Subdivision Public Report pertaining to such tract and lot.

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(e) The subdivider has submitted to the commissioner a statement under penalty of perjury that all surety bonds required have been filed.

(f) The subdivider undertakes to furnish at regular periodic intervals specified by the Real Estate Commissioner a statement under penalty of perjury that no such additional improvements or work have been undertaken or performed without such surety bond, and that no liens of any kind whatsoever have been placed on the property subsequent to the date of the contract.

(2) When such subdivision interests are subject to individually amortizable liens or encumbrances (in addition to the blanket encumbrance) securing obligations to private individual obligees, or to banks, savings and loan associations, insurance companies or other corporate lenders, the subdivider shall comply with the requirements of subparagraphs (a) through (f) of subdivision (1) hereof and, further, the subdivider shall convey the property in trust or shall record the contract and shall direct the purchaser to make his payments directly to a trustee or to a neutral escrow depository located in California and acceptable to the commissioner, which trustee or escrow agent shall be authorized to use such funds to pay the

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monthly installments on the encumbrances, current installments on real property taxes and remit the balance of the payment to the owner or subdivider, or the nominee of the owner or subdivider. The trustee or escrow agent may at its discretion appoint the owner or subdivider as its agent for collection of the installment payment.

(3) When such subdivision interests are subject to individually amortizable liens or encumbrances (in addition to the blanket encumbrance) held by a bank, savings and loan association, insurance company or other corporate lender acceptable to the commissioner and authorized to do business in California, the subdivider shall comply with the requirements of subparagraphs (a) through (f) of subdivision (1) hereof, and shall assign all contracts of sale to the first lien holder and shall cause said assignment to be properly and duly recorded. The subdivider or the assignee shall give notice of the assignment to each contract purchaser and shall direct that all payments due under the contract shall be paid directly to the assignee, which assignee shall be authorized to use such funds to pay the monthly payments on the encumbrances and current installments on real property taxes and remit the balance of the payment to the owner or subdivider, or the nominee of the owner

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or subdivider. The assignee may at its discretion appoint the owner or subdivider, their nominee, or any regulated lending agency its agent for collection of the contract installment payments.

(4) When all encumbrances on the property other than said blanket encumbrance, assessment bonds and current property taxes are individually amortizable and permit amortization in equal monthly installments, the total installments of which shall not exceed the monthly payments payable under the contract of sale, the subdivider shall, in addition to the requirements of subparagraphs (a) through (f) of subdivision (1) hereof, comply with the following:

(a) The subdivider has entered into an agreement with the holders of all such existing encumbrances on the property which shall, in part, provide:

(i) That the subdivider will furnish to the holder of the encumbrance the name and address of the contract vendee of the property within ten (10) days after the execution of the contract;

(ii) That in the event any installment payable on the encumbrance on the property is not paid by the primary obligor thereof on its

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due date, such holder may, at any time thereafter, and must within twenty-five (25) days from the date such installment remains unpaid, notify any contract vendee whose name and address has been so furnished to such holder, of the default by mailing a copy of such notice, postage prepaid, to such contract vendee;

(iii) That the holder of the encumbrance shall not file or record a notice of default until ten (10) days after the date of mailing such notice to the contract vendee; and

(iv) That the contract vendee shall have the same rights as the primary obligor of the encumbrance to perform or make any payments together with late charges, if any, as to such encumbrance and the obligations secured thereby.

(b) The subdivider has delivered to the contract vendee at the time the contract of sale is executed a copy of said agreement together with a notice that such vendee may, but is not obligated to, exercise the rights provided in said agreement and that such vendee has the legal right to set off and credit all such payments or performance against the payments due the subdivider under the contract of sale.

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(c) The subdivider has delivered to the commissioner a copy of the agreement referred to in (a) above and a copy of the notice referred to in (b) above; said documents shall be accompanied by a statement by the subdivider under penalty of perjury that an exact copy thereof will be delivered to each contract vendee.

29. Amends Section 2817 of Article 12 to read:

2817. Progress Payments. In case the subdivider elects to comply with Section 11013.4(e) of the Business and Professions Code, the escrow instructions may provide that the escrow holder may disburse to the owner or his authorized agent money paid or advanced by the purchasers upon receipt of paid bills, or certified copies thereof, together with an affidavit from the owner or his authorized agent, in an amount equal to the amount of such paid bills. Such affidavit shall state that such paid bills cover labor or materials actually performed or used in the construction of residential or other structures within the subdivision.

30. Amends Section 2819 of Article 12 to read:

2819. Subdivider's Records of Receipts and Disbursements. Subdivider shall maintain books and records of all funds received for the purchase or lease of subdivision interests in accordance with good accounting principles.

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Such books and records shall clearly reflect the amounts, the names of the persons from whom the funds were received, and the dates the funds are received and disbursed, and shall be maintained for a period of three (3) years following receipt or disbursement.

31. Amends Section 2819.5 of Article 12.5 to read:

2819.5. Definitions.

(a) "Registered voters" referred to in Section 11000.5 means voters registered at or about the time the subdivision questionnaire is filed, within the confines of the subdivision and within two miles of any point on the perimeter of the boundaries of the subdivision.

(b) "Builders" as used in Section 11000.6 means licensed general contractors.

(c) "Developer" as used in Section 11000.6 means any person or entity who, directly or indirectly, acquires for sale or lease 50 or more subdivision interests.

32. Amends Section 2819.6 of Article 12.5 to read:

2819.6. Rescission Rights. The purchaser or prospective purchaser may exercise his rights of rescission granted by Section 11028 by notifying the developer by mail, telegram or other writing of his decision to do so.

Where mail is used, notification shall be considered given at the time of mailing; when telegram is used, notification shall be considered given at the time of filing; and notification

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by other writing shall be considered given at the time delivered to the developer's designated place of business.

33. Amends Section 2819.7 of Article 12.5 to read:

2819.7. Disclosure of Rescission Rights. To inform a purchaser of his rights under Section 11028, the developer shall deliver with the Public Report as an attachment to the front page thereof, the following notice printed in not less than 12 point Roman bold type face capital letters and numerals:

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RESCISSION RIGHTS

IF YOU ENTER INTO AN AGREEMENT TO PURCHASE OR  
LEASE AN INTEREST IN THE LAND COVERED BY THE  
PUBLIC REPORT TO WHICH THIS NOTICE IS ATTACHED,  
YOU HAVE A LEGAL RIGHT TO RESCIND (CANCEL) THE  
AGREEMENT AND TO THE RETURN OF ANY MONEY OR  
OTHER CONSIDERATION THAT YOU HAVE GIVEN TOWARD  
THE PURCHASE OR LEASE UNTIL MIDNIGHT OF THE  
14th CALENDAR DAY FOLLOWING THE DAY YOU EXECUTE  
THE CONTRACT TO PURCHASE OR LEASE.

YOU MAY EXERCISE THIS RIGHT WITHOUT GIVING ANY  
REASON FOR YOUR ACTION AND WITHOUT INCURRING ANY  
PENALTY OR OBLIGATION BY NOTIFYING \_\_\_\_\_

\_\_\_\_\_  
(Name of Developer)

AT \_\_\_\_\_

\_\_\_\_\_  
(Address of Developer's Place of Business)

OF SUCH CANCELLATION BY TELEGRAM, MAIL OR OTHER  
WRITTEN NOTICE SENT (IN THE CASE OF A TELEGRAM  
OR MAIL) OR DELIVERED (IN THE CASE OF OTHER WRITTEN  
NOTICE) NOT LATER THAN MIDNIGHT OF \_\_\_\_\_  
(Date)

YOU MAY USE THIS NOTICE FOR THE PURPOSE OF  
CANCELLING THE AGREEMENT TO PURCHASE OR LEASE  
BY COMPLETING THE BLANKS AND BY DATING AND SIGNING

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BELOW. THE USE OF REGISTERED OR CERTIFIED MAIL  
WITH RETURN RECEIPT REQUESTED IS RECOMMENDED FOR  
TRANSMITTAL OF THIS NOTICE OF CANCELLATION.

- - -

I HEREBY RESCIND MY AGREEMENT TO PURCHASE LOT  
(PARCEL) NO. \_\_\_\_\_ IN \_\_\_\_\_

\_\_\_\_\_  
(Name or Identifying Number of Subdivision)  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Signature of Purchaser)

\_\_\_\_\_  
(Signature of Purchaser)

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34. Repeals Section 2819.9 of Article 12.5.

35. Adopts new Section 2819.9 of Article 12.5 to read:

2819.9. Submission of Evidence for Specific Findings. The subdivider, owner or his agent shall submit evidence to substantiate a request for specific findings referred to in Section 11025 of the Business and Professions Code to allow issuance of the Public Report. No specific findings as required by subsections (1) through (6) thereof will be made unless there is evidence submitted, along with such verification as the commissioner may require to warrant such findings.

36. Repeals Section 2819.95 of Article 12.5.

37. Amends Section 2819.96 of Article 12.5 to read:

2819.96. Report of Withdrawals. Where the rate of withdrawal exceeds 10% of the total subdivision interests sold within the last year, the subdivider shall report such withdrawals pursuant to Section 11029 beyond the three year period until 13 months after 90% of the subdivision interests have been sold or conveyed.

38. Adopts Section 3000 of Article 24 to read:

3000. Criteria for Courses of Study. The Real Estate Commissioner when acting on an application for approval of a course of study at a private vocational school to determine if a course of study is equivalent in quality to the course offered

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by a college or university accredited by the Western Association of Schools and Colleges will consider but not be limited to the following conditions:

(a) Courses must have at least 45 classroom hours of instruction or, in the case of a correspondence course, at least 15 separate lesson assignments. Classroom hours are 50 minute sessions.

(b) The school has facilities, instructional material, and instructor personnel to provide training of the quality needed to obtain the objective of the particular course or courses.

(c) Instructors must have credentials issued by the Board of Governors of the California community colleges or comparable California credentialing agency, or meet the criteria for obtaining such credentials, or in the judgment of the commissioner is otherwise qualified by education or experience, or both.

(d) The school maintains written records of the student's performance.

(e) A copy of the course outline, grading policy and rules of operation and conduct is available to students upon enrollment.

(f) Maintenance of adequate records by the schools relating to attendance, progress and grades and in the

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case of correspondence courses, the dates of (1) mailing of lessons; (2) return of lessons for correction; and (3) actual correction.

(g) The use of advertising which is not deceptive or misleading.

The use of advertising in any form which does not comply with the requirements set forth below will be considered by the commissioner to be deceptive or misleading:

(1) In any reference to a course or courses approved by the commissioner as being equivalent to college courses, it must be clearly set forth that the course or courses are equivalent only for the purpose of qualifying for the real estate broker license examination unless the course of instruction has been approved for credit by an institution of higher learning.

(2) An advertisement which contains an express or implied guarantee, promise or assurance to qualify a student for the real estate broker license examination must include a complete explanation of the nature and extent of the "guarantee" including all conditions thereto.

(3) Use of the word "approved" or "accredited" or the like with respect to the school or the courses

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being offered must be fully explained.

(4) Any advertisement by a school operating under a corporate or fictitious name or style that is the same as, or similar to, the name or style of other schools shall not advertise or otherwise indicate course approval by the Real Estate Commissioner unless the advertisement clearly sets forth the address or location of the school whose courses have been approved.

(5) Students shall not be solicited in a "Help Wanted" column of a newspaper, magazine or other publication or through the use of any advertising solicitation which fails to identify the advertiser as a private vocational school or the operator of a supervised course of study.

(6) In advertising which makes reference to courses of study approved by the commissioner, the specific course or courses that have been approved must be set forth.

Nothing contained herein shall limit the commissioner determining that advertising is deceptive or misleading for reasons other than failure to comply with the aforesaid criteria.

(h) Upon successful completion of training, the school will award an appropriate written document to the

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student indicating the training and attendance completed.

(i) A completed written application has been filed with the commissioner's office with the appropriate fee. The fees are not refundable.

(j) The commissioner may refuse to approve real estate courses when, after investigation, he determines that the private vocational school or supervised course of study is not equivalent in quality to similar courses at institutions of higher learning which have been accredited by the Western Association of Schools and Colleges or a comparable accrediting agency.

(k) The school is either duly qualified by the State Department of Education or is exempt therefrom.

(l) Any person, corporation, partnership or association operating a private vocational school offering real estate courses or operator of a supervised course of study who objects to the commissioner's refusal to approve a real estate course may, within 30 days after receipt of the order of denial, file a written request for hearing. The commissioner shall hold the hearing within 20 days thereafter unless the party requesting the hearing shall have requested a postponement. If the hearing is not held within 20 days after a request for hearing is received plus the period of any such postponement, or

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if a decision is not rendered within 30 days after the hearing, the order of denial shall be rescinded and a certificate of approval issued.

(m) If the commissioner determines the course or courses previously approved are no longer equivalent in quality to those offered in institutions of higher learning which have been accredited by the Western Association of Schools and Colleges or a comparable accrediting agency, he shall give written notice of withdrawal of approval stating the reasons therefor. Such withdrawal of approval will be effective 30 days from the date of the notice of withdrawal unless the party served with the withdrawal notice files a written request for hearing before the effective date. If a request for hearing is filed, the withdrawal of approval shall not be effective unless and until so ordered by the commissioner upon findings made at said hearing. The hearing shall be held within 20 days after receipt of the request therefor unless postponed by order of the commissioner or by mutual consent.

39. Adopts Section 3001 of Article 24 to read:

3001. Persons Authorized to Administer Supervised Courses of Study. A supervised course of study within the purview

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of Sections 10153.4 and 10153.5 of the Business and Professions Code means the pursuit of real estate knowledge under direction of, but not limited to, a:

(1) Licensed real estate broker who is, and for at least five years last past continuously has been, engaged in the active practice of real estate; or

(2) Member of the State Bar of California who is, and for at least five years last past continuously has been, engaged in the active practice of law; or

(3) Properly credentialed teacher of real estate courses who is or has been engaged in the practice of teaching; or

(4) Properly licensed or certificated person who is engaged in the business of appraisal, finance and/or related real estate occupations and for at least five years last past continuously engaged in such practice; or

(5) A person who, in the judgment of the commissioner, is qualified by experience or education, or both, to supervise a course of study within the letter and spirit of this section.

40. Adopts Section 3002 of Article 24 to read:

3002. Criteria and Reports for Supervised Courses of Study. It shall be the duty of the person or persons referred

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to in Regulation 3001, paragraphs 1, 2, 3, 4 and 5, to render periodic reports as the commissioner may require relevant to the student's course of study, and

(a) A course of study shall mean one and separate learning programs devoted to each course offered, and

(b) Each course of study and instruction under supervision shall be a minimum of 135 hours, assignments, reading, testing and study for the student who holds a valid salesman license.

(c) Each course of study and instruction under supervision shall be a minimum of 180 hours including assignments, reading, testing and study for a student who does not hold a valid real estate salesman license.

(d) The supervisor shall make application, pay the appropriate fee and obtain approval from the commissioner prior to offering the supervised course of study, and

(e) The commissioner shall not consider any course of supervised study equivalent to a college curriculum unless he finds that it does, in fact, contain academic qualities similar thereto.

41. Adopts Section 3003 of Article 24 to read:

3003. Private Vocational School Defined. The simultaneous instruction of two or more students in courses listed

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in Section 10153.4 or 10153.5 constitute a private vocational school for the purposes of said sections.

42. Adopts Section 3004 of Article 24 to read:

3004. Fees for Course Approval. The fees for application for approval as authorized by Section 10153.4 of the Business and Professions Code are the fees set forth in Section 10209 of the California Business and Professions Code.

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Effective Dates of Appended Regulation Changes. All of the regulation changes contained in pages 1 through 49 hereof shall become effective on the 30th day after the date of filing with the Secretary of State, except as follows:

| <u>Regulation</u>   | <u>Effective Date</u> |
|---------------------|-----------------------|
| 2716 (adoption)     | 4/1/72                |
| 2726 (adoption)     | 4/1/72                |
| 2819.6 (amendment)  | 3/6/72                |
| 2819.7 (amendment)  | 3/6/72                |
| 2819.9 (repeal)     | 3/6/72                |
| 2819.9 (adoption)   | 3/6/72                |
| 2819.95 (repeal)    | 3/6/72                |
| 2819.96 (amendment) | 3/6/72                |
| 3000 (adoption)     | 3/6/72                |
| 3001 (adoption)     | 3/6/72                |
| 3002 (adoption)     | 3/6/72                |
| 3003 (adoption)     | 3/6/72                |
| 3004 (adoption)     | 3/6/72                |

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

DEPARTMENT OF REAL ESTATE

(Agency)

Dated: December 8, 1971

By: Robert W. Karpe

Real Estate Commissioner

(Title)

ENDORSED  
FILED

in the office of the Secretary of State  
of the State of California

DEC 10 1971

At 3:55 o'clock P.M.

EDMUND G. BROWN Jr., Secretary of State

By DAVID M. WEETMAN  
Deputy

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ORDER ADOPTING, AMENDING AND REPEALING  
REGULATIONS OF THE REAL ESTATE COMMISSIONER

Pursuant to the authority vested in him by Sections 10080, 10226, 10249.2, 10312, 11001, 11011.8 and 11018.9 of the Business and Professions Code, Robert W. Karpe, Real Estate Commissioner of the State of California, hereby adopts, amends and repeals regulations of the Real Estate Commissioner in Chapter 6, Title 10, California Administrative Code, as follows:

1. Amends Section 2705 of Article 2 to read:

2705. Definitions. The Real Estate Law for the purpose of these regulations is that law contained in Division 4, Part 1 and Chapter 1 of Part 2 of the Business and Professions Code of California.

(a) "Department" shall mean the Department of Real Estate, State of California.

(b) "Commissioner" means the Real Estate Commissioner.

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(c) "Deputy" shall include all deputy real estate commissioners, administrative assistants, and investigators appointed by the commissioner.

(d) "Applicant" shall mean any person, or corporation applying for a broker or salesman license or permit.

(e) "Examination" shall mean the examination to qualify for any license issued by authority of the Real Estate Law.

(f) "License" shall include all licenses authorized to be issued by authority of the Real Estate Law.

(g) "Broker" shall mean an individual, or corporation licensed as a broker under the Real Estate Law.

(h) "Salesman" shall mean a licensed salesman in the employ of a broker licensed under the Real Estate Law.

(i) "Hearing" shall mean a formal hearing at which testimony is taken under oath in accordance with the provisions of the Administrative Procedure Act.

(j) "Subdivision" shall include any type of subdivision falling within the definition set forth in Sections 11000, 11000.1, 11000.5 and 11004.5 of the Business and Professions Code.

(k) "Report" shall mean the public report on subdivisions authorized under Section 11018 of the Business and Professions Code.

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(1) "Permit" shall mean the authorization issued by the commissioner to a licensed real estate broker or salesman under Section 10507(b) of the Business and Professions Code to engage in a mineral, oil and gas transaction; the authorization issued by the commissioner to sell real property securities under the provisions of Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code; and the authorization by the commissioner to offer for sale or lease lots or parcels in an out-of-state land promotion under the provisions of Article 6 (commencing with Section 10237) and Article 8 (commencing with Section 10249) of Chapter 3, Part 1, Division 4 of the Business and Professions Code.

(m) "Subdivision interest" or "subdivision interests" as used herein shall include lots, parcels, units or undivided interests subject to regulation under the provisions of Chapter 1, Part 2, Division 4 of the Business and Professions Code.

2. Adopt Section 2716 of Article 3 to read:

2716. License Fees. All license fees shall be the maximum set forth in the Real Estate Law, except the following:

(1) The license fees under Sections 10209.5 and 10210 of the Business and Professions Code shall be \$75.

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(2) The license fees under Sections 10214.5 and 10215 of the Business and Professions Code shall be \$50.

3. Amends Section 2725 of Article 4 to read:

2725. Review of Agreements. All real estate agreements prepared or signed by a salesman which would materially affect the rights or duties of the parties to the transaction shall be reviewed and initialed by his broker within five working days of execution thereof or before the close of escrow, whichever occurs first; provided, however, while retaining overall responsibility for supervision, specific authority to review and initial such agreements may be delegated by the broker as follows:

(1) To any licensed real estate broker who has entered into a written agreement relating thereto with the broker;

(2) Where circumstances warrant to a real estate salesman licensed to him, providing such salesman has entered into a written contract relating thereto with the broker, and has accumulated at least two years full-time real estate salesman experience during the preceding five year period.

As used herein, "working days" does not include Saturdays and holidays referred to in Government Code Section 6700.

4. Adopts Section 2726 of Article 4 to read:

2726. Broker-Salesman Relationship Agreements.

Every real estate broker shall have a written agreement with each

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of his salesmen, whether licensed as a salesman or as a broker under a broker-salesman arrangement. The agreement shall be dated and signed by the parties and shall cover material aspects of the relationship between the parties, including supervision of licensed activities, duties and compensation.

Signed copies of the agreement shall be retained by the parties thereto for a period of three (3) years from the date of termination of the agreement. The agreement shall be available for inspection by the commissioner or his designated representative on request.

5. Amends Section 2790 of Article 12 to read:

2790. Filing Fee and Questionnaire. A Notice of Intention filed pursuant to Section 11010 of the Business and Professions Code shall be accompanied by a filing fee and a completed questionnaire on a form prescribed by the commissioner unless the commissioner shall waive the filing of the questionnaire and fee when in his opinion the facts and circumstances justify a waiver.

6. Amends Section 2790.1 of Article 12 to read:

2790.1. Filing Fees. All subdivision filing fees shall be the maximum set forth in the Real Estate Law except the following:

(1) The filing fee under Section 11011 of the Business and Professions Code shall be \$50 plus \$2 for

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each lot in the subdivision to a maximum of \$3,000.

(2) The filing fee under Section 10249.5 of the Business and Professions Code shall be \$100.

(3) The filing fee under Sections 11011.1 and 10249.3 of the Business and Professions Code shall be:

(a) \$50 for each lot, parcel, apartment, unit or undivided interest for subdivisions containing nine or less.

(b) \$500 plus \$3 for each lot, parcel, apartment, unit or undivided interest for subdivisions containing ten or more to a maximum of \$5,000.

7. Amends Section 2790.7 of Article 12 to read:

2790.7. Out-of-State Subdivisions. Any person selling or leasing or offering for sale or lease subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code shall comply with and come within the purview of:

(1) Such of the provisions of Chapter 1, Part 2, Division 4, Business and Professions Code, and the Regulations pertaining thereto as the commissioner deems applicable to the particular subdivision filing; and

(2) Sections 10237.2, 10237.6, 10237.7, 10237.8, 10237.9, 10238, 10238.1, 10238.2, 10238.3, 10238.4, 10238.5, 10238.6 and Regulations adopted pursuant to Section 10249.2, Business and Professions Code.

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The term "real property securities dealer" as used in Sections 10237.6, 10237.7, 10237.8, 10237.9, 10238, and 10238.1 of the Business and Professions Code includes a subdivider and any person offering for sale or lease, or selling or leasing subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.

The term "real property security" or "real property securities" as used in Sections 10237.2, 10238.2, 10238.3, 10238.4, and 10238.6 includes subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.

The report required by Section 10238.1 shall be limited to such information as the commissioner may determine is material to the filing and the report or permit issued thereon.

8. Amends Section 2790.8 of Article 12 to read:

2790.8. Appraisal of Out-of-State Subdivision Offerings. An appraisal of the subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 3 of the Business and Professions Code shall be made by a qualified independent appraiser and shall be submitted to the Real Estate Commissioner prior to the issuance of any subdivision public report.

9. Repeals Section 2791 of Article 12.

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10. Repeals Section 2792.1 of Article 12.

11. Repeals Section 2792.2 of Article 12.

12. Amends Section 2792.6 of Article 12 to read:

2792.6. Planned Development Subdivisions - Required Documents. The subdivider, owner or agent of a subdivision included in Section 11004.5 of the Business and Professions Code (except an undivided interest subdivision, stock cooperative or community apartment project) should submit the following with the subdivision questionnaire or in any event shall submit prior to issuance of the final public report:

(1) a current policy of title insurance or preliminary title report issued after recordation of the subdivision map;

(2) evidence of the financial arrangements to assure completion of the project, including on-site and off-site improvements;

(3) a detailed statement pertaining to the method of financing sales of lots or units to purchasers;

(4) a schedule of the fractional interests in the common areas appurtenant to each lot or unit, where appropriate;

(5) a copy of the declaration of covenants, conditions and restrictions (evidence of recordation to be filed prior to issuance of final public report);

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(6) where applicable, a copy of the management agreement, articles of incorporation, bylaws, organizational rules or other documents pertaining to control and management of the project;

(7) a copy of escrow instructions completed in sample form to show substance of the transaction, which instructions shall provide for return of purchase funds to non-defaulting buyers in event the escrows are not closed on a reasonable and specific date (the foregoing does not preclude penalties to defaulting purchasers for bona fide extras); and the name of the escrow depository; if no escrow depository is to be utilized, a description of the closing procedure to be employed;

(8) a copy of an agreement entered into with an assessor pursuant to Section 2188.3 of the Revenue and Taxation Code, where appropriate;

(9) if applicable, a copy of the plan recorded pursuant to Section 1351 of the Civil Code;

(10) if applicable, a copy of the recorded subdivision map;

(11) a copy of any agreement, deed, note, deed of trust, mortgage, conveyance, lease, sublease, to be issued to, or to be entered into with, the purchaser, which copy or copies shows substance of the transaction;

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(12) if the applicant is a corporation, a copy of the resolution of its Board of Directors authorizing the filing of the questionnaire; and,

(13) such other information as the commissioner may require;

(14) a detailed pro forma budget reflecting estimated ownership, operational and maintenance costs for the project with comparative or other data supporting said estimates.

13. Repeals Section 2792.7 of Article 12.

14. Amends Section 2792.8 of Article 12 to read:

2792.8. Planned Development and Undivided Interests Subdivisions - Management, Regulation and Control. The covenants, conditions and restrictions (hereinafter restrictions), articles of incorporation, bylaws and other instruments for the management, regulation and control of the types of subdivisions includes in Section 11004.5 shall ordinarily provide, but need not be limited to:

(1) creation of an association of lot, parcel, unit or undivided interest owners;

(2) a description of the areas or interests to be owned or controlled by owners in common;

(3) transfer of title and/or control of common areas, common facilities and/or mutual and reciprocal rights of use to the owners in common or to an association thereof;

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(4) procedures for calculating and collecting regular assessments to defray expenses attributable to the ownership, use and operation of common areas and facilities with said assessments to be levied against each owner, including the subdivider, according to the ratio of the number of lots or units owned by each owner to the total of lots or units subject to the assessment, or on some other reasonable and equitable basis such as the selling price of the unit to the aggregate selling prices of all units subject to the assessment;

(5) procedures for establishing and collecting special assessments for capital improvements or other purposes on the same basis as for regular assessments with suitable monetary limitations on special assessments or expenditures without the prior approval of a majority of the owners affected;

(6) where appropriate, liens against privately owned subdivision properties and the foreclosure thereof on account of the non-payment of assessments duly levied;

(7) where appropriate, annexation of additional land to the existing development with suitable substantive and procedural safeguards against increased per capita assessments on account of such annexation;

(8) monetary penalties and/or use privilege and voting suspensions of members for breaches of the

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restrictions, bylaws or other instruments for management and control of the subdivision with procedures for hearings for disciplined members;

(9) creation of a board of directors or other governing body for the owners' association with the members of said body to be elected by a vote of members of the association at an annual or special meeting to be held not later than six months after the sale of the first lot, unit or undivided interest of the subdivision;

(10) procedures for the election and removal of members of the governing body which shall include concurrent terms for members and cumulative voting features in the election and removal of such members;

(11) enumeration of the powers of the governing body which shall normally include at least the following:

(a) the enforcement of applicable provisions of the restrictions, bylaws, and the other instruments for the management and control of the subdivision;

(b) payment of taxes and assessments which are or could become a lien on the common area or some portion thereof;

(c) delegation of its powers to committees, officers or employees;

(d) contracting for materials and/or services for the common area or the owners' association with

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the term of any service contract limited to a duration of one year, except with the approval of a majority of the members of the owners' association, except in those subdivisions where the terms of the management contract have been approved by the Federal Housing Administration or Veterans Administration;

(e) contracting for fire, casualty, liability and other insurance on behalf of the owners' association;

(f) entry upon any privately owned lot or unit where necessary in connection with construction, maintenance or repair for the benefit of the common area or the owners in common;

(12) allocation of voting rights to members of the owners' association on the basis of lot or unit ownership or on some other reasonable and equitable basis;

(13) preparation of an annual operating statement reflecting income and expenditures of the association for its fiscal year with provision for distribution of a copy of said report to each member within 90 days after the end of the fiscal year;

(14) annual and special meetings of members within the subdivision or as close thereto as practicable;

(15) reasonable -- and in no case less than 10 days -- written notice to members of annual and special meetings

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specifying the place, day and hour, and in the case of special meetings, the nature of the business to be undertaken;

(16) quorum requirements for members' meetings ranging from 25% to 50% of the total membership depending upon the nature of the subdivision and other relevant factors;

(17) voting proxies for members' meetings;

(18) amendment of those provisions of the restrictions, bylaws or rules which relate to the management, operation and control of the owners' association and/or the common areas, common facilities or interests.

Depending upon the nature of the right or obligation to be affected by the amendment, the Real Estate Commissioner will ordinarily consider as reasonable amendments enacted as follows:

(a) Restrictions - 51% to 75% of all of the owners;

(b) Bylaws or Rules - 51% of a quorum to 51% of all of the owners;

(19) prohibition or restrictions upon the severability of commonly owned interests through partition or otherwise;

(20) action to be taken and procedures to be followed in the event of destruction or extensive damage to the common areas or facilities including provisions respecting the use and disposition of insurance proceeds payable to the association on account of such destruction or damage.

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WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

15. Amends Section 2792.9 of Article 12 to read:

2792.9. Planned Developments and Condominiums - Operating and Maintenance Funds During Start-up. To assure the availability of funds for ownership, operation and maintenance of the common areas and facilities in planned developments and condominium projects during the initial stages of ownership and operation by an owners' association, the commissioner will ordinarily require that the subdivision offering include one or more of the following features:

(1) posting of a surety bond or other adequate security in an amount and subject to such terms, conditions and coverage as the commissioner may require;

(2) postponement of closing of any sales escrow until 60% (or a lesser percentage approved by the commissioner) of all lots, parcels or units have been sold and are simultaneously closed;

(3) deposit with an escrow acceptable to the commissioner of funds equal to estimated ownership, maintenance and operational expenses for common areas and facilities for a six month period with said funds to remain available to defray maintenance and operational expenses until the close of sale of 60% of the lots, parcels or units;

(4) an alternative plan acceptable to the commissioner.

CONTINUATION SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

16. Amends Section 2792.11 of Article 12 to read:

2792.11. Undivided Interests Subdivisions - Required Documents. An applicant for a public report for the sale of undivided interests in subdivided land including community apartment projects and stock cooperatives shall submit the following in connection with the application for a public report:

- (1) a current policy of title insurance or a preliminary title report;
- (2) a detailed pro forma budget reflecting estimated ownership, operational and maintenance costs for the project with comparative or other data supporting said estimates;
- (3) a copy of the declaration of covenants, conditions and restrictions recorded or to be recorded on the real property comprising the project;
- (4) a narrative statement of the plan for the formation and operation of the project including financial arrangements for completion of all improvements included in the offering;
- (5) copies of all instruments under which an association of owners of property comprising the project will be organized and will function;
- (6) where applicable, a copy of the subscription, membership, and/or occupancy agreement to be executed by the purchaser of an interest in the project;

DO NOT WRITE IN THIS SPACE

ownership and operation by an owners association, the commissioner will ordinarily require that the subdivision offering include one or more of the following features:

(1) file a corporate surety bond or other adequate security in an amount and subject to such terms, conditions, and coverage as the commissioner may require posting of a surety bond or other adequate security in an amount and subject to such terms, conditions and coverage as the commissioner may require;

(2) postponement of closing of all any sales escrow(s) until 60% (or a lesser percentage approved by the commissioner) of all the lots, parcels or units have been sold and all escrows closed at substantially the same time are simultaneously closed;

(3) deposit with an independent depository under conditions approved by the commissioner of an amount equal to not less than six months maintenance and operational expense, to remain on deposit until 60% of the units have been sold escrow acceptable to the commissioner of funds equal to estimated ownership, maintenance and operational expenses for common areas and facilities for a six month period with said funds to remain available to defray maintenance and operational expenses until the close of sale of 60% of the lots, parcels or units;

(4) such other an alternative plan as may be approved by acceptable to the commissioner.

16) Amend Section 2792.11 to read:

2792.11. Filing of Stock Cooperative Project Undivided Interests Subdivisions - Required Documents.

An applicant for a subdivision public report for a stock cooperative, as defined in Section 11003.2 of the Business & Professions Code, should submit the following with the subdivision questionnaire or in any event shall submit prior to the issuance of the final public report the sale of undivided interests in subdivided land including community apartment projects and stock cooperatives shall submit the following in connection with the application for a public report:

(1) a current policy of title insurance or a preliminary title report;

(2) a detailed budget statement reflecting the estimated annual costs of operating and maintaining the project, including principal and interest payments on liens encumbering the real property, such estimates to be supported by comparison statements of assessments and taxes levied for comparable property pro forma budget reflecting estimated ownership, operational and maintenance costs for the project with comparative or other data supporting said estimates;

(3) the names and addresses of the officers and directors; listing their relationship; financial or otherwise; to sponsor or promoter a copy of the declaration of covenants, conditions and restrictions recorded or to be recorded on the real property comprising the project;

(4) a detailed statement of the plan for financing and operating the project a narrative statement of the plan for the formation and operation of the project including financial arrangements for completion of all improvements included in the offering;

(5) where applicable; copies of any management agreement; articles of incorporation; bylaws and organizational rules relating to management; operation; control; use and occupancy of the project copies of all instruments under which an association of owners of property comprising the project will be organized and will function;

(6) copies of membership certificates and occupancy agreements to be issued or to be entered into with the purchasers where applicable, a copy of the subscription, membership, and/or occupancy agreement to be executed by the purchaser of an interest in the project;

(7) copies of any subscription agreements or agreements for interim occupancy a copy of any regulatory agreement with a governmental agency where such agreement is a feature of the subdivision project;

(8) a copy of any regulatory agreement executed or to be executed with any governmental agency an exemplar of completed escrow instructions for the sale of an interest in the subdivision;

(9) a detailed statement of financial arrangements to assure completion of the project, including all on-site and off-site improvements where applicable, copies of resolutions of the governing body of the project authorizing the filing of the subdivision questionnaire and otherwise relating to the creation and operation of the project;

(10) a copy of a declaration of covenants, conditions, and restrictions recorded or to be recorded against the real property, if any any proposed management agreement between the owners' association and the subdivider or other management agent;

(11) a copy of escrow instructions completed in sample form to show the substance of the transaction and the name of the escrow depository, if none, the closing procedure to be employed, such additional documents as the commissioner may require in connection with a particular project.

~~(12)~~ a copy of the resolution of the board of directors authorizing the filing of the questionnaire and a copy of any other resolution relating to the project and/or sale;

~~(13)~~ such other information as the commissioner may require.

a quorum is not present, the members present may, as otherwise provided by law, adjourn the meeting to a time not less than 48 hours nor more than 30 days from the time the original meeting was called, at which subsequent meeting the quorum required ordinarily shall be at least 25 percent;

(6) where appropriate, an annual independent examination or audit of the account or accounts of the stock cooperative and for a copy of the resulting report to be available to each unit owner within 30 days of completion.

ALL IN  
STRIKEOUT

(7) amendment or repeal of restrictions, bylaws or similar instruments relating to the operation and control of the stock cooperative. A three-fourths majority of the voting power will ordinarily be considered a reasonable majority but, should an applicant desire to provide for a different vote requirement, the commissioner will consider each application separately. A reasonable majority of the voting power shall in no event be less than a simple majority and ordinarily should not exceed a three-fourths majority;

(8) a management body or agent selected prior to the first annual meeting shall be employed to manage only until the first annual meeting, at which time the continuance of the same or the selection of another body or agent shall be determined by a majority vote. This

17) Repeal Section 2792.12.

~~2792.12. Stock Cooperative // Bylaws, Organizational~~

~~Rules or Other Agreements, Articles of~~

incorporation, bylaws, organizational rules or other documents relating to the management, operation, use and control of a stock cooperative shall ordinarily include or the setup provide for, but need not be limited to, the following provisions:

ALL IN  
STRIKEOUT

(1) a governing board consisting of three or more individuals elected for reasonable terms by the members from among their own number. In such elections the members shall ordinarily have the right of cumulative voting;

(2) annual meetings;

(3) voting rights allocated on a reasonable basis; the first meeting to be held within a reasonable time after start of construction;

(4) notice of meeting not less than seven nor more than sixty days before any shareholders meeting; notice of meeting shall specify a reasonable place, date and hour, and, in the case of a special meeting, the general nature of the business to be transacted;

(5) the presence in person or by proxy of members holding at least 50 percent of the voting power will constitute a quorum for the transaction of business at all meetings. If any meeting cannot be held because

provision does not preclude a management agreement for a longer term than one (1) year, where the management agency is approved by the Federal Housing Administration.

18) Add Section 2792.12 to read:

2792.12. Undivided Interests Subdivisions - Agreement to Convey or Encumber the Property. In undivided interests subdivisions not involving a right of exclusive occupancy to a lot, parcel or unit, provisions shall be included in the appropriate instrument whereby the owners' association is empowered under a trust or other acceptable arrangement to convey or encumber the real property comprising the subdivision or any portion thereof upon the vote or written agreement of a prescribed percentage of all owners of undivided interests in the property.

The prescribed percentage shall be determined by the commissioner based upon the facts and circumstances of each such offering. Ordinarily this percentage shall be not less than 66 2/3% of the total of such interests in the subdivision.

19) Amend Section 2792.13 to read:

2792.13. Escrow Requirements / Stock Cooperative Undivided Interests Subdivisions - Impound of Funds.

All funds received from applicants for membership in a stock cooperative shall be deposited and maintained in a neutral escrow depository approved by the Real Estate Commissioner and no share certificates or other evidence

of interest in the cooperative shall be issued until valid subscriptions have been obtained for 97 percent of the dwelling units in the cooperative, or such lesser percentage as may be approved by the commissioner.

In event subscriptions for 97 percent or a lesser approved percentage of the membership interests are not obtained, and construction of the project has not been commenced within one year, or such other period as the commissioner may approve, from the date of execution of an individual subscription agreement, all funds shall be returned upon demand without deduction to the applicants prospective buyers to be applied to the purchase of undivided subdivision interests, including community apartment projects and stock cooperatives, shall be deposited and held intact in an escrow depository acceptable to the Real Estate Commissioner until bona fide offers have been obtained for the purchase of a prescribed percentage of all of the interests being offered for sale.

In the event that the prescribed percentage of offers have not been obtained within two years from the date of the issuance of the public report, or such other period as the commissioner may approve, all funds theretofore collected shall be promptly returned by the escrow depository to owners without deduction.

The prescribed percentage shall be determined by

the commissioner based upon the facts and circumstances of each such offering. Ordinarily this percentage shall be not less than 60% of the interests being offered for sale provided, however, that the commissioner may prescribe a lesser percentage if the plan of the offering includes other financial arrangements to lessen the possibility of foreclosure of a non-delinquent interest on account of the delinquencies of other owners.

20) Amend Section 2795 to read:

2795. Copy of Final Public Report or Preliminary Report to

Be Given to Prospective Purchaser. An owner, subdivider, or agent shall not demand, or accept any deposit, money or other consideration or accept a written offer to purchase or lease ~~lots or parcels in a subdivision~~ subdivision interests until a copy of the Final Subdivision Public Report has been given to the prospective purchaser or lessee and he has been given an opportunity to read it, and his receipt taken therefor.

Provided, however, a preliminary public report may be issued by the commissioner upon receipt of the filing fee and a subdivision questionnaire filing which is complete except for some particular requirement, or requirements, which is or are at the time not fulfilled, but which reasonably may be expected to be completed. In the event a preliminary public report is issued, the owner, subdivider or agent may accept a reservation to purchase or lease a

~~lot or parcel in the subdivision~~ subdivision interests under the following conditions:

(a) A copy of the preliminary public report has been given to the prospective purchaser, and he has been given an opportunity to read it and his receipt has been taken therefor~~7.~~

(b) A copy of the reservation agreement is signed by the prospective purchaser and by the subdivider or his agent and placed in a neutral escrow depository acceptable to the commissioner together with any valuable consideration involved.

(c) The reservation to purchase or lease contains a clause allowing the proposed purchaser the option to cancel his reservation at any time and have immediately returned to him without deduction any valuable consideration deposited with the reservation.

(d) Any preliminary report issued shall expire when a final report on the same land is published or one (1) year from date of issuance, whichever is sooner.

Receipts taken for any public report shall be kept on file in possession of the owner, subdivider, or agent subject to inspection at a reasonable time by the commissioner or his deputies, for a period of three (3) years from the date the receipt was taken.

The copies of the public report shall be those prepared by the Real Estate Commissioner; provided, however,

that exact reproductions may also be used. Such reproductions must use the same size of type as is used for the copies prepared by the commissioner, and a sample of such reproduction must be filed with the commissioner prior to use.

However, this rule shall not apply where the filing of a questionnaire or fee has been waived by the commissioner.

21) Amend Section 2795.1 to read:

2795.1. Approved Form for Receipt for Public Report. The following form shall be used by the owner, subdivider or agent as the receipt to be taken from prospective purchasers for the copy of the Public Report which must be given to prospective purchasers.

#### RECEIPT FOR PUBLIC REPORT

The Owner, Subdivider or His Agent is Required to Give You an Opportunity to Read the Public Report Before Demanding or Accepting Any Deposit, Consideration or Written Offer to Purchase or Lease ~~Lots or Parcels in a Subdivision~~ a Subdivision Interest.

DO NOT SIGN UNLESS YOU HAVE READ THE REPORT.

I have read the Commissioner's Public Report on:

---

(File No.)

---

(Tract No. or Name)

I understand the report is not a recommendation or endorsement of the subdivision but is informative only.

The date of the copy of said report which I received  
and read is:

\_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

Subdivider Is Required to Retain this Receipt  
for Three Years.

22) Amend Section 2801 to read:

2801. Commissioner to Be Notified of Material Change.

If the owner of any subdivision ~~options, or~~ sells, or options, to another, five or more lots, parcels or undivided interests, ~~from said subdivision, or two or~~ more units or shares in a community apartment project, condominium or stock cooperative, ~~such option or the~~ sale or option shall constitute a material change within the meaning of Section 11012 of the Business and Professions Code, and ~~such the~~ owner ~~or original subdivider~~ shall immediately notify the commissioner of ~~such options or sales the sale or option.~~

23) Amend Section 2801.5 to read:

2801.5. ~~Purchaser of Five or More Lots, or Two or More Lots~~  
Amended Public Report Required of Purchaser.

The purchaser of five or more lots ~~or~~, parcels or undivided  
interests in a ~~conventional subdivision or a planned~~  
~~development or conventional or undivided interest subdivision,~~  
and the purchaser of two or more ~~lots,~~ units or shares in a  
community apartment project, a condominium or a stock  
cooperative may not offer the ~~lots, units or shares~~ subdivision  
interests for sale until a Notice of Intention has been filed  
as required by Section 11010 of the Business and Professions  
Code and Final Public Report issued he has obtained from the  
commissioner a Public Report expressly authorizing the sale  
of the subdivision interests by him.

The commissioner may issue an Amended Public Report  
to the aforesaid purchaser ~~in the event if~~ there are no  
substantive changes in the setup ~~from the prior filing of~~  
the subdivision offering from the Public Report as originally  
issued.

24) Amend Section 2807 to read:

2807. Purchaser to Be Informed of Speculative Investment on Mineral, Oil and Gas Subdivision. The owner, subdivider, or agent of each subdivision to be sold or leased for speculation based upon its mineral, oil and gas possibilities, shall agree in writing that each purchaser of ~~lots or parcels in the subdivision~~ subdivision interests will be informed that such ~~lots or parcels~~ subdivision interests are being sold as a speculative investment only; that in event mineral, oil or gas in paying quantities are not discovered on the property, the purchaser probably will receive no return on his investment and will obtain nothing except a lease or a ~~parcel of land~~ proprietary interest in land.

25) Amend Section 2813 to read:

2813. Amount of Bond. The amount of the bond that is required under Section 11013.2(c) of the Business and Professions Code shall be 100 percent of the money paid or advanced by any purchaser on the purchase of any ~~lot or parcel~~ subdivision interest for which a release is not obtained.

26) Amend Section 2814 to read:

2814. Impound Requirement. When ~~lots or parcels~~ subdivision interests in a subdivision are sold or are to be sold, under a contract of sale as defined by Section 2985 of the

Civil Code, and the subdivider elects to comply with the provisions of Section 11013.4(a) of the Business and Professions Code, all deposits and contract installment payments shall be deposited immediately upon receipt in a trust account or neutral escrow depository qualified to do business in California and acceptable to the Real Estate Commissioner until legal title evidenced by a recordable deed to the property described in the contract has been delivered to the purchaser.

The requirements of this regulation shall apply to any subdivision public report issued on or after the effective date of this regulation (and based upon a subdivision filing made with the commissioner on or after the date of filing of this regulation ~~was filed~~ with the Secretary of State).

27) Amend Section 2814.3 to read:

2814.3. Impound Alternatives (Unimproved Property). All deposits or payments made by the purchaser under a contract of sale shall be deposited in a neutral escrow depository acceptable to the Real Estate Commissioner until the subdivider has complied with all of the terms and conditions of the alternative plan or method selected.

When ~~lots or parcels~~ subdivision interests in land without on-site improvements (in the nature of residential or commercial structures) in a subdivision which is not subject to a blanket encumbrance as defined in Section 11013

are sold under a contract of sale as defined by Section 2985 of the Civil Code, the commissioner will approve, but will not necessarily be limited to, one of the following as an acceptable alternative plan or method under Section 11013.4(f):

(1) When the property is free and clear of all liens and encumbrances other than assessment bonds or current property taxes and evidence thereof has been submitted to the Real Estate Commissioner, the subdivider shall convey the property in trust or record the contract, which contract shall contain a provision precluding the vendor from subsequently encumbering the property without the written consent of the contract vendee.

(2) When ~~lots or parcels~~ subdivision interests are subject to individually amortizable liens or encumbrances securing obligations to private individual obligees, or to banks, savings and loan associations, insurance companies or other corporate lenders, the subdivider shall convey the property in trust or shall record the contract, which contract shall contain a provision precluding the vendor from further encumbering the property without the written consent of the buyer. The subdivider shall direct the purchaser to make his payments directly to a trustee or to a neutral escrow depository located in California and acceptable to the commissioner, which trustee or escrow agent shall be authorized to use such funds to pay the monthly installments on the encumbrances, current installments on real property taxes and

remit the balance of the payment to the owner or subdivider, or the nominee of the owner or subdivider. The trustee or escrow agent may at its discretion appoint the owner or subdivider, their nominee, or regulated lending agency its agent for collection of the installment payment.

(3) When the ~~lots or parcels~~ subdivision interests are subject to individually amortizable liens or encumbrances held by a bank, savings and loan association, insurance company or other corporate lender acceptable to the commissioner and authorized to do business in California, the subdivider shall assign all contracts of sale to the first lien holder and shall cause said assignments to be properly and duly recorded. The subdivider or the assignee shall give notice of the assignment to each contract purchaser and shall direct that all payments due under the contract shall be paid direct to the assignee, which assignee shall be authorized to use such funds to pay the monthly payments on the encumbrances and the payment to the owner or subdivider, or the nominee of the owner or subdivider. The assignee may at its discretion appoint the owner, subdivider, their nominee, or any regulated lending agency its agent for collection of the contract installment payments.

(4) When all encumbrances on the property other than assessment bonds and current property taxes are individually amortizable and permit amortization in equal monthly installments, the total installments of which shall not exceed the

monthly payments payable under the contract of sale, the subdivider shall convey the property in trust or shall record the contract, which contract shall contain a provision precluding the vendor from subsequently encumbering the property without the written consent of the contract vendee.

(a) The subdivider shall enter into an agreement with the holders of all such existing encumbrances on the property which shall, in part, provide:

(i) That the subdivider will furnish to the holder of the encumbrance the name and address of the contract vendee of the property within ten (10) days after the execution of the contract;

(ii) That in the event any installment payable on the encumbrance on the property is not paid by the primary obligor thereof on its due date, such holder may, at any time thereafter, and must within twenty-five (25) days from the date such installment remains unpaid, notify any contract vendee whose name and address has been so furnished to such holder, of the default by mailing a copy of such notice, postage prepaid, to such contract vendee;

(iii) That the holder of the encumbrance shall not file or record a notice of default until ten (10) days after the date of mailing such notice to the contract vendee; and

are sold under a contract of sale as defined by Section 2985 of the Civil Code, the commissioner will approve, but will not necessarily be limited to, one of the following as an acceptable plan or method in lieu of the impound of all contract installment payments, as long as said blanket encumbrance remains of record.

(1) When the property is free and clear of all liens and encumbrances other than said blanket encumbrance, assessment bonds or current property taxes, and evidence thereof has been submitted to the Real Estate Commissioner and the blanket encumbrance containing such a release clause has been recorded, whether as part of the deed of trust evidencing said blanket encumbrance or by separate covenant or other instrument, impoundment of funds shall not be required as long as such conditions exist, provided all of the following conditions have been met:

(a) A signed land sales contract is delivered to the buyer, which contract shall contain a provision precluding the vendor from subsequently encumbering the property without the written consent of the contract vendee.

(b) The subdivider has filed with the city or county all surety bonds required by the city or county for the completion of all off-site improvements shown on the map recorded with the county prior to the issuance of the Final Subdivision

(iv) That the contract vendee shall have the same rights as the primary obligor of the encumbrance to perform or make any payments together with late charges, if any, as to such encumbrance and the obligations secured thereby.

(b) The subdivider shall deliver to the contract vendee at the time the contract of sale is executed a copy of said agreement together with a notice that such vendee may, but is not obligated to, exercise the rights provided in said agreement and that such vendee has the legal right to set off and credit all such payments or performance against the payments due the subdivider under the contract of sale.

28) Amend Section 2814.5 to read:

2814.5. Impound Alternatives (With Unconditional Release).

All deposits or payments made by the purchaser under a contract of sale shall be deposited in a neutral escrow depository acceptable to the Real Estate Commissioner until the subdivider has complied with all of the terms and conditions of the alternative plan or method selected.

When ~~lots or parcels~~ subdivision interests without on-site improvements (in the nature of residential or commercial structures) in a subdivision subject to a recorded blanket encumbrance in which there exists an unconditional release clause complying with Section 11013.1

Public Report; or in the alternative the subdivider furnishes evidence that all such required off-site improvements have been completed and approved by the city or county and the surety bonds for the performance thereof have been released by the city or county.

(c) The contract between the subdivider and purchaser contains a provision precluding the vendor from undertaking any additional off-site improvements or performing any other work on the lot covered by such contract which may result in the creation of a mechanic's lien subsequent to the date of the contract, without the written consent of the buyer and without filing a surety bond with the city or county for the performance and payment of materials and labor costs requisite to such additional improvements.

(d) The contract states that in the event that such additional improvements or work are undertaken by the subdivider he will furnish to the contractor making such improvements or performing such work a copy of the Final Subdivision Public Report pertaining to such tract and lot.

(e) The subdivider has submitted to the commissioner a statement under penalty of perjury that all surety bonds required have been filed.

(f) The subdivider undertakes to furnish at regular periodic intervals specified by the Real

Estate Commissioner a statement under penalty of perjury that no such additional improvements or work have been undertaken or performed without such surety bond, and that no liens of any kind whatsoever have been placed on the property subsequent to the date of the contract.

(2) When such ~~lots or parcels~~ subdivision interests are subject to individually amortizable liens or encumbrances (in addition to the blanket encumbrance) securing obligations to private individual obligees, or to banks, savings and loan associations, insurance companies or other corporate lenders, the subdivider shall comply with the requirements of subparagraphs (a) through (f) of subdivision (1) hereof and, further, the subdivider shall convey the property in trust or shall record the contract and shall direct the purchaser to make his payments directly to a trustee or to a neutral escrow depository located in California and acceptable to the commissioner, which trustee or escrow agent shall be authorized to use such funds to pay the monthly installments on the encumbrances, current installments on real property taxes and remit the balance of the payment to the owner or subdivider, or the nominee of the owner or subdivider. The trustee or escrow agent may at its discretion appoint the owner or subdivider its agent for collection of the installment payment.

(3) When such ~~lots or parcels~~ subdivision interests are subject to individually amortizable liens or encumbrances

(in addition to the blanket encumbrance) held by a bank, savings and loan association, insurance company or other corporate lender acceptable to the commissioner and authorized to do business in California, the subdivider shall comply with the requirements of subparagraphs (a) through (f) of subdivision (1) hereof, and shall assign all contracts of sale to the first lien holder and shall cause said assignment to be properly and duly recorded. The subdivider or the assignee shall give notice of the assignment to each contract purchaser and shall direct that all payments due under the contract shall be paid direct to the assignee, which assignee shall be authorized to use such funds to pay the monthly payments on the encumbrances and current installments on real property taxes and remit the balance of the payment to the owner or subdivider, or the nominee of the owner or subdivider. The assignee may at its discretion appoint the owner or subdivider, their nominee, or any regulated lending agency its agent for collection of the contract installment payments.

(4) When all encumbrances on the property other than said blanket encumbrance, assessment bonds and current property taxes are individually amortizable and permit amortization in equal monthly installments, the total installments of which shall not exceed the monthly payments payable under the contract of sale, the subdivider shall, in addition to the requirements of subparagraphs (a) through (f) of

subdivision (1) hereof, comply with the following:

(a) The subdivider has entered into an agreement with the holders of all such existing encumbrances on the property which shall, in part, provide:

(i) That the subdivider will furnish to the holder of the encumbrance the name and address of the contract vendee of the property within ten (10) days after the execution of the contract;

(ii) That in the event any installment payable on the encumbrance on the property is not paid by the primary obligor thereof on its due date, such holder may, at any time thereafter, and must within twenty-five (25) days from the date such installment remains unpaid, notify any contract vendee whose name and address has been so furnished to such holder, of the default by mailing a copy of such notice, postage prepaid, to such contract vendee;

(iii) That the holder of the encumbrance shall not file or record a notice of default until ten (10) days after the date of mailing such notice to the contract vendee; and

(iv) That the contract vendee shall have the same rights as the primary obligor of the encumbrance to perform or make any payments together with late charges, if any, as to such encumbrance and the obligations secured thereby.

(b) The subdivider has delivered to the contract vendee at the time the contract of sale is executed a copy of said agreement together with a notice that such vendee may, but is not obligated to, exercise the rights provided in said agreement and that such vendee has the legal right to set off and credit all such payments or performance against the payments due the subdivider under the contract of sale.

(c) The subdivider has delivered to the commissioner a copy of the agreement referred to in (a) above and a copy of the notice referred to in (b) above; said documents shall be accompanied by a statement by the subdivider under penalty of perjury that an exact copy thereof will be delivered to each contract vendee.

29) Amend Section 2817 to read:

2817. Progress Payments. In case the subdivider elects to comply with Section 11013.4(e) of the Business and Professions Code, the escrow instructions may provide that the escrow holder may disburse to the owner or his authorized agent money paid or advanced by the purchasers upon receipt of paid bills, or certified copies thereof, together with an affidavit from the owner or his authorized agent, in an amount equal to the amount of such paid bills. Such affidavit shall state that such paid bills cover labor or materials actually performed or used in the construction of residential or other structures ~~built on lots or parcels~~ within the subdivision.

30) Amend Section 2819 to read:

2819. Manner of Maintaining Records of Receipts and Disbursements by Subdivider. Subdivider shall maintain books and records of all funds received for the purchase or lease of ~~lots in a subdivision~~ subdivision interests in accordance with good accounting principles.

Such books and records shall clearly reflect the amounts, the names of the persons from whom the funds were received, and the dates the funds are received and disbursed, and shall be maintained for a period of three years following receipt or disbursement.

#### Article 12.5. Land Projects

31) Amend Section 2819.5 to read:

2819.5. Definitions.

(a) "Registered Voters" referred to in Section 11000.5 means voters registered at or about the time the subdivision questionnaire is filed, within the confines of the subdivision and within two miles of any point on the perimeter of the boundaries of the subdivision.

(b) "Builders" as used in Section 11000.6 means licensed general contractors.

(c) "Developer" as used in Section 11000.6 means any person or entity who, directly or indirectly, acquires for sale or lease 50 or more ~~lots in a subdivision~~ subdivision interests.

32) Amend Section 2819.6 to read:

2819.6. Right to Rescind Under Section ~~11024~~ 11028. The purchaser or prospective purchaser may exercise his rights of rescission granted by Section ~~11024~~ 11028 by notifying the developer by mail, telegram or other writing of his decision to do so.

Where mail is used, notification shall be considered given at the time of mailing; when telegram is used, notification shall be considered given at the time of filing; and notification by other writing shall be considered given at the time delivered to the developer's designated place of business.

33) Amend Section 2819.7.

2819.7. Disclosure -- Opportunity to Rescind.

~~(a)~~ To inform a purchaser of his rights under Section ~~11024~~ 11028, the developer shall deliver with the public report as an attachment affixed on the front page thereof, the following notice printed in not less than twelve point roman bold type face capital letters and numerals:

RESCISSION RIGHTS

IF YOU EXECUTE ANY AGREEMENT OR CONTRACT  
TO PURCHASE OR LEASE LAND REFERRED TO IN  
THE PUBLIC REPORT TO WHICH THIS NOTICE IS  
ATTACHED, WHICH CONTRACT OR AGREEMENT IS  
EXECUTED BEFORE MIDNIGHT OF THE ~~SECOND~~ FOURTEENTH  
CALENDAR DAY FOLLOWING THE DAY YOU RECEIVED  
AND EXECUTED A RECEIPT FOR SAID PUBLIC REPORT  
CONTRACT OR AGREEMENT, YOU WILL HAVE A LEGAL  
RIGHT TO CANCEL THAT TRANSACTION WITHOUT

CAUSE OF ANY KIND AND WITHOUT PENALTY OR  
OBLIGATION BY REASON OF THAT TRANSACTION  
AND RECEIVE A REFUND OF ANY DOWN PAYMENT  
OR OTHER CONSIDERATION BY NOTIFYING

(Name of Developer) AT (Address of Developer's  
Place of Business) OF SUCH CANCELLATION BY  
MAIL OR TELEGRAM, PROVIDED THAT SAID NOTICE  
IS SENT NOT LATER THAN MIDNIGHT OF (Date)  
OR BY ANY OTHER FORM OF WRITTEN NOTICE  
IDENTIFYING THE TRANSACTION DELIVERED TO  
THAT ADDRESS NOT LATER THAN THAT TIME. IF  
YOU DECIDE TO CANCEL, YOU MAY USE THIS  
NOTICE FOR THAT PURPOSE BY DATING AND SIGNING  
BELOW. FOR YOUR PROTECTION, THE USE OF  
REGISTERED OR CERTIFIED MAIL, WITH RETURN  
RECEIPT REQUESTED, IS SUGGESTED.

I HEREBY CANCEL THIS TRANSACTION THIS  
\_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_.

(Customer's Signature)

~~(b)~~ The notice provided for in Section 226.9  
~~{Right to Rescind Certain Transactions}~~ of Regulation Z,  
enacted pursuant to the authority contained in Section 105  
of the Consumer Credit Protection Act ~~{Truth in Lending}~~,  
may be used instead of the notice set forth in subsection ~~(a)~~  
above.

34) Delete Section 2819.9.

~~2819.9. Exemptions. Ordinarily the Commissioner will consider the provisions of Section 11018.6(b) to be fulfilled if all the following arrangements have been made:~~

(a) A current title report shows all lots or parcels are free of all liens and assessments relating to any improvements referred to in Section 11018.6.

(b) The Declaration of Covenants, Conditions and Restrictions provides that the governing body of the lot owners association shall not have the power to impose on the lots or the lot owners any liens or assessments (other than regular maintenance assessments) with respect to the improvements referred to in Section 11018.6(a), except upon the affirmative vote of the owners of at least a majority of the lots. For purposes of such vote, "owners" does not include the subdivider.

(c) The Declaration of Covenants, Conditions and Restrictions provides for a schedule of reasonable maintenance or use charges.

35) Add Section 2819.9 to read:

2819.9. Submission of Evidence for Specific Findings.

The subdivider, owner or his agent shall submit evidence to substantiate a request for specific findings referred to in Section 11025 of the Business and Professions Code to allow issuance of the public report. No specific findings as required by subsections (1) through (6) thereof will be made unless there is evidence submitted, along with such verification as the commissioner may require to warrant such findings.

36) Delete Section 2819.95.

~~2819.95. Acceptance for Maintenance Defined. The phrase "accepted for maintenance by the owners or an association of owners" as used in Section 11018-6(c) means that the owners of at least a majority of the lots in a subdivision have voted to release the developer from this guaranty. For purposes of such vote, "owners" does not include the subdivider.~~

37) Amend Section 2819.96 to read:

2819.96. Developer's Obligation to Report Withdrawals.

Where the rate of withdrawal exceeds 10% of the total ~~lots~~ subdivision interests sold within the last year, the subdivider shall report such withdrawals pursuant to Section ~~11018-9~~ 11029 beyond the three-year period until 13 months after 90% of the ~~lots~~ subdivision interests have been sold or conveyed.

Article 16. Mortgage Loan Brokers

38) Amend Section 2840 to read:

2840. Approved Form. The following form is approved by the State Real Estate Commissioner for use as the statement required by Section 10240 of the Business and Professions Code.

(SAMPLE FORM)

(Name of Firm)

(Address)

BROKER'S LOAN STATEMENT

Street and address number and/or legal description of property:

Statement of all liens against property as disclosed by borrower:

1. Description of loan to be secured:

Principal sum of the note \$  
Rate of interest per annum %  
Term of note Number of installments  
Amount of each installment which includes  
interest and principal \$  
Approximate balance due at maturity \$  
Terms of prepayment privileges and penalties, if any \$

2. Deductions from principal sum of the note:

a) Maximum costs and expenses estimated by broker:  
1) Appraisal fees \$  
2) Escrow fees \$  
3) Costs of investigating or guaranteeing title \$  
4) Notary fees \$  
5) Recording fees \$  
6) Credit investigation fees \$

Give below any other costs and expenses:

7) \$  
8) \$  
9) \$

Total costs and expenses (1 to 9, inc.) \$

b) The total of the bonuses, brokerage, or commissions contracted for or to be received by any person for negotiating, procuring, or arranging or making such a loan \$

c) Estimated amounts to be paid on order of borrower:

1) Fire insurance premiums \$  
2) Due on prior liens, including reconveyance, etc., fees \$  
3) Due other creditors \$  
4) Assumption, transfer, forwarding and beneficiary statement fees \$  
5) Any premium or other charges for insurance, other than fire insurance \$

Other payments on order of borrower:

6) \$  
7) \$  
8) \$

Total estimated payments on order of borrower \$

TOTAL DEDUCTIONS FROM PRINCIPAL SUM OF NOTE \$

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STRIKEOUT

3. Estimated balance to be delivered to borrower (Based upon borrower's representations as to liens and debts) -----

LIST BELOW SERVICES WHICH MAY BE PERFORMED BY BROKER UNDER ITEM 2a ABOVE.

The undersigned broker or representative hereby states that the broker is not the lender and that the above described loan is being made in compliance with the California Real Estate Law.

| (Broker)                       | License No. | Business Address |
|--------------------------------|-------------|------------------|
| or (Designated representative) | License No. | Business Address |

(Note to Borrower: Do Not Sign This Statement in Blank. All Parts of This Form Must be Filled Out Before You Sign.)

The borrower hereby acknowledges receipt of a copy of this statement.

(Borrower)  
Dated: \_\_\_\_\_  
(Borrower)

### MORTGAGE LOAN DISCLOSURE STATEMENT

Loan shall be in the total amount (principal sum) of \$ \_\_\_\_\_,  
secured by a note and deed of trust on property described as:

Liens against this property and the approximate amounts are:

(Nature of Lien)

(Amount  
Owing)

CAUTION TO BORROWER: Be sure you state all liens accurately.

If you decide to contract with the  
broker to negotiate this loan for you and if it turns out that  
the loan cannot be made because you did not state these liens  
correctly, you are liable for payment of various fees and  
expenses. (See § 10243 of the Business and Professions Code)  
Interest shall be charged at \_\_\_\_% per annum. The note will  
be payable at \$\_\_\_\_ per month for \_\_\_\_ months at which time  
the balance of approximately \$\_\_\_\_ will still be owing.  
If you wish to pay the balance owing at any time before  
maturity of the note, you will have to pay an additional  
amount (prepayment penalty) computed as follows:

\_\_\_\_\_  
\_\_\_\_\_

If you employ the undersigned broker to obtain this loan, it  
is estimated that you will be required to pay:

1. Various costs and expenses

(See schedule below) . . . . . \$ \_\_\_\_\_

2. Commission and/or other compensation

(5% to 15% of the principal sum  
depending upon the length of the  
loan) . . . . . \$ \_\_\_\_\_

These fees and payments to the broker when deducted from the  
total amount of the loan leave for you or your order approximately:

. . . . . \$ \_\_\_\_\_

Liens and other obligations to be paid from escrow for your  
account (See schedule below) . . . . . \$ \_\_\_\_\_

You should then receive in cash approximately \$ \_\_\_\_\_

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DETAILS OF COSTS AND EXPENSES:

|   | PAYABLE TO:   |               |
|---|---------------|---------------|
|   | <u>Broker</u> | <u>Others</u> |
| 1. Appraisal fee  | _____         | _____         |
| 2. Escrow fee   | _____         | _____         |
| 3. Fees for policy of title insurance<br>required by lender | _____         | _____         |
| 4. Notary and recording fees                                | _____         | _____         |
| 5. Credit investigation fees                                | _____         | _____         |
| 6. Other costs and expenses                                 | _____         | _____         |
| _____   | _____         | _____         |
| _____   | _____         | _____         |
| TOTAL Costs and Expenses . . . . .                          | =====         | =====         |

DETAILS OF LIENS AND OTHER BORROWER'S OBLIGATIONS TO BE PAID:

|  |       |       |
|--|-------|-------|
| 1. Fire insurance premiums                         | _____ | _____ |
| 2. Other insurance premiums                        | _____ | _____ |
| 3. Beneficiary statement fees                      | _____ | _____ |
| 4. Reconveyance and similar fees                   | _____ | _____ |
| 5. Other   | _____ | _____ |
| _____  | _____ | _____ |
| _____  | _____ | _____ |
| TOTAL to be paid on<br>borrower's behalf . . . . . | ===== | ===== |

The undersigned hereby certifies that neither he nor his employing broker will directly or indirectly be the lender for this loan

and that the above-described loan will be made in compliance with the provisions of Article 7, Chapter 3, Division 4, of the Business and Professions Code of the State of California.

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\_\_\_\_\_  
(Broker)

\_\_\_\_\_  
(License Number)

\_\_\_\_\_  
(Business Address)

OR

\_\_\_\_\_  
(Designated Representative)

\_\_\_\_\_  
(License Number)

\_\_\_\_\_  
(Business Address)

CAUTION TO BORROWER: Do not sign this statement until it has been completely filled out. This statement should be read and understood by you before you sign any other documents in connection with obtaining this loan.

Borrower hereby acknowledges receipt of a copy of this statement.

DATED: \_\_\_\_\_

\_\_\_\_\_  
(Borrower)

\_\_\_\_\_  
(Borrower)

Any other form of statement to be used must be submitted for approval to the commissioner at least 30 days prior to its expected use. The commissioner's written approval must be obtained prior to use.

- 39) Add Article 24 (Sections 3000, 3001, 3002, 3003 and 3004) to read:

Article 24. Private Vocational School and  
Supervised Course of Study  
Approvals

3000. The Real Estate Commissioner when acting on an application for approval of a course of study at a private vocational school to determine if a course of study is equivalent in quality to the course offered by a college or university accredited by the Western Association of Schools and Colleges will consider but not be limited to the following conditions:

(a) Courses must have at least 45 clock hours of instruction.

(b) The school has facilities, instructional material, and instructor personnel to provide training of the quality needed to obtain the objective of the particular course or courses.

(c) Instructors must have credentials issued by the Board of Governors of the California community colleges or comparable California credentialing agency, or meet the criteria for obtaining such credentials, or in the

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judgment of the commissioner is otherwise qualified by education or experience, or both.

(d) The school maintains written records of the student's performance.

(e) A copy of the course outline, grading policy and rules of operation and conduct is available to students upon enrollment.

(f) The school maintains adequate records to show attendance, progress and grades.

(g) The school utilizes advertising which is not deceptive or misleading.

(h) Upon successful completion of training, the school will award an appropriate written document to the student indicating the training and attendance completed.

(i) A completed written application has been filed with the commissioner's office with the appropriate fee. The fees are not refundable.

(j) The commissioner may refuse to approve real estate courses when, after investigation, he determines that the private vocational school or supervised course of study is not equivalent in quality to similar courses at institutions of higher learning which have been accredited by the Western Association of Schools and Colleges or a comparable accrediting agency.

(k) The school is either duly qualified by the State Department of Education or is exempt therefrom.

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(1) Any person, corporation, partnership or association operating a private vocational school offering real estate courses or operator of a supervised course of study who objects to the commissioner's refusal to approve a real estate course may, within 30 days after receipt of the order of denial, file a written request for hearing. The commissioner shall hold the hearing within 20 days thereafter unless the party requesting the hearing shall have requested a postponement. If the hearing is not held within 20 days after a request for hearing is received plus the period of any such postponement, or if a decision is not rendered within 30 days after the hearing, the order of denial shall be rescinded and a certificate of approval issued.

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(m) If the commissioner determines the course or courses previously approved are no longer equivalent in quality to those offered in institutions of higher learning which have been accredited by the Western Association of Schools and Colleges or a comparable accrediting agency, he shall give written notice of withdrawal of approval stating the reasons therefor. Such withdrawal of approval will be effective 30 days from the date of the notice of withdrawal unless the party served with the withdrawal notice files a written request for hearing before the effective date. If a request for hearing is filed, the withdrawal of approval shall not be effective unless and until so ordered by the commissioner upon findings made at said hearing. The hearing

shall be held within 20 days after receipt of the request therefor unless postponed by order of the commissioner or by mutual consent.

3001. A supervised course of study within the purview of Sections 10153.4 and 10153.5 of the Business and Professions Code means the pursuit of real estate knowledge under direction of, but not limited to, a:

(1) Licensed real estate broker who is, and for at least five years last past continuously has been, engaged in the active practice of real estate; or

(2) Member of the State Bar of California who is, and for at least five years last past continuously has been, engaged in the active practice of law; or

(3) Properly credentialed teacher of real estate courses who is or has been engaged in the practice of teaching; or

(4) Properly licensed or certificated person who is engaged in the business of appraisal, finance and/or related real estate occupations and for at least five years last past continuously engaged in such practice; or

(5) A person who, in the judgment of the commissioner, is qualified by experience or education, or both, to supervise a course of study within the letter and spirit of this section.

3002. It shall be the duty of the person or persons referred to in Regulation 3001, paragraphs 1, 2, 3, 4 and 5, to render periodic reports as the commissioner may require relevant to the student's course of study, and

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(a) A course of study shall mean one and separate learning programs devoted to each course offered, and

(b) Each course of study and instruction under supervision shall be a minimum of 135 hours, assignments, reading, testing and study for the student who holds a valid salesman's license.

(c) Each course of study and instruction under supervision shall be a minimum of 180 hours including assignments, reading, testing and study for a student who does not hold a valid real estate salesman's license.

(d) The supervisor shall make application, pay the appropriate fee and obtain approval from the commissioner prior to offering the supervised course of study, and

(e) The commissioner shall not consider any course of supervised study equivalent to a college curriculum unless he finds that it does, in fact, contain academic qualities similar thereto.

3003. The simultaneous instruction of two or more students in courses listed in Section 10153.4 or 10153.5 constitutes a private vocational school for the purposes of said sections.

3004. The fees for application for approval as authorized by Section 10153.4 of the Business and Professions Code are the fees set forth in Section 10209 of the California Business and Professions Code.

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14 P Street  
Sacramento, CA. 95814

8  
November  
1971

Sacramento Daily Recorder  
1115 H Street  
Sacramento, California

Gentlemen:

Enclosed are Notices of Proposed Changes in the Regulations  
of the Real Estate Commissioner.

I would appreciate publication of this Notice in the  
November 10 issue of The Daily Recorder.

Please send Proof of Publication and your invoice in triplicate  
to my attention.

Sincerely,

W. Jerome Thomas  
Chief Legal Officer

WJT/pk

NOTICE OF PROPOSED CHANGES  
IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

Notice is hereby given that Robert W. Karpe, Real Estate Commissioner, pursuant to the authority vested in him by Sections 10080, 10226, 10249.2, 10312, 11001, 11011.8 and 11018.9 of the Business and Professions Code and to implement, interpret or make specific Sections 10153.4, 10177, 10209, 10209.5, 10210, 10214.5, 10215, 10240, 10249.5, 10249.15, 11000.1, 11000.6, 11010, 11011, 11011.1, 11012, 11018, 11018.5, 11025, 11028 and 11029 (among others) of the Business and Professions Code, proposes to adopt, amend or repeal regulations in Title 10, California Administrative Code, as follows:

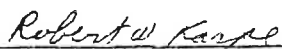
- (1) Amend Sections 2705, 2790.7, 2790.8, 2795, 2795.1, 2801.5, 2807, 2813, 2814, 2814.3, 2814.5, 2817, 2819, 2819.5 and 2819.96 to encompass undivided interests subdivisions under the coverage of the aforesaid sections.
- (2) Add Section 2716 pertaining to real estate license fees.
- (3) Amend Section 2725 relating to delegation of broker supervision of salesmen.
- (4) Add Section 2726 covering written agreements between broker and salesman.
- (5) Amend Section 2790 to delete existing inconsistency with Section 2791.
- (6) Repeal Section 2791 as inconsistent with existing Section 2790.
- (7) Amend Section 2790.1 dealing with subdivision filing fees.
- (8) Repeal Sections 2792.1 and 2792.2 pertaining to planned developments with minimal common facilities.
- (9) Amend Section 2792.6 and repeal Section 2792.7 to effect a consolidation of requirements of both sections as written.
- (10) Amend Section 2792.8 relating to management and control of planned development and undivided interestssubdivisions.
- (11) Amend Section 2792.9 relating to financial arrangements for operation and maintenance of planned developments and condominium projects during start-up.
- (12) Amend Section 2792.11 relating to documents for undivided interests subdivisions.
- (13) Repeal Section 2792.12 as superfluous with amendment of Section 2792.8.

- (14) Add new Section 2792.12 for undivided interests subdivisions.
- (15) Amend Section 2792.13 pertaining to undivided interests subdivisions, stock cooperatives and community apartment projects.
- (16) Amend Section 2801 to include provisions covering community apartment projects, condominiums and stock cooperatives.
- (17) Amend Section 2801.5 to clarify and to include undivided interests subdivisions.
- (18) Amend Section 2819.6 and 2819.7 concerning rescission rights in land project subdivisions.
- (19) Repeal Section 2819.9 to conform to repeal of Section 11018.6 of the Business and Professions Code.
- (20) Add new Section 2819.9 relating to specific findings in land project subdivision filings.
- (21) Repeal Section 2819.95 to conform to repeal of Section 11018.6 of the Business and Professions Code.
- (22) Amend Section 2819.96 to conform to new code section.
- (23) Amend Section 2840 setting forth new approved form of mortgage loan brokers statement.
- (24) Add Sections 3000 through 3004 relating to approval of courses of private vocational schools and supervised courses of study.

Notice is also given that any interested person may present statements, arguments or contentions, written or oral, relevant to the aforesaid proposed changes at a hearing to be held in Room 1138, State Building, 107 South Broadway, Los Angeles, California, at 1:30 p.m. on the 2nd day of December 1971. At such time or thereafter, the Real Estate Commissioner on his own motion or at the instance of any interested person may amend the above proposals and adopt the same as amended without further notice.

Prior to said hearing, any interested person may transmit statements, arguments or contentions in writing pertaining to the aforesaid proposed changes to the Real Estate Commissioner at 714 P Street, Sacramento, California.

Dated: November 5, 1971

  
\_\_\_\_\_  
ROBERT W. KARPE  
Real Estate Commissioner

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

714 P Street  
Sacramento, CA. 95814



10  
November  
1971

To Whom It May Concern:

You have expressed a desire to be notified of any proposed changes in the Regulations of the Real Estate Commissioner. Changes are proposed and Commissioner Robert W. Karpe will conduct a public hearing in Room 1138, State Building, 107 South Broadway, Los Angeles, California, commencing at 1:30 p.m. on December 2, 1971.

The following are enclosed: (1) Notice of Proposed Changes; (2) Full Text of the Proposed Changes; (3) Comment on the nature or purpose of each proposal.

If you wish to present a statement, argument or contention with regard to any proposed regulatory change, you may do so in person at the scheduled hearing or you may transmit written statements to the Real Estate Commissioner at his office at 714 P Street, Sacramento, California, to be received not later than December 10, 1971.

Sincerely,

A handwritten signature in dark ink, appearing to read 'John E. Hempel', written over the typed name.

John E. Hempel  
Chief Assistant Commissioner

JEH/pk

COMMENTS PERTAINING TO  
PROPOSED CHANGES IN THE REGULATIONS OF  
THE REAL ESTATE COMMISSIONER

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Amendment of Sections 2705, 2790.7, 2790.8, 2795, 2795.1, 2807, 2813, 2814, 2814.3, 2814.5, 2817, 2819 and 2819.5 - The purpose of the amendment to these sections is to encompass within the enumerated regulations, where applicable, all interests in subdivided real property subject to administration under the Subdivided Lands Act and Out-of-State Land Promotions Act.

Addition of Section 2716 - This regulation prescribes fees for broker and salesman licenses to be collected by the Department until such time as the Commissioner prescribes different fees by regulation. Section 10226 which was added to the Business and Professions Code by the 1971 Legislature authorized the Commissioner to prescribe fees lower than the maximums established by statute. Each of these fees is \$10 lower than the statutory maximum that has heretofore been charged.

Amendment of Section 2725 - This is a one word change to clarify the authority of a broker to delegate the review and initialing of agreements to more than one licensed real estate broker with whom he has a written agreement relating to such delegation.

Addition of Section 2726 - This regulation will require a real estate broker to enter into a written agreement -- and to retain it for three years from termination -- with each of his salesmen and with any broker with whom he has a broker-salesman arrangement. This agreement must include provisions relating to supervision of licensed activities, duties, compensation and other material aspects of the relationship. The purpose of the regulation is to implement and specify the "reasonable supervision" of the activities of salesmen by the responsible broker.

Amendment of Section 2790 and repeal of Section 2791 - These regulations are inconsistent as written. Section 2790 as amended will incorporate the Commissioner's discretion to waive the filing of a questionnaire and fee which presently appears in Section 2791. The consolidation of these provisions requires the repeal of Section 2791.

Amendment of Section 2790.1 - This proposed amendment will place a ceiling of \$3,000 on filing fees for standard subdivisions and a \$5,000 ceiling on fees for all other types of subdivisions. In addition, it provides for less than the \$500 base filing fee for subdivisions other than standard subdivisions where there are less than ten lots, parcels, units or undivided interests being offered for sale.

Repeal of Sections 2792.1 and 2792.2 - The repeal of these sections will remove the definition and the concept of a "minimal common facilities planned development" from the regulations. Planned developments in which assessments for maintenance and operation do not exceed \$50 per unit annually have proven to be extremely rare. It has been the policy of the Department to apply its regulatory standards for management and operation in common-facility subdivisions with as much flexibility as possible based upon the size of the organization, the physical characteristics of the development, the nature and extent of the community facilities and other considerations. The proposed amendment of Section 2792.8 will allow the exercise of even greater discretion and a relaxation of requirements where there is no demonstrated need. Completely different regulatory treatment between a subdivision where the assessment is \$49 per year per unit and one where the assessment is \$51 has not proven conducive to effective and practical regulation.

Amendment of Section 2792.6 and repeal of Section 2792.7 - Strict adherence to Section 2792.7 by applicants is frequently impossible on account of the nature of the subdivision. It is felt that the form and content of the budget should be a matter within the sound discretion of the applicant or his accountant and that the budgetary items presently enumerated in Section 2792.7 are more properly a tool to be used by the Department than a regulatory requirement. The requirement for submission of a detailed pro forma budget in general terms has been incorporated as subsection (14) of Section 2792.6 as amended.

Amendment of Section 2792.8 - This section is proposed to be revised for the primary purpose of eliminating certain fixed times and percentages which are matters that should be left to the judgment of the subdivider based upon the physical characteristics of the development, the size of the owners association, the nature and extent of the common facilities and other factors. In addition, the regulation as revised will include certain items that do not appear in the existing regulation, but have been required as a matter of policy by the Department, e.g., a description of the areas or interests to be owned or controlled by owners in common and annexation of additional land to the existing development.

Amendment of Section 2792.9 - The first paragraph of the existing section has been deleted as it merely repeats subsection (4) of Section 2792.8 as proposed. The preamble is changed to more accurately reflect the purpose of the financial arrangements enumerated as (1) through (4). The wording, but very little of the substance of the enumerated provisions for satisfying the regulation has been changed. Under subsection (2) as amended, the Commissioner may approve a lesser pre-sale percentage than 60 if circumstances warrant.

Amendment of Section 2792.11 - This regulation listing required documents has been expanded to include undivided interest subdivisions and community apartment projects as well as stock cooperatives. With some minor variations, the same documentation is appropriate for each of these types of developments.

Repeal of Section 2792.12 - There is no apparent need or reason for distinguishing stock cooperatives from other common-ownership subdivisions with respect to the organization of the association of owners and the management of the commonly owned interests. Organizational and management requirements for stock cooperatives are covered under the proposed Section 2792.8 and Section 2792.12 may therefore be repealed.

Add new Section 2792.12 - The purpose of this regulation is to assure a means whereby less than all of the owners in an undivided interest subdivision which does not involve a right of exclusive occupancy may convey or encumber the entire property or a portion of it. Ordinarily the Commissioner will insist upon provisions that require that at least two-thirds of the ownership interests shall vote in favor of such a conveyance or encumbering before it can be effected.

Amendment of Section 2792.13 - The scope of the regulation is broadened to include all undivided interest subdivisions and the pre-subscription requirement is changed from 97% within one year after issuance of a public report to 60% within two years. In any undivided interest subdivision, the property right of each owner is very much dependent upon the non-delinquency in payments by other owners. A pre-subscription requirement of not less than 60% of the total interests is designed to minimize the possibility that the venture will fail during its early stages through inability of the subdivider to meet his obligations arising out of his ownership of units or interests. Under the proposed regulation, the subdivider may present alternative or additional financial arrangements designed to afford the same protection against foreclosure to owners.

Amendment of Section 2801 - Through inadvertence, this regulation has not heretofore been amended to include within the definition of "material change" the sale of two or more units or shares in a community apartment project, condominium or stock cooperative even though two or more units in any of these developments is defined as a subdivision under Section 11004.5 of the Business and Professions Code. The proposed amendment will thus conform the wording of the regulation to the interpretation adopted by the Department since 1965 and will also include sale or option of five or more undivided interests within the definition of material change.

Amendment of Section 2801.5 - The section as amended will include within its coverage undivided interest subdivisions and the wording

of the regulation has been revised to describe its application more accurately.

Amendment of Section 2819.6 - The amendment merely changes the code section reference from 11024 to 11028 to conform to the statutory change.

Amendment of Section 2819.7 - New section 11028 of the Code extends the period during which a purchaser in a land project can rescind his agreement to purchase from midnight of the second calendar day following the day on which he receives a public report to midnight of the fourteenth calendar day following the day on which he executes a contract or agreement to purchase. The proposed regulatory amendment brings the required notice of rescission rights into line with the statute and changes the code section reference from 11024 to 11028.

Repeal of Section 2819.9 - This section implemented Section 11018.6(b) of the Code and is to be repealed in line with the repeal of Section 11018.6.

Add new Section 2819.9 - This regulation refers to the specific findings that are required of the Commissioner under new code Section 11025 and specifies that the burden is upon the applicant for a public report for a land project to submit evidence, properly verified, as the basis for the findings required by Section 11025.

Amendment of Section 2819.96 - The code section reference is changed to conform to the statutory change and the scope of the section is expanded to include subdivision interests other than lots.

Amendment of Section 2840 - The amendment of the approved form of Mortgage Loan Brokers Statement is designed to provide to the prospective borrower a more complete and more easily understood disclosure of the terms of the loan to be negotiated and the rights and obligations of the borrower. Much of the terminology in the existing approved form is felt to be beyond the comprehension of persons sought to be protected under the provisions of Sections 10240 et seq. of the Code. The changes in wording and in format should afford more effective disclosure to prospective borrowers.

Addition of Sections 3000 through 3004 - These sections implement the provisions within Sections 10153.4 and 10153.5 of the Code under which the Commissioner may approve courses of study at private vocational schools or supervised courses of study deemed by the Commissioner to be equivalent in quality to those offered at accredited institutions. Section 3000 sets forth the conditions and criteria for establishing the equivalency of a course of study at a private vocational school and establishes a hearing procedure if the

Commissioner refuses to approve a real estate course or supervised course of study. Section 3001 enumerates the acceptable qualifications of persons who conduct supervised courses of study. Section 3002 is a requirement for periodic reports to the Commissioner under a supervised course of study programs and specifies the basic requirements for the program. Section 3003 defines a "private vocational school" to include the simultaneous instruction of two or more students in the designated real estate courses. Section 3004 states that the fee for approval of courses shall be the maximum permissible under Section 10209.

11/5/71

PROPOSED CHANGES IN THE REGULATIONS  
OF THE REAL ESTATE COMMISSIONER  
(Title 10 of the California Administrative Code)

CHAPTER 6. REAL ESTATE COMMISSIONER

Article 2. Definition of Words and Phrases  
Used Herein

1) Amend Section 2705 to read:

2705. Definitions. The Real Estate Law for the purpose of these regulations is that law contained in Division 4, Part 1 and Chapter 1 of Part 2 of the Business and Professions Code of California.

(a) "Department" shall mean the Department of Real Estate, State of California.

(b) "Commissioner" means the Real Estate Commissioner.

(c) "Deputy" shall include all deputy real estate commissioners, administrative assistants, and investigators appointed by the commissioner.

(d) "Applicant" shall mean any person, or corporation applying for a broker or salesman license or permit.

(e) "Examination" shall mean the examination to qualify for any license issued by authority of the Real Estate Law.

(f) "License" shall include all licenses authorized to be issued by authority of the Real Estate Law.

(g) "Broker" shall mean an individual, or corporation licensed as a broker under the Real Estate Law.

(h) "Salesman" shall mean a licensed salesman in the employ of a broker licensed under the Real Estate Law.

(i) "Hearing" shall mean a formal hearing at which testimony is taken under oath in accordance with the provisions of the Administrative Procedure Act.

(j) "Subdivision" shall include any type of subdivision falling within the definition set forth in Sections 11000, 11000.1, 11000.5 and 11004.5 of the Business and Professions Code.

(k) "Report" shall mean the public report on subdivisions authorized under Section 11018 of the Business and Professions Code.

(l) "Permit" shall mean the authorization issued by the commissioner to a licensed real estate broker or salesman under Section 10507(b) of the Business and Professions Code to engage in a mineral, oil and gas transaction; the authorization issued by the commissioner to sell real property securities under the provisions of Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code; and the authorization by the commissioner to offer for sale or lease lots or parcels in an out-of-state land promotion under the provisions of Article 6 (commencing with Section 10237) and Article 8 (commencing with Section 10249) of Chapter 3, Part 1, Division 4 of the Business and Professions Code.

(m) "Subdivision interest" or "subdivision interests" as used herein shall include lots, parcels, units or undivided interests subject to regulation under the provisions of Chapter 1, Part 2, Division 4 of the Business and Professions Code.

### Article 3. Application for License

- 2) Add Section 2716 to read:

2716. License Fees. All license fees shall be the maximum set forth in the Real Estate Law, except the following:

(1) The license fees under Sections 10209.5 and 10210 of the Business and Professions Code shall be \$75.

(2) The license fees under Sections 10214.5 and 10215 of the Business and Professions Code shall be \$50.

### Article 4. Brokers

- 3) Amend Section 2725 to read:

2725. Review of Agreements. All real estate agreements prepared or signed by a salesman which would materially affect the rights or duties of the parties to the transaction shall be reviewed and initialed by his broker within five working days of execution thereof or before the close of escrow, whichever occurs first; provided, however, while retaining overall responsibility for supervision, specific authority to review and initial such agreements may be delegated by the broker as follows:

(1) To a any licensed real estate broker who has entered into a written agreement relating thereto with the broker;

(2) Where circumstances warrant to a real estate salesman licensed to him, providing such salesman has entered

into a written contract relating thereto with the broker, and has accumulated at least two years full-time real estate salesman experience during the preceding five year period.

As used herein, "working days" does not include Saturdays and holidays referred to in Government Code Section 6700.

- 4) Add Section 2726 to read:

2726. Written Broker-Salesman Agreements. Every real estate broker shall have a written agreement with each of his salesmen, whether licensed as a salesman or as a broker under a broker-salesman arrangement. The agreement shall be dated and signed by the parties and shall cover material aspects of the relationship between the parties, including supervision of licensed activities, duties and compensation.

Signed copies of the agreement shall be retained by the parties thereto for a period of three (3) years from the date of termination of the agreement. The agreement shall be available for inspection by the commissioner or his designated representative on request.

#### Article 12. Subdivisions

- 5) Amend Section 2790 to read:

2790. Filing Fee and Questionnaire. Each A (n) Notice of (±) Intention to subdivide land for the purpose of sale or lease as set forth in filed pursuant to Section 11010 of the Business and Professions Code shall be accompanied by a filing fee and a completed questionnaire on a form which will be furnished by the department prescribed by the commissioner unless the commissioner shall waive the filing of the questionnaire and fee when in his opinion the facts and circumstances justify a waiver.

6) Amend Section 2790.1 to read:

2790.1. Filing Fees. All subdivision filing fees shall be the maximum set forth in the Real Estate Law except the following:

(1) The filing fee under Section 11011 of the Business and Professions Code shall be \$50 plus \$2 for each lot in the subdivision to a maximum of \$3,000.

(2) The filing fee under Section 10249.5 of the Business and Professions Code shall be \$100.

(3) The filing fee under Section 11011.1 of the Business and Professions Code shall be:

(a) \$50 for each lot, parcel, apartment, unit or undivided interest for subdivisions containing nine or less.

(b) \$500 plus \$3 for each lot, parcel, apartment, unit or undivided interest for subdivisions containing ten or more to a maximum of \$5,000.

7) Amend Section 2790.7 to read:

2790.7. Out-of-state Subdivisions Treated as Real Property Securities. Any person selling or leasing or offering for sale or lease ~~lots or parcels~~ subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code shall comply with and come within the purview of:

(1) Such of the provisions of Chapter 1, Part 2, Division 4, Business and Professions Code and the regulations

pertaining thereto as the Commissioner deems applicable to the particular subdivision filing; and

(2) Sections 10237.2, 10237.6, 10237.7, 10237.8, 10237.9, 10238, 10238.1, 10238.2, 10238.3, 10238.4, 10238.5, 10238.6 and regulations adopted pursuant to Section 10249.2, Business and Professions Code.

The term "real property securities dealer" as used in Section(s) 10237.6, 10237.7, 10237.8, 10237.9, 10238, and 10238.1 of the Business and Professions Code includes a subdivider and any person offering for sale or lease, or selling or leasing ~~lots or parcels~~ subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.

The term "real property security" or "real property securities" as used in Sections 10237.2, 10238.2, 10238.3, 10238.4, and 10238.6 includes ~~lots or parcels~~ subdivision interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.

The report required by Section 10238.1 shall be limited to such information as the commissioner may determine is material to the filing and the report or permit issued thereon.

8) Amend Section 2790.8 to read:

2790.8. Appraisal of Out-of-State Subdivision Offerings.

An appraisal of the ~~lots or parcels~~ subdivision

interests in an out-of-state land promotion subject to the provisions of Article 8 of Chapter 3 of Part 1 of Division 3 of the Business and Professions Code shall be made by a qualified independent appraiser and shall be submitted to the Real Estate Commissioner prior to the issuance of any subdivision public report.

9) Delete Section 2791.

~~2791. Commissioner May Waiver. The commissioner may waive the filing of the questionnaire and fee when in his opinion the facts and circumstances justify.~~

10) Delete Section 2792.1.

~~2792.1. Planned Development / Minimal Common Facilities.~~

~~If the community, recreational or other common facilities in a planned development are minimal and the assessments reasonably required for maintenance and operation do not exceed \$50 per year per lot or unit, the owner, subdivider or agent shall submit a copy of the declaration of restrictions (to be recorded prior to the issuance of the~~

final subdivision public report, bylaws, or other agreements with the subdivision questionnaire, providing for:

(1) transfer of the power to assess the common property or facility to the lot owners or to an association of lot owners; and,

(2) management of the property and/or facilities by the lot owners or a management agent selected by the lot owners or a Board of Governors; and,

(3) annual and special meetings of the association of lot or unit owners, and rules for noticing and conduct thereof;

(4) reasonable assessments and other financial arrangements and procedures for effective operation of the property and/or facilities; and,

(5) an annual accounting including a statement of income and disbursements; and,

~~(6) such other provisions as are acceptable to the commissioner.~~

11) Delete Section 2792.2.

~~2792.2. Planned Development / Minimal Common Facilities~~

~~(Required Documentation). If the community,~~  
recreational or other common facilities in a planned development are minimal and the assessments reasonably required for maintenance and operation do not exceed \$50.00 per year per unit, the owner, subdivider or agent shall submit the following with the subdivision questionnaire:

(1) copies of all documents and agreements pertaining to the management of the common property and/or facilities;

~~(2) evidence of financial arrangements for acquisition, development and completion of the common property and/or facility,~~

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{3} a detailed statement and description of existing and proposed improvements including anticipated dates for start and completion of construction; and financial arrangements for completion;

{4} a current policy of title insurance or preliminary title report issued after recordation of the subdivision map;

{5} copies of all documents to be utilized by the subdivider or his agent in financing and conveyancing;

{6} a detailed statement of the costs of maintenance and operation of the common area and/or facilities and the procedure for assessment;

12) Amend Section 2792.6 to read:

2792.6. Filing of Subdivisions Planned Development Subdivision - Required Documents. The subdivider, owner or agent of a subdivision ~~listed~~ included in Section 11004.5 of the Business and Professions Code (except an undivided interest subdivision, a stock cooperative or a planned development community apartment project ~~as referred to in Section 2792.1~~) should submit the following with the subdivision questionnaire or in any event shall submit prior to issuance of the final public report:

(1) a current policy of title insurance or preliminary title report issued after recordation of the subdivision map;

(2) evidence of the financial arrangements to assure completion of the project, including on-site and off-site improvements;

(3) a detailed statement pertaining to the method of financing sales of lots or units to purchasers;

(4) a schedule of the fractional interests in the common areas appurtenant to each lot or unit, where appropriate;

(5) a copy of the declaration of covenants, conditions and restrictions (evidence of recordation to be filed prior to issuance of final public report);

(6) where applicable, a copy of the management agreement, articles of incorporation, bylaws, organizational rules or other documents pertaining to control and management of the project;

(7) a copy of escrow instructions completed in sample form to show substance of the transaction, which instructions shall provide for return of purchase funds to non-defaulting buyers in event the escrows are not closed on a reasonable and specific date (the foregoing does not preclude penalties to defaulting purchasers for bona fide extras); and the name of the escrow depository; if no escrow depository is to be utilized, a description of the closing procedure to be employed;

(8) a copy of an agreement entered into with an assessor pursuant to Section 2188.3 of the Revenue and Taxation Code, where appropriate;

(9) if applicable, a copy of the plan recorded pursuant to Section 1351 of the Civil Code;

(10) if applicable, a copy of the recorded subdivision map;

(11) a copy of any agreement, deed, note, deed of trust, mortgage, conveyance, lease, sublease, to be issued to, or to be entered into with, the purchaser, which copy or copies shows substance of the transaction;

(12) if the applicant is a corporation, a copy of the resolution of its Board of Directors authorizing the filing of the questionnaire; and,

(13) such other information as the commissioner may require;

(14) a detailed pro forma budget reflecting estimated ownership, operational and maintenance costs for the project with comparative or other data supporting said estimates.

13) Delete Section 2792.7.

~~2792.7. Statement of Maintenance and Operational Costs in Connection With Condominium, Planned Development or Community Apartment. The subdivider, owner, or agent of a subdivision listed in Section 11004.5 of the Business and Professions Code (except a stock cooperative) shall submit with the subdivision questionnaire a detailed budget statement indicating the annual cost of maintaining and operating the common property and/or facilities, including, but not limited to, the following:~~

~~(1) fixed charges~~

~~(a) real property taxes (if units and common~~

- area are not separately assessed;
- (b) other taxes;
- (c) insurance;
- (d) other fixed charges;
- (2) operating expenses
  - (a) utilities;
  - (b) fuel;
  - (c) refuse disposal;
  - (d) custodial services;
  - (e) landscaping service;
  - (f) legal services;
  - (g) accounting services;
  - (h) management services;
  - (i) building and equipment maintenance expenses;
  - (j) any other operating expenses;
- (3) reserve for replacement
  - (a) heating and refrigeration systems;
  - (b) elevators;
  - (c) carpets;
  - (d) alarm systems;
  - (e) alterations;
  - (f) redecorating;
  - (g) other building components and equipment.

14) Amend Section 2792.8 to read:

2792.8. ~~Condominium, Planned Development or Community~~  
~~Apartment Project / Declaration of Restrictions,~~  
~~Bylaws, Other Agreements~~ Planned Development and Undivided  
Interest Subdivisions - Management, Regulation and Control.  
The declaration of restrictions, bylaws or other documents  
relating to the management, operation, use and control of a  
subdivision listed in Section 11004.5 of the Business and  
Professions Code (except a stock cooperative or a planned  
development as referred to in Section 2792.1) shall ordinarily  
include or the setup provide for, but need not be limited to,  
the following provisions The covenants, conditions and  
restrictions (hereinafter restrictions), articles of  
incorporation, bylaws and other instruments for the manage-  
ment, regulation and control of the types of subdivisions  
included in Section 11004.5 shall ordinarily provide, but  
need not be limited to:

(1) for management and control of the project by  
an owners association or by a management body identical with  
or similar to one of the management bodies indicated in  
Section 1355(a) of the California Civil Code; creation of  
an association of lot, parcel, unit or undivided interest  
owners;

(2) that a management body or agent selected prior  
to the first annual election shall be employed to manage  
only until the first annual election, after initial  
organization, at which time the continuance of the same or  
the selection of another body or agent shall be determined

by a majority vote; a description of the areas or interests to be owned or controlled by owners in common;

(3) for annual meetings and special meetings; transfer of title and/or control of common areas, common facilities and/or mutual and reciprocal rights-of-use to the owners in common or to an association thereof;

(4) for voting rights allocated on a lot or unit basis; or in ratio to purchase price or any reasonable combination of both methods; for cumulative voting for election or removal of directors; and for a first meeting to be held after 51% of the units have been sold or within one year after the sale of the first lot or unit in the project; whichever occurs first; procedures for calculating and collecting regular assessments to defray expenses attributable to the ownership, use and operation of common areas and facilities with said assessments to be levied against each owner, including the subdivider, according to the ratio of the number of lots or units owned by each owner to the total of lots or units subject to the assessment;

(5) for lot or unit owners to be notified not less than 7 nor more than 60 days before any owners' meeting; the notice of any such meeting shall specify a reasonable place, date and hour and, in the case of a special meeting, the general nature of the business to be transacted; procedures for establishing and collecting special assessments for capital improvements or other purposes on the same basis as for regular assessments

with suitable monetary limitations on special assessments or expenditures without the prior approval of a majority of the owners affected;

(6) that the presence, in person or by proxy of lot or unit owners holding at least 50% of the voting power shall constitute a quorum for the transaction of business at all meetings. If any meeting cannot be held because a quorum is not present, the owners present, either in person or by proxy, may, as otherwise provided by law, adjourn the meeting to a time not less than 48 hours nor more than 30 days from the time the original meeting was called, at which meeting the quorum requirement ordinarily shall be at least 25%, where appropriate, liens against privately owned subdivision properties and the foreclosure thereof on account of the non-payment of assessments duly levied;

(7) (a) for the procedures setting forth the method of casting ballots for election of officers, members of the governing board and the selection of a management body or agent;

(b) that at least a majority of the voting power present, in person or by proxy, shall prevail at all meetings, where appropriate, annexation of additional land to the existing development with suitable substantive and procedural safeguards against increased per capita assessments on account of such annexation;

(8) that the management body shall, among other things, have power to:

(a) enforce applicable provisions of the declaration of restrictions, bylaws, organizational rules or other documentation relating to the control and management of the project;

(b) contract and pay premiums for fire, casualty, liability and other insurance, including indemnity and other bonds;

(c) contract and pay for maintenance, gardening, utilities, materials and supplies and services relating to the common property and/or facility, and to employ personnel reasonably necessary for the operation of the project including lawyers and accountants where appropriate;

(d) pay taxes and special assessments which are or would become a lien on the project or common area;

(e) where appropriate, to pay for reconstruction of any portion or portions of the project damaged or destroyed which are to be rebuilt;

(f) delegate its powers;

(g) enter into any lot or unit when necessary in connection with maintenance or construction for which the management body is responsible;

monetary penalties and/or use privilege and voting suspensions of members for breaches of the restrictions,

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bylaws or other instruments for management and control of the subdivision with procedures for hearings for disciplined members;

(9) transfer of the power to assess to the lot owners or to an association of lot owners; creation of a board of directors or other governing body for the owners' association with the members of said body to be elected by a vote of members of the association at an annual or special meeting to be held not later than six months after the sale of the first lot, unit or undivided interest of the subdivision;

(10) where appropriate, for an annual independent examination or audit of the account or accounts of the management body and for a copy of such report to be available to each lot or unit owner within 30 days of completion; procedures for the election and removal of members of the governing body which shall include concurrent terms for members and cumulative voting features in the election and removal of such members;

(11) for amendments of restrictions, or other documents relating to the management, operation, use, occupancy and control of the project by vote or written consent of a reasonable majority of the voting power. A three-fourths majority of the voting power will ordinarily be considered a reasonable majority, but should an applicant desire to provide for a different voting requirement the commissioner will consider each application separately. A reasonable

majority of the voting power shall in no event be less than a simple majority and ordinarily should not exceed a three-fourth's majority. However, bylaws, house rules or similar agreements as they relate to the internal government of the project may be amended by a majority of a quorum present in person or by proxy; enumeration of the powers of the governing body which shall normally include at least the following:

(a) the enforcement of applicable provisions of the restrictions, bylaws, and the other instruments for the management and control of the subdivision;

(b) payment of taxes and assessments which are or could become a lien on the common area or some portion thereof;

(c) delegation of its powers to committees, officers or employees;

(d) contracting for materials and/or services for the common area or the owners' association, the term of any service contract be limited to a duration of one year, except with the approval of a majority of the members of the owners' association, except in those subdivisions where the terms of the management contract have been approved by the Federal Housing Administration;

(e) contracting for fire, casualty, liability and other insurance on behalf of the owners' association;

(f) entry upon any privately owned lot or unit where necessary in connection with construction, maintenance or repair for the benefit of the common area or the owners in common.

(12) for reasonable methods to provide for assessments to meet necessary expenditures and to provide for adequate reserves; allocation of voting rights to members of the owners' association on the basis of lot or unit ownership or on some other reasonable and equitable basis;

(13) for liens to secure assessment payments and for foreclosure thereof in accordance with or in a manner similar to the provisions of Section 1356 of the California Civil Code; preparation of an annual operating statement reflecting income and expenditures of the association for its fiscal year with provision for distribution of a copy of said report to each member within 90 days after the end of the fiscal year;

(14) for the conditions upon which partition or sale of the project may be effected in the event of total or partial destruction of the project and for reasonable voting majority in an election not to rebuild, if applicable; annual and special meetings of members within the subdivision or as close thereto as practicable;

(15) for restrictions upon the severability of component interests, where appropriate, reasonable -- and in no case less than 10 days -- written notice to members of annual and special meetings specifying the place, day and hour, and in the case of special meetings, the nature of the business to be undertaken;

(16) for the owner, subdivider or agent to be precluded from entering into any contracts which bind the board of governors or owners association for a period in excess of one year, unless reasonable cancellation provisions are included in the contracts, quorum requirements for members' meetings ranging from 25% to 50% of the total membership depending upon the nature of the subdivision and other relevant factors;

(17) where applicable, for waiver of any right to proceed by unlawful detainer or other similar remedy, voting proxies for members' meetings;

(18) amendment of those provisions of the restrictions, bylaws or rules which relate to the management, operation and control of the owners' association and/or the common areas, common facilities or interests.

Depending upon the nature of the right or obligation to be affected by the amendment, the Real Estate Commissioner will ordinarily consider as reasonable amendments enacted as

follows:

(a) Restrictions - 51% to 75% of all of the owners;

(b) Bylaws or Rules - 51% of a quorum to 51% of all of the owners;

(19) prohibition or restrictions upon the severability of commonly owned interests through partition or otherwise;

(20) action to be taken and procedures to be followed in the event of destruction or extensive damage to the common areas or facilities including provisions respecting the use and disposition of insurance proceeds payable to the association on account of such destruction or damage.

15) Amend Section 2792.9 to read:

2792.9. Maintenance and Operational Expenses Planned

Developments - Operating and Maintenance Funds

During Start-up. The expenses of

maintaining and operating common areas and/or facilities in condominiums, community apartment projects and planned developments ordinarily should be borne proportionately by all owners of units within the project, including the seller or subdivider thereof insofar as he has or retains ownership of any of the units. To assure compliance, the commissioner will ordinarily require the owner or subdivider to comply with one of the following plans: To assure the availability of funds for ownership, operation and maintenance of the common areas and facilities in planned developments and condominium projects during the initial stages of

# PROOF OF PUBLICATION

(2015.5 CCP)

STATE OF CALIFORNIA )  
 ) ss.  
County of Sacramento, )

I am a citizen of the United States and a resident of the County aforesaid, I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of THE DAILY RECORDER, a newspaper of general circulation printed and published in the City of Sacramento, County of Sacramento, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Sacramento, State of California, under date of May 2, 1913, Case Number 16,180 that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

November 10,

all in the year 1971

This space is for the County Clerk's Filing Stamp

Proof of publication of

NOTICE OF PROPOSED CHANGES IN REGULATIONS

REAL ESTATE COMMISSIONER

## NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

Notice is hereby given that Robert W. Karpe, Real Estate Commissioner, pursuant to the authority vested in him by Sections 10080, 10236, 10249.2, 10312, 11001, 11011.8 and 11018.9 of the Business and Professions Code and to implement, interpret or make specific Sections 10153.4, 10177, 10205, 10209.5, 10210, 10214.5, 10215, 10240, 10249.5, 10249.15, 11000.1, 11000.6, 11010, 11011, 11011.1, 11012, 11018, 11018.5, 11025, 11028 and 11029 (among others) of the Business and Professions Code, proposes to adopt, amend or repeal regulations in Title 10, California Administrative Code, as follows:

- (1) Amend Sections 2705, 2790.7, 2790.8, 2795, 2795.1, 2801.5, 2807, 2813, 2814, 2814.3, 2814.5, 2817, 2819, 2819.5 and 2819.96 to encompass undivided interests subdivisions under the coverage of the aforesaid sections.
- (2) Add Section 2716 pertaining to real estate license fees.
- (3) Amend Section 2725 relating to delegation of broker supervision of salesmen.
- (4) Add Section 2726 covering written agreements between broker and salesman.
- (5) Amend Section 2790 to delete existing inconsistency with Section 2791.
- (6) Repeal Section 2791 as inconsistent with existing Section 2790.
- (7) Amend Section 2790.1 dealing with subdivision filing fees.
- (8) Repeal Sections 2792.1 and 2792.2 pertaining to planned developments with minimal common facilities.
- (9) Amend Section 2792.6 and repeal Section 2792.7 to effect a consolidation of requirements of both sections as written.
- (10) Amend Section 2792.8 relating to management and control of planned development and undivided interests subdivisions.
- (11) Amend Section 2792.9 relating to financial arrangements for operation and maintenance of planned developments and condominium projects during start-up.
- (12) Amend Section 2792.11 relating to documents for undivided interests subdivisions.
- (13) Repeal Section 2792.12 as superfluous with amendment of Section 2792.8.
- (14) Add new Section 2792.13 for un-

I certify (or declare) under penalty of perjury that the

supplement thereof on the following dates, to wit:

November 10,

all in the year 1971

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

*Patricia A. James*  
Signature

Date November 10, 1971

**THE DAILY RECORDER**

P.O. Box 786

Sacramento, California 95804

**PROOF OF PUBLICATIO**

11011.1, 11012, 11018, 11018.5, 11025, 11028 and 11029 (among others) of the Business and Professions Code, proposes to adopt, amend or repeal regulations in Title 10, California Administrative Code, as follows:

- (1) Amend Sections 2705, 2790.7, 2790.8, 2795, 2795.1, 2801.5, 2807, 2813, 2814, 2814.3, 2814.5, 2817, 2819, 2819.5 and 2819.96 to encompass undivided interests subdivisions under the coverage of the aforesaid sections.
- (2) Add Section 2716 pertaining to real estate license fees.
- (3) Amend Section 2725 relating to delegation of broker supervision of salesmen.
- (4) Add Section 2728 covering written agreements between broker and salesman.
- (5) Amend Section 2790 to delete existing inconsistency with Section 2791.
- (6) Repeal Section 2791 as inconsistent with existing Section 2790.
- (7) Amend Section 2790.1 dealing with subdivision filing fees.
- (8) Repeal Sections 2792.1 and 2792.2 pertaining to planned developments with minimal common facilities.
- (9) Amend Section 2792.6 and repeal Section 2792.7 to effect a consolidation of requirements of both sections as written.
- (10) Amend Section 2792.8 relating to management and control of planned development and undivided interests subdivisions.
- (11) Amend Section 2792.9 relating to financial arrangements for operation and maintenance of planned developments and condominium projects during start-up.
- (12) Amend Section 2792.11 relating to documents for undivided interests subdivisions.
- (13) Repeal Section 2792.12 as superfluous with amendment of Section 2792.8.
- (14) Add new Section 2792.12 for undivided interests subdivisions.
- (15) Amend Section 2792.13 pertaining to undivided interests subdivisions, stock cooperatives and community apartment projects.
- (16) Amend Section 2801 to include provisions covering community apartment projects, condominiums and stock cooperatives.
- (17) Amend Section 2801.5 to clarify and to include undivided interests subdivisions.
- (18) Amend Section 2819.6 and 2819.7 concerning rescission rights in land project subdivisions.
- (19) Repeal Section 2819.9 to conform to repeal of Section 11018.6 of the Business and Professions Code.
- (20) Add new Section 2819.9 relating to specific findings in land project subdivision filings.
- (21) Repeal Section 2819.95 to conform to repeal of Section 11018.6 of the Business and Professions Code.
- (22) Amend Section 2819.96 to conform to new code section.
- (23) Amend Section 2840 setting forth new approved form of mortgage loan brokers statement.
- (24) Add Sections 3000 through 3004 relating to approval of courses of private vocational schools and supervised courses of study.

Notice is also given that any interested person may present statements, arguments or contentions, written or oral, relevant to the aforesaid proposed changes at a hearing to be held in Room 1133, State Building, 107 South Broadway, Los Angeles, California, at 1:30 p.m. on the 2nd day of December 1971. At such time or thereafter, the Real Estate Commissioner on his own motion or at the instance of any interested person may amend the above proposals and adopt the same as amended without further notice. Prior to said hearing, any interested person may transmit statements, arguments or contentions in writing pertaining to the aforesaid proposed changes to the Real Estate Commissioner at 714 P Street, Sacramento, California.

Dated: November 5, 1971  
ROBERT W. KARPIS  
Real Estate Commissioner  
36093—November 10

# PROOF OF PUBLICATION

(2015.5 CCP)

STATE OF CALIFORNIA )  
 ) ss.  
County of Sacramento, )

I am a citizen of the United States and a resident of the County aforesaid, I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of THE DAILY RECORDER, a newspaper of general circulation printed and published in the City of Sacramento, County of Sacramento, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Sacramento, State of California, under date of May 2, 1913, Case Number 16,180 that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

November 10,

all in the year 1971

I certify (or declare) under penalty of perjury that the

This space is for the County Clerk's Filing Stamp

Proof of publication of

NOTICE OF PROPOSED CHANGES IN REGULATIONS

REAL ESTATE COMMISSIONER

## NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

Notice is hereby given that Robert W. Karpe, Real Estate Commissioner, pursuant to the authority vested in him by Sections 10080, 10226, 10249.2, 10312, 11001, 11011.8 and 11018.9 of the Business and Professions Code and to implement, interpret or make specific Sections 10153.4, 10177, 10203, 10209.5, 10210, 10214.5, 10215, 10240, 10249.5, 10249.15, 11000.1, 11000.6, 11011, 11011.1, 11012, 11018, 11018.5, 11025, 11028 and 11029 (among others) of the Business and Professions Code, proposes to adopt, amend or repeal regulations in Title 10, California Administrative Code, as follows:

- (1) Amend Sections 2705, 2790.7, 2790.8, 2795, 2795.1, 2801.5, 2807, 2813, 2814, 2814.3, 2814.5, 2817, 2819, 2819.5 and 2819.96 to encompass undivided interests subdivisions under the coverage of the aforesaid sections.
- (2) Add Section 2716 pertaining to real estate license fees.
- (3) Amend Section 2725 relating to delegation of broker supervision of salesmen.
- (4) Add Section 2726 covering written agreements between broker and salesman.
- (5) Amend Section 2790 to delete existing inconsistency with Section 2791.
- (6) Repeal Section 2791 as inconsistent with existing Section 2790.
- (7) Amend Section 2790.1 dealing with subdivision filing fees.
- (8) Repeal Sections 2792.1 and 2792.2 pertaining to planned developments with minimal common facilities.
- (9) Amend Section 2792.6 and repeal Section 2792.7 to effect a consolidation of requirements of both sections as written.
- (10) Amend Section 2792.8 relating to management and control of planned development and undivided interests subdivisions.
- (11) Amend Section 2792.9 relating to financial arrangements for operation and maintenance of planned developments and condominium projects during start-up.
- (12) Amend Section 2792.11 relating to documents for undivided interests subdivisions.
- (13) Repeal Section 2792.12 as superfluous with amendment of Section 2792.8.
- (14) Add new Section 2792.12 for un-

November 10,

all in the year 1971

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Patricia A. Jones  
Signature

Date November 10, 1971

## THE DAILY RECORDER

P.O. Box 786

Sacramento, California 95804

## PROOF OF PUBLICAT

- 2819.5 and 2819.6 to encompass undivided interests subdivisions under the coverage of the aforesaid sections.
- (2) Add Section 2716 pertaining to real estate license fees.
  - (3) Amend Section 2725 relating to delegation of broker supervision of salesmen.
  - (4) Add Section 2726 covering written agreements between broker and salesman.
  - (5) Amend Section 2790 to delete existing inconsistency with Section 2791.
  - (6) Repeal Section 2791 as inconsistent with existing Section 2790.
  - (7) Amend Section 2790.1 dealing with subdivision filing fees.
  - (8) Repeal Sections 2792.1 and 2792.2 pertaining to planned developments with minimal common facilities.
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  - (10) Amend Section 2792.8 relating to management and control of planned development and undivided interests subdivisions.
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  - (12) Amend Section 2792.11 relating to documents for undivided interests subdivisions.
  - (13) Repeal Section 2792.12 as superfluous with amendment of Section 2792.8.
  - (14) Add new Section 2792.12 for undivided interests subdivisions.
  - (15) Amend Section 2792.13 pertaining to undivided interests subdivisions, stock cooperatives and community apartment projects.
  - (16) Amend Section 2801 to include provisions covering community apartment projects, condominiums and stock cooperatives.
  - (17) Amend Section 2801.5 to clarify and to include undivided interests subdivisions.
  - (18) Amend Section 2819.6 and 2819.7 concerning reversion rights in land project subdivisions.
  - (19) Repeal Section 2819.9 to conform to repeal of Section 11018.6 of the Business and Professions Code.
  - (20) Add new Section 2819.9 relating to specific findings in land project subdivision filings.
  - (21) Repeal Section 2819.95 to conform to repeal of Section 11018.6 of the Business and Professions Code.
  - (22) Amend Section 2819.96 to conform to new code section.
  - (23) Amend Section 2840 setting forth new approved form of mortgage loan brokers statement.
  - (24) Add Sections 3000 through 3004 relating to approval of courses of private vocational schools and supervised courses of study.

Notice is also given that any interested person may present statements, arguments or contentions, written or oral, relevant to the aforesaid proposed changes at a hearing to be held in Room 1183, State Building, 107 South Broadway, Los Angeles, California, at 1:30 p.m. on the 2nd day of December 1971. At such time or thereafter, the Real Estate Commissioner on his own motion or at the instance of any interested person may amend the above proposals and adopt the same as amended without further notice.

Prior to said hearing, any interested person may transmit statements, arguments or contentions in writing pertaining to the aforesaid proposed changes to the Real Estate Commissioner at 714 P Street, Sacramento, California.

Dated: November 5, 1971

ROBERT W. KARPIS

Real Estate Commissioner

36093—November 10

# PROOF OF PUBLICATION

(2015.5 CCP)

STATE OF CALIFORNIA )  
 ) ss.  
County of Sacramento, )

I am a citizen of the United States and a resident of the County aforesaid, I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of THE DAILY RECORDER, a newspaper of general circulation printed and published in the City of Sacramento, County of Sacramento, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Sacramento, State of California, under date of May 2, 1913, Case Number 16,180 that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

November 10,

all in the year 1971

I certify (or declare) under penalty of perjury that the

This space is for the County Clerk's Filing Stamp

Proof of publication of

NOTICE OF PROPOSED CHANGES IN REGULATIONS

REAL ESTATE COMMISSIONER

## NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

Notice is hereby given that Robert W. Karpe, Real Estate Commissioner, pursuant to the authority vested in him by Sections 10080, 10226, 10249.2, 10312, 11001, 11011.8 and 11018.9 of the Business and Professions Code and to implement, interpret or make specific Sections 10153.4, 10177, 10209, 10209.5, 10210, 10214.5, 10215, 10240, 10249.5, 10249.15, 11000.1, 11000.6, 11010, 11011, 11011.1, 11012, 11018, 11018.5, 11025, 11028 and 11029 (among others) of the Business and Professions Code, proposes to adopt, amend or repeal regulations in Title 10, California Administrative Code, as follows:

- (1) Amend Sections 2705, 2790.7, 2790.8, 2795, 2795.1, 2801.5, 2807, 2813, 2814, 2814.3, 2814.5, 2817, 2819, 2819.5 and 2819.96 to encompass undivided interests subdivisions under the coverage of the aforesaid sections.
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- (14) Add new Section 2792.13 for un-

November 10,

all in the year 1971

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

*Patricia A. James*  
Signature

Date November 10, 1971

## THE DAILY RECORDER

P.O. Box 786

Sacramento, California 95804

## PROOF OF PUBLICAT

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  - (17) Amend Section 2801.5 to clarify and to include undivided interests subdivisions.
  - (18) Amend Section 2819.6 and 2819.7 concerning rescission rights in land project subdivisions.
  - (19) Repeal Section 2819.9 to conform to repeal of Section 11018.6 of the Business and Professions Code.
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  - (23) Amend Section 2840 setting forth new approved form of mortgage loan brokers statement.
  - (24) Add Sections 3000 through 3004 relating to approval of courses of private vocational schools and supervised courses of study.
- Notice is also given that any interested person may present statements, arguments or contentions, written or oral, relevant to the aforesaid proposed changes at a hearing to be held in Room 1133, State Building, 107 South Broadway, Los Angeles, California, at 1:30 p.m. on the 2nd day of December 1971. At such time or thereafter, the Real Estate Commissioner on his own motion or at the instance of any interested person may amend the above proposals and adopt the same as amended without further notice. Prior to said hearing, any interested person may transmit statements, arguments or contentions in writing pertaining to the aforesaid proposed changes to the Real Estate Commissioner at 714 P Street, Sacramento, California.
- Dated: November 5, 1971  
ROBERT W. KARPE  
Real Estate Commissioner  
36093—November 10

"The Commissioner may approve any alternative provisions under the setup of the offering that provide a feasible means for conveyance or encumbering of the real property, or some portion thereof, upon the vote or written agreement of a prescribed percentage of the ownership interests that are not owned nor controlled by the subdivider.

"Ordinarily the aforesaid "prescribed percentage" shall be not less than 66 2/3%."

COMMENT: The purpose of the regulation is to preclude partition in kind in an undivided interest subdivision, but at the same time, to provide a vehicle for a conveyance of all or a portion of the property when a percentage of the owners of all of the undivided interests agree that this is a proper course of action. A clause in the Declaration of Restrictions for the land precluding partition in kind, but providing for a suit for partition to the end of a sale of the property and a distribution of the proceeds appears to be the only practical way that this can be accomplished where there are cotenancies in the land. Under the regulation as amended, the Commissioner may consider and approve alternative arrangements to achieve the same end result.

At PAGE 30, amend Section 2795 to read:

"No person engaged in the sale or lease of interests in subdivided land shall take a written offer to purchase or lease a subdivision interest nor shall he solicit or accept any money or other consideration toward such purchase or lease until the prospective purchaser or lessee has been afforded the opportunity to read the Final Subdivision Public Report for the subdivision and has acknowledged in writing the receipt of a copy of said public report.

"A preliminary public report may be issued by the Commissioner upon receipt of a filing fee and a questionnaire completed, except as to one or more particulars when in the judgment of the Commissioner it is reasonable to expect that all of the requirements for issuance of a Final Subdivision Public Report will be satisfied by the applicant in due course.

"When a preliminary public report has been issued for subdivided lands, the subdivider and his agents may solicit and accept reservations to purchase or lease

subdivision interests provided that there is compliance with each of the following:

- "A) The person making the reservation has been afforded an opportunity to read the preliminary public report and has acknowledged in writing the receipt of a copy of said preliminary public report before the reservation is executed by him and before any deposit has been taken in connection with the reservation.
- "B) A copy of the reservation signed by the person making the reservation and by or on behalf of the subdivider, along with a deposit taken in connection therewith, is placed in a neutral escrow depository acceptable to the Commissioner.
- "C) The reservation instrument contains a provision whereunder the person making the reservation may at any time unilaterally cancel the reservation and receive back the total deposit given in connection with the reservation.

"A preliminary public report shall expire and shall not be used after a final subdivision public report covering the same subdivision has been published or one year from date of issuance of the preliminary public report, whichever is sooner.

"A receipt taken for a final or preliminary public report shall be retained by the subdivider or his agent for a period of three years from the date of the receipt and all such receipts shall be made available for inspection by the Commissioner or his designated representative during regular business hours and on reasonable notice.

"A subdivider may prepare or cause to be prepared for his use, exact reproductions of the public report published by the Commissioner; provided however, that an exemplar of the reproduction of the public report shall be filed with the Commissioner before it is used."

COMMENT: This amendment does not effect any substantive changes in the requirements relating to the giving of a public report and the taking of a receipt for it. The changes involve simply the elimination of superfluous and ambiguous terms.

At PAGE 32, amend Section 2795.1 to read:

"The form set forth hereinbelow is the form approved by the Commissioner for the acknowledgment of receipt

of a copy of the public report required to be taken under Regulation 2795.

"RECEIPT FOR PUBLIC REPORT

"The Law and Regulations of the Real Estate Commissioner require that you as a prospective purchaser or lessee be afforded an opportunity to read the public report for this subdivision before you make any written offer to purchase or lease a subdivision interest or before any money or other consideration toward purchase or lease of a subdivision interest is accepted from you.

"In the case of a preliminary subdivision public report, you must be afforded an opportunity to read the report before a written reservation or any deposit in connection therewith is accepted from you.

"DO NOT SIGN THIS RECEIPT UNTIL YOU HAVE RECEIVED A COPY OF THE REPORT AND HAVE READ IT.

"I have read the Commissioner's public report on \_\_\_\_\_

\_\_\_\_\_  
(File No.)

\_\_\_\_\_  
(Tract No. or Name)

"I understand the report is not a recommendation or endorsement of the subdivision, but is for information only.

"The date of the public report which I received and read is \_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Date)

COMMENT: This amendment makes it clear that the receipt for public report, the form of which is set forth in the Regulations, need only be taken in those situations expressly covered by

Regulation 2795, i.e., before accepting any written offer or deposit toward purchase of a subdivision interest. Section 11027 of the B. & P. Code which should become effective during the week of March 5, 1972, requires the giving of a public report for a land project in cases where a sale of the property is not being actively solicited, but expressly states that a receipt for the public report need not be taken in these cases.

The form of the receipt has also been altered to expressly cover the taking of a receipt for a preliminary subdivision public report. This has always been required under Section 2795, but heretofore there has been no reference to it in the approved form of receipt.

At PAGE 55, revise the sentence beginning at the seventh line to read:

"The note will be payable at \$\_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ at which time the balance of approximately \$\_\_\_\_\_ will still be owing."

At PAGE 56, change the format per exemplar appended hereto.

COMMENT: The change to page 55 is simply to make the form adaptable to loans where the installment or interest payment is made on other than a monthly basis. The amendments to the schedules entitled DETAILS OF COSTS AND EXPENSES and DETAILS OF LIENS AND OTHER BORROWER'S OBLIGATIONS TO BE PAID involve minor changes requiring that the description and amount of "Other Costs and Expenses" be specified.

At PAGE 58 et seq., amend Section 3000 as follows:

1) Change 3000(a) to read:

"Courses must have at least 45 clock hours of instruction or, in the case of a correspondence course, at least 15 separate lesson assignments."

2) Change subsection (f) to read:

"Maintenance of adequate records by the schools relating to attendance, progress and grades and in the case of correspondence courses, the dates of (1) mailing of lessons; (2) return of lessons for correction; and (3) actual correction."

3) Change subsection (g) to read:

"The use of advertising which is not deceptive or misleading.

"The use of advertising in any form which does not comply with the requirements set forth below will be considered by the Commissioner to be deceptive or misleading:

"(1) In any reference to a course or courses approved by the Commissioner as being equivalent to college courses, it must be clearly set forth that the course or courses are equivalent only for the purpose of qualifying for the real estate broker license examination unless the course of instruction has been approved for credit by an institution of higher learning.

"(2) An advertisement which contains an express or implied guarantee, promise or assurance to qualify a student for the real estate broker license examination must include a complete explanation of the nature and extent of the "guarantee" including all conditions thereto.

"(3) Use of the word "approved" or "accredited" or the like with respect to the school or the courses being offered must be fully explained.

"(4) Any advertisement by a school operating under a corporate or fictitious name or style that is the same as, or similar to, the name or style of other schools shall not advertise or otherwise indicate course approval by the Real Estate Commissioner unless the advertisement clearly sets forth the address or location of the school whose courses have been approved."

"(5) Students shall not be solicited in a 'Help Wanted' column of a newspaper, magazine or other publication or through the use of any advertising solicitation which fails to identify the advertiser as a private vocational school or the operator of a supervised course of study.

"(6) In advertising which makes reference to courses of study approved by the Commissioner, the specific course or courses that have been approved must be set forth.

"Nothing contained herein shall limit the Commissioner determining that advertising is deceptive or misleading for reasons other than failure to comply with the aforesaid criteria."

COMMENT: The changes to subsections (a) and (f) add specific requirements for correspondence courses. The addition to subsection (g) is to specify the types and content of certain advertising that will be considered by the Commissioner to be "deceptive or misleading" within the meaning of Section 3000(g).

DETAILS OF COSTS AND EXPENSES:

ALL  
ITALICS

|                                    |                                    | PAYABLE TO:   |               |
|------------------------------------|------------------------------------|---------------|---------------|
|                                    |                                    | <u>Broker</u> | <u>Others</u> |
| 1.                                 | Appraisal fee                      | _____         | _____         |
| 2.                                 | Escrow fee                         | _____         | _____         |
| 3.                                 | Fees for policy of title insurance | _____         | _____         |
| required by lender                 |                                    | _____         | _____         |
| 4.                                 | Notary and recording fees          | _____         | _____         |
| 5.                                 | Credit investigation fees          | _____         | _____         |
| Other costs and expenses:          |                                    | <u>_____</u>  | <u>_____</u>  |
| 6.                                 | _____                              | _____         | _____         |
| 7.                                 | _____                              | _____         | _____         |
| 8.                                 | _____                              | _____         | _____         |
| 9.                                 | _____                              | _____         | _____         |
| TOTAL Costs and Expenses . . . . . |                                    | =====         | =====         |

DETAILS OF LIENS AND OTHER BORROWER'S OBLIGATIONS TO BE PAID:

|  |                               |       |       |
|--|-------------------------------|-------|-------|
| 1.   | Fire insurance premiums       | _____ | _____ |
| 2.   | Other insurance premiums      | _____ | _____ |
| 3.   | Beneficiary statement fees    | _____ | _____ |
| 4.   | Reconveyance and similar fees | _____ | _____ |
| Other: (Including pay off of existing liens)       |                               |       |       |
| 5.   | _____                         | _____ | _____ |
| 6.   | _____                         | _____ | _____ |
| 7.   | _____                         | _____ | _____ |
| TOTAL to be paid on<br>borrower's behalf . . . . . |                               | ===== | ===== |

The undersigned hereby certifies that neither he nor his employing broker will directly or indirectly be the lender for this loan

~~Memorandum~~

File

Date: <sup>24</sup>~~19~~ November 1971From : ~~Jerry Thomas~~

~~AMENDMENTS~~  
Additional Changes to  
PROPOSED CHANGES IN REGULATIONS

---

At page 14, change Section 2792.8(4) to read:

"Procedures for calculating and collecting regular assessments to defray expenses attributable to the ownership, use and operation of common areas and facilities with said assessments to be levied against each owner, including the subdivider, according to the ratio of the number of lots or units owned by each owner to the total of lots or units subject to the assessment or upon some other reasonable and equitable basis such as the ratio of the selling price of a unit to the aggregate selling prices of all units subject to the assessment."



At page 30, change Section 2795 to read:

"No person engaged in the sale or lease of interests in subdivided land shall take a written offer to purchase or lease a subdivision interest nor shall he solicit or accept any money or other consideration toward such purchase or lease until the prospective purchaser or lessee has been afforded the opportunity to read the Final Subdivision Public Report for the subdivision and has acknowledged in writing the receipt of a copy of said public report.

"A preliminary public report may be issued by the Commissioner upon receipt of a filing fee and a questionnaire completed, except as to one or more particulars when in the judgment of the Commissioner it is reasonable to expect that all of the requirements for issuance of a Final Subdivision Public Report will be satisfied by the applicant in due course.

~~File~~

Page Two

19 November 1971

24

"When a preliminary public report has been issued for subdivided lands, the subdivider and his agents may solicit and accept reservations to purchase or lease subdivision interests provided that there is compliance with each of the following:

- "A) The person making the reservation has been afforded an opportunity to read the preliminary public report and has acknowledged in writing the receipt of a copy of said preliminary public report before the reservation is executed by him and before any deposit has been taken in connection with the reservation.
- "B) A copy of the reservation signed by the person making the reservation and by or on behalf of the subdivider, along with a deposit taken in connection therewith, is placed in a neutral escrow depository acceptable to the Commissioner.
- "C) The reservation instrument contains a provision whereunder the person making the reservation may at any time unilaterally cancel the reservation and receive back the total deposit given in connection with the reservation.

"A preliminary public report shall expire and shall not be used after a final subdivision public report covering the same subdivision has been published or one year from date of issuance of the preliminary public report, whichever is sooner.

"A receipt taken for a final or preliminary public report shall be retained by the subdivider or his agent for a period of three years from the date of the receipt and all such receipts shall be made available for inspection by the Commissioner or his designated representative ~~on~~ ~~reasonable notice.~~ *DURING REGULAR BUSINESS HOURS AND ON REASONABLE NOTICE.*

"A subdivider may prepare or cause to be prepared for his use, exact reproductions of the public report published by the Commissioner; provided however, that an exemplar of the reproduction of the public report shall be filed with the Commissioner before it is used."

~~File~~

Page Three

19 November 1971

27

At page 32, amend Section 2795.1 to read:

"The form set forth herein below is the form approved by the Commissioner for the acknowledgment of receipt of a copy of the public report required to be taken under Regulation 2795.

"RECEIPT FOR PUBLIC REPORT

"The Law and Regulations of the Real Estate Commissioner require that you as a prospective purchaser or lessee be afforded an opportunity to read the public report for this subdivision before you make any written offer to purchase or lease a subdivision interest or before any money or other consideration toward purchase or lease of a subdivision interest is accepted from you.

"In the case of a preliminary subdivision public report (~~pink copy~~), you must be afforded an opportunity to read the report before a written reservation or any deposit in connection therewith is accepted from you.

"DO NOT SIGN THIS RECEIPT UNTIL YOU HAVE RECEIVED A COPY OF THE REPORT AND HAVE READ IT.

"I have read the Commissioner's public report  
on \_\_\_\_\_

\_\_\_\_\_  
(File No.)

\_\_\_\_\_  
(Tract No. or Name)

"I understand the report is not a recommendation or endorsement of the subdivision, but is for information only.

"The date of the ~~copy of the~~ public report which I received and read is \_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Date)

"

~~File~~

Page Four

19 November 1971

24

*for money?*

At page 28, change Section 2792.12 to read:

*> add alternative*

"In undivided interests subdivisions which do not involve a right of exclusive occupancy or use of a lot, parcel or unit, provisions shall be included in the Declaration of Restrictions for the land whereby owners of the undivided interests waive their right to partition the real property unless the bringing of a suit for partition has been approved by the vote or written agreement of a prescribed percentage of the ownership interests in the subdivision that are not owned or controlled by the subdivider. Ordinarily this percentage shall be not less than 66 2/3%."

At page 55, change the sentence beginning at the seventh line to read:

"The note will be payable at \$\_\_\_\_\_ ~~including interest~~  
~~plus interest~~ per \_\_\_\_\_ for \_\_\_\_\_ at which time the balance of approximately \$\_\_\_\_\_ will still be owing."

At page 56, change the format per sample attached to JEH's memorandum to me of November 18, 1971.

At page 58 et seq., Section 3000:

1) Change 3000(a) to read:

"Courses must have at least 45 clock hours of instruction or, in the case of a correspondence course, at least 15 separate lesson assignments."

2) Change subsection (f) to read:

"Maintenance of adequate records by the schools relating to attendance, progress and grades and in the case of correspondence courses, the dates of (1) mailing of lessons; (2) return of lessons for correction; and (3) actual correction."

3) Change subsection (g) to read:

"The use of advertising which is not deceptive or misleading."

~~File~~

Page Five

19 November 1971

24

"The use of advertising in any form which does not comply with the requirements set forth below will be considered by the Commissioner to be deceptive or misleading:

- "(1) In any reference to a course or courses approved by the Commissioner as being equivalent to college courses, it must be clearly set forth that the course or courses are equivalent only for the purpose of qualifying for the real estate broker license examination unless the course of instruction has been approved for credit by an institution of higher learning.
- "(2) An advertisement which contains an express or implied guarantee, promise or assurance to qualify a student for the real estate broker license examination must include a complete explanation of the nature and extent of the "guarantee" including all conditions thereto.
- "(3) Use of the word "approved" or "accredited" or the like with respect to the school or the courses being offered must be fully explained.
- "(4) Any advertisement by a school operating under a corporate or fictitious name or style that is the same as, or similar to, the name or style of other schools shall not advertise or otherwise indicate course approval by the Real Estate Commissioner unless the advertisement clearly sets forth the address or location of the school whose courses have been approved.
- "(5) Students shall not be solicited <sup>in</sup> for a 'Help Wanted' column of a newspaper, magazine or other publication or through the use of any advertising solicitation which fails to identify the advertiser as a private vocational school or the operator of a supervised course of study.

~~File~~

Page Six

19 November 1971

24

"(6) In advertising which makes reference  
to courses of study approved by the  
Commissioner, the specific course or courses  
that have been approved must be set forth.

"Nothing contained herein shall limit the Commissioner ~~from~~  
determining that advertising is deceptive or misleading  
for reasons other than failure to comply with the aforesaid  
criteria."



Jerry Thomas

JT/pk

DETAILS OF COSTS AND EXPENSES:

ALL  
ITALICS

|    |                                    | PAYABLE TO: |             |
|----|------------------------------------|-------------|-------------|
|    |                                    | Broker      | Others      |
| 1. | Appraisal fee                      | _____       | _____       |
| 2. | Escrow fee                         | _____       | _____       |
| 3. | Fees for policy of title insurance | _____       | _____       |
|    | required by lender                 | _____       | _____       |
| 4. | Notary and recording fees          | _____       | _____       |
| 5. | Credit investigation fees          | _____       | _____       |
|    | Other costs and expenses:          | <i>llms</i> | <i>llms</i> |
| 6. | _____                              | _____       | _____       |
| 7. | _____                              | _____       | _____       |
| 8. | _____                              | _____       | _____       |
| 9. | _____                              | _____       | _____       |
|    | TOTAL Costs and Expenses . . . . . | =====       | =====       |

DETAILS OF LIENS AND OTHER BORROWER'S OBLIGATIONS TO BE PAID:

|    |  |       |       |
|----|--|-------|-------|
| 1. | Fire insurance premiums                            | _____ | _____ |
| 2. | Other insurance premiums                           | _____ | _____ |
| 3. | Beneficiary statement fees                         | _____ | _____ |
| 4. | Reconveyance and similar fees                      | _____ | _____ |
|    | Other: (Including pay off of existing liens)       |       |       |
| 5. | _____  | _____ | _____ |
| 6. | _____  | _____ | _____ |
| 7. | _____  | _____ | _____ |
|    | TOTAL to be paid on<br>borrower's behalf . . . . . | ===== | ===== |

The undersigned hereby certifies that neither he nor his employing broker will directly or indirectly be the lender for this loan

**Memorandum**

NOV 19 1971

: Jerry Thomas

Date: November 18, 1971

From : John E. Hempel

Regulation Hearing - December 2

Since you are coordinating the accumulation of suggests concerning changes to the proposed regulations at the December 2 hearing, the following are to be added to your "packet:"

1. A proposed addition to the revised Section 2795.1 to make clear that the receipt for the public report regulation is based on the requirements of Section 11018.1 (to guard against confusion due to the exemption granted via A.B. 1300). We believe this can be done by adding only a few words at the end of the preamble.
2. We have received a suggestion from Lumbleau Schools for a revision of the Mortgage Loan Broker Statement, and those suggestions which we feel the Commissioner should adopt have been incorporated into the revised pages 55 and 56 attached. They merely attempt to add flexibility to the blanks to be inserted concerning the payments to be made and clarification of the details of costs, expenses and liens material on page 56.
3. Also, attached is a revised proposed new Section 3000 which adds two things to that previously circulated: Makes reference to the procedures in connection with qualifying correspondence courses and spells out a number of types of advertising which would be considered misleading or deceptive.

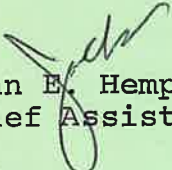
Although the changes to Section 3000 are substantial, I believe they are germane to the basic regulation "call," and if we have a meeting with the Commissioner on November 29 to consider our plans for the December 2 hearing, I believe we should decide at that time whether or not it would be wise to take 100 copies of the new regulation #3000 (and the revised pages 55 and 56 relating to the Mortgage Loan Broker Statement, for that matter) to the hearing. If not, we should decide how we

Jerry Thomas

-2-

November 18, 1971

would intend to handle this with dispatch and clarity  
at the hearing, itself.

  
John E. Hempel  
Chief Assistant Commissioner

JEH:mb

cc: Commissioner Karpe  
G. E. Harrington

Enc.

CAUTION TO BORROWER: Be sure you state all liens accurately.

If you decide to contract with the  
broker to negotiate this loan for you and if it turns out that  
the loan cannot be made because you did not state these liens  
correctly, you are liable for payment of various fees and  
expenses. (See § 10243 of the Business and Professions Code)  
Interest shall be charged at \_\_\_\_% per annum. The note will  
be payable at \$\_\_\_\_\_ / including interest / plus interest  
per\_\_\_\_\_ for \_\_\_\_\_ at which time the balance of  
approximately \$\_\_\_\_\_ will still be owing. If you wish to pay  
the balance owing at any time before maturity of the note,  
you will have to pay an additional amount (prepayment penalty)  
computed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
If you employ the undersigned broker to obtain this loan, it  
is estimated that you will be required to pay:

1. Various costs and expenses

(See schedule below) . . . . . \$ \_\_\_\_\_

2. Commission and/or other compensation

(5% to 15% of the principal sum  
depending upon the length of the  
loan) . . . . . \$ \_\_\_\_\_

These fees and payments to the broker when deducted from the  
total amount of the loan leave for you or your order approximately:

. . . . . \$ \_\_\_\_\_

Liens and other obligations to be paid from escrow for your  
account (See schedule below) . . . . . \$ \_\_\_\_\_

You should then receive in cash approximately \$ \_\_\_\_\_

PROPOSED CHANGES TO THE FOLLOWING SECTIONS OF THE  
TENTATIVE REGULATIONS

---

3000. (a) Courses must have at least 45 clock hours of instruction or, in the case of a correspondence course, at least 15 separate lesson assignments.

(f) The school maintains adequate records to show attendance, progress and grades, and for correspondence courses date lessons were mailed, date lessons were returned for correction and date lessons were corrected.

(g) The school utilizes advertising which is not deceptive or misleading.

The use of any advertising, radio broadcasts or telecasts which contain any of the following will be held by the Commissioner to be deceptive or misleading:

- (1) Reference to a course or courses being approved by the Commissioner as being equivalent to college courses unless the course or courses have been approved for credit by an institution of higher learning, or unless it is clearly stated that the course or courses are equivalent only for the purpose of qualifying for the real estate broker examination.
- (2) Guarantees qualifying a student for the real estate broker examination unless the guarantee, including all of the conditions, are specified in the advertisement.
- (3) Advertising or using the word "approved" or "accredited" with respect to itself or the course or courses offered unless fully explained.

Proposed changes (continued)

(4) When all branches of a school have not had courses approved, advertising or indicating in any promotional material that a course or courses of study are approved by the Real Estate Commissioner without including in all such advertising or promotional material location where the training or instruction is given.

(5) Solicitation of students for enrollment by causing any advertisement to be published in "Help Wanted" columns in a magazine, newspaper or publication or the use of "blind" advertising which fails to identify the advertiser as a private vocational school or operator of a supervised course of study.

(6) Reference to real estate courses approved by the Commissioner unless the advertising copy identifies the specific course or courses that are approved.

Nothing contained herein shall limit the Commissioner from a finding of deceptive or misleading advertising of a type not specifically described herein.

**Memorandum**

To : John E. Hempel


Date: 11 November 1971

cc: W. J. Thomas ✓

From : G. E. Harrington

Regulation Hearing

We have amended 2795.1, the receipt for public reports section, to include undivided interests. We probably should also amend it to refer specifically to a receipt required when the public report is given in compliance with § 11018.1. The reason for this is under the McCarthy bill, AB 1300, § 11027 has a provision that no receipt shall be required for copy of a public report issued pursuant to this section. The way 2795.1 reads, even as we have amended it in the proposed regulations, requires receipt to be taken from prospective purchasers for a copy of the public report, which must be given to prospective purchasers. Since the report must be given to prospective purchasers under the provisions of § 11027 in the McCarthy bill but it specifically states they do not have to have a receipt, I think we should clarify our regulation in this regard.

  
G. E. Harrington

GEH:lr

Henry H. Block

19 November 1971

Jerry Thomas

Proposed Regulation Changes

I have your memorandum of November 17. Sorry for the mix up.

I have asked San Francisco to mail you at least a dozen copies of the Proposed Changes in the Regulations.

In addition we are shipping the following from Sacramento:

1. 20 copies of the "To Whom It May Concern" letter of November 10.
2. 20 copies of the Proposed Changes in the Regulations.
3. 6 copies of the Comments.

I am only sending 20 additional copies of the "To Whom It May Concern" letter since we will not need this letter for the 40 packages of the changes that are to be held for the Regulation Hearing on December 2nd.

Jerry Thomas

JT/pk

Henry H.

350 Proposed

Regs ordered

LA SAC W.D.

SF

SD

Jerry Tho

mes.

11 November 1971

Proposed Regulation Changes

We are shipping you 80 copies of the proposed regulation changes by UPS. These are for distribution to employees of the Department and for persons in the Southern Regulatory Area who ask for copies of the regulation changes between now and the hearing on December 2.

Please hold at least 40 of these copies for distribution at the time of the hearing. If it looks like you will not have at least 40 copies for the hearing, please let me know as early as possible.

Jerry Thomas

JT/pk

Henry H. Block

11 November 1971

Jerry Thomas

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Jerry Thomas

JT/pk

14 P Street  
Sacramento, CA. 95814

9  
November  
1971

Assembly Rules Committee  
State Capitol  
Sacramento, California 95814

Gentlemen:

Enclosed are Notices of Proposed Changes in the Regulations  
of the Real Estate Commissioner.

The hearing on the regulations is scheduled for December 2,  
1971, at 1:30 p.m., in Room 1138, State Building, 107 South  
Broadway, Los Angeles, California.

Sincerely,

W. Jerome Thomas  
Chief Legal Officer

WJT/pk

14 P Street  
Sacramento, CA. 95814

9  
November  
1971

Senate Rules Committee  
State Capitol  
Sacramento, California 95814

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Sincerely,

W. Jerome Thomas  
Chief Legal Officer

WJT/pk

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

714 P Street  
Sacramento, CA. 95814




9  
November  
1971

TO: MEMBERS OF THE STATE REAL ESTATE COMMISSION  
FROM: W. Jerome Thomas

This is to notify you that the Commissioner intends to adopt and amend regulations relating to his jurisdiction under Title 10 of the California Administrative Code.

Pursuant to Section 10080 of the Business and Professions Code, we are enclosing the following:

- (1) Notice of proposed changes with the date, place and time for hearing set forth.
- (2) Complete text of the proposed changes.
- (3) Brief comment on the text of each of the changes.

  
W. Jerome Thomas  
Chief Legal Officer

WJT/pk

CERTIFICATION OF SERVICE BY MAIL

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SACRAMENTO )

I am and was, at all times herein mentioned, a citizen of the United States, over the age of 18 years, and I am an employee of the Department of Real Estate, employed in the County of Sacramento, State of California. On the 9 day of November, 1971, I served copies of the Notice of Proposed Changes in the Regulations of the Real Estate Commissioner, to be published in the Sacramento Daily Recorder, as follows:

Adding Sections 2716, 2726, 2792.12, 2819.9 and 3000 through 3004; amending 2705, 2725, 2790, 2790.1, 2790.7, 2790.8, 2792.6, 2792.8, 2792.9, 2792.11, 2792.13, 2795, 2795.1, 2801, 2801.5, 2807, 2813, 2814, 2814.3, 2814.5, 2817, 2819, 2819.5, 2819.6, 2819.7, 2819.96 and 2840; repealing 2791, 2792.1, 2792.2, 2792.12, 2819.9 and 2819.95, and 2792.7,

upon each member of the State Real Estate Commission by depositing a true copy of the Notice of Proposed Changes and the full text of the proposed changes in a sealed envelope in the United States Mail on said day, at Sacramento, California, with the postage thereon fully prepaid and addressed to the said members as follows:

|   |   |
|---|---|
| Robert W. Karpe, Chairman<br>State Real Estate Commission<br>714 "P" Street<br>Sacramento, California 95814 | Harlan S. Geldermann<br>Geldermann Realtors<br>600 San Ramon Valley Blvd.<br>Danville, California |
| William P. Beacham<br>2224 S. Spaulding Avenue<br>Los Angeles, California 90016                             | Art S. Leitch<br>2876 El Cajon Blvd.<br>San Diego, California                                     |

1 John Cotton  
2 233 A Street  
3 San Diego, California 92101

Frank MacBride, Jr.  
2101 Capitol Avenue  
Sacramento, California

3 Laurance Wilson  
4 Hughson & Swett  
5 2348 Ventura  
6 Fresno, California 93721

Grant B. Potter  
President & General Manager  
Sequoia Forest Industries, Inc.  
Box 305  
Dinuba, California 93618

7 Phil Saenz  
8 Director  
9 Job Opportunities in Electronics, Inc.  
10 539 Highland Avenue  
11 National City, California 92050

12 There is delivery service by United States Mail  
13 at the place so addressed or there is a regular communi-  
14 cation by United States Mail between the place of mailing  
15 and place as addressed.

16 I certify under penalty of perjury that the  
17 foregoing is true and correct.

18 Executed at Sacramento, California, this 9  
19 day of November 1971.

20   
21 MARGARET F. KERSHELL

22  
23  
24  
25  
26  
27