

Real Estate

BULLETIN

CALIFORNIA DEPARTMENT OF REAL ESTATE

Meet DRE's New
Commissioner

Licensee Exam
Development Process

Summary of New Real
Estate Laws



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FROM THE DESK OF THE COMMISSIONER

Greetings from Sacramento.

I am honored to be writing this message as the 25th Commissioner of the California Department of Real Estate (DRE).

Many of you may know me from my previous role at DRE, the Assistant Commissioner of Enforcement. During my time in Enforcement, I investigated many cases and interviewed many licensees as part of the Enforcement Division’s role in DRE’s disciplinary process. As I had often joked in speaking engagements, I was the person no one wanted to talk to - or so I assumed. Soon, I learned many of you actually wanted to talk to me. You wanted to discuss acts you witnessed in the industry, offer feedback on ways DRE could better regulate the industry, and ask my input on ways you could help improve the profession.

In my role as Real Estate Commissioner, I will continue to lead those conversations to ensure we are meeting our mission of protecting the public in real estate matters.

As prior Commissioner McCauley referenced in his farewell message in the Fall Real Estate Bulletin, my role is also to lead DRE through any and all challenges we face and finding opportunities in the midst to help us better serve the public as it relates to real estate. I see challenges as opportunities to showcase the expertise, commitment, and extraordinary work ethic of DRE staff.

I am proud to work alongside the DRE team, who exemplify our workplace values of excellence, knowledge, communication, caring, and professionalism. They are committed to DRE’s mission of consumer protection.

So, the next time you see me, please introduce yourself and share with me ways you’d love to help improve the industry and profession. However, be prepared, I may bend your ear on some of the amazing work of DRE staff!



DRE COMMISSIONER



TABLE OF CONTENTS



02
**FROM THE DESK OF
THE COMMISSIONER**

Meet DRE's newest leader, serving as the department's 25th Commissioner.

04
**ARE YOU IN
COMPLIANCE?**

Gain insight into broker-controlled escrows, prohibited acts, and other requirements.

07
**DRE EXAM
REFRESH PROCESS**

Multi-year effort underway to ensure exams are current.

09
**SUMMARY OF NEW
LAWS**

Learn all about new real estate laws in effect.

13
**WHO LOVES
TRIVIA?**

Gain knowledge around California real estate history.

15
**CALHFA DREAM FOR
ALL VOUCHER DRAWING**

Quick tips on renewing your DRE license.

Are You in Compliance?

A LOOK AT BROKER-CONTROLLED ESCROWS

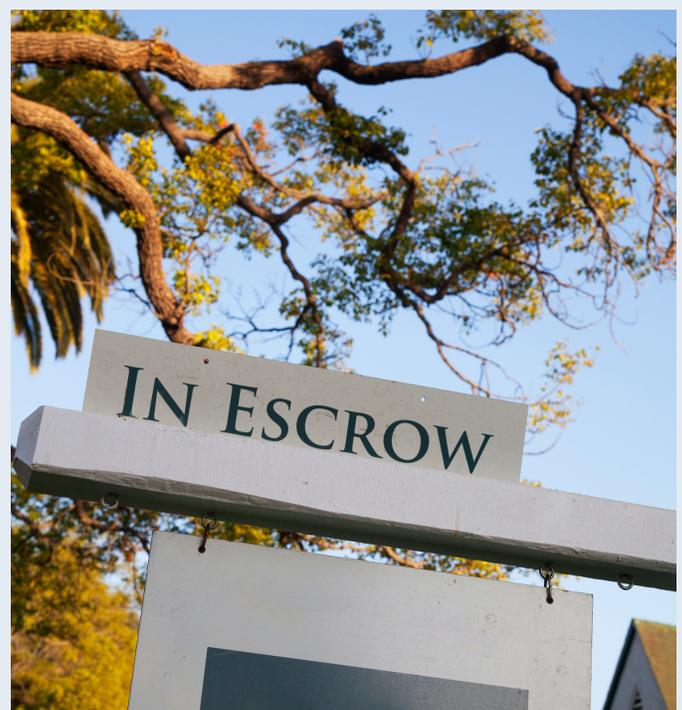
The Department of Real Estate's (DRE) Audit section is charged with examining the real estate business activities of real estate brokers and subdividers. One specific type of audit performed by DRE is the examination of broker-controlled escrows. This article discusses the scope of the real estate broker's exemption listed under California Financial Code (FC) Section 17006 (a)(4) and (b), from escrow agent licensing requirements, prohibited acts, and trust fund handling requirements.

Scope

When a real estate broker acts in the capacity of an escrow holder to provide broker-controlled escrow services under the exemption of FC Section 17006 (a) (4), the broker is subject to all the provisions of the Real Estate Law and the Commissioner's Regulations. The exemption from licensure as an escrow company applies to "(a)(4) any broker licensed by the Real Estate Commissioner while performing acts in the course of or incidental to a real estate transaction in which the broker is an agent or a party to the transaction and in which the broker is performing an act for which a real estate license is required." For example, if a real estate broker is acting as an agent on behalf of a buyer or seller in a real estate transaction, the broker may perform the escrow function for that transaction.

If the real estate broker is acting solely as a party (i.e. principal) to the transaction, and not acting on behalf of him or herself or any other party, the broker is not allowed to perform the escrow function under the FC exemption.

In addition, a licensee performing broker-controlled escrow services who has been issued a DRE license must comply with Commissioner's Regulation 2731(d), "A license may not be issued or renewed with a fictitious business name containing the term "escrow", or any name which implies that escrow services are provided, unless the fictitious business name includes the term, "a non-independent broker escrow" following the name."



DRE Feature | A Look at Broker-Controlled Escrows

Prohibited Acts

A real estate broker performing broker-controlled escrows must comply with FC section 17006 (b), which requires that the exemptions provided for in paragraphs (2) and (4) of subdivision FC section 17006 (a) are personal to the persons listed, and those persons shall not delegate any duties other than duties performed under the direct supervision of those persons. In addition, the exemptions provided for in paragraphs (2) and (4) of subdivision FC 17006 (a) are not available for any arrangement entered into for the purpose of performing escrows for more than one business.

One misconception encountered in numerous audits reflected that individual broker licensees (REB) were performing escrow activities for their corporation's (or vice versa) sales or loan transactions, thinking that they are the same entity. These types of transactions do not fall under the exemptions of FC Section 17006(a)(4). Remember, there are two (2) separate licensed entities. An REB can only perform escrow for the loans and sales of the REB's transactions. The corporation can only perform escrows in connection with the corporation's loans and sales transactions.

Trust Fund Handling Requirements

DRE's Audit section has encountered many broker escrow operations with inadequate record keeping, mishandling of escrow trust funds, commingling of trust funds with broker's funds, inadequate trust fund bank account designation, broker supervision,

trust fund withdrawals by unlicensed employees without fidelity bond coverage, and receiving secret profit/undisclosed compensation. In addition, there have been many situations in which a real estate broker has failed to properly handle an escrow and has not disclosed all the required information on written escrow instructions as required pursuant to subdivisions (a) to (j) of Commissioner's Regulations (Regulations) 2950.

In many cases, the audit reveals a trust fund shortage in the escrow trust account. Many of the shortages are due to withdrawing or paying escrow funds without written authorization from the party or parties paying money into the escrow, through means such as overdrawn escrow balances, unauthorized disbursements/conversion of trust funds for personal use by the broker or by the employees of the broker, and bank service charges.



DRE Feature | A Look at Broker-Controlled Escrows

A licensed real estate broker shall also retain for three years all real estate records and documents in connection with any transaction for which a real estate license is required. After notice, the books, accounts, and records shall be made available for examination pursuant to Business and Professions Code (BPC) Section 10148. When a broker handles escrows, he or she is required to “maintain the office, place of books, records, accounts, safes, files, and papers relating to such escrows freely accessible and available for audit, inspection, and examination by the commissioner” {Regulation 2950 (e)}.

When handling broker-controlled escrows, a real estate broker is required to handle escrow trust funds, maintain trust fund bank accounts, and keep trust fund records in accordance with the requirements of BPC Section 10145 and Regulations 2830, 2830.1, 2831, 2831.1, 2831.2, 2832, 2832.1, 2834, 2835, and 2951. (See “Trust Funds” (“A Guide for Real Estate Brokers and Salespersons”/ “RE 13”), www.DRE.ca.gov/Licensees/BusinessResources.html) 🏠



WORKING TOGETHER

DRE KICKS OFF MULTI-YEAR EFFORT TO REFRESH REAL ESTATE LICENSING EXAMS

Every five to seven years, the California Department of Real Estate (DRE) embarks on a multi-year effort to update the state's real estate salesperson and broker exams to ensure they accurately reflect current industry practices and continue to be legally defensible.

DRE began this process, also known as the Exam Development Process (EDP), in June 2023.

Salespersons and brokers from up and down California, along with DRE Exam Administration and Development staff, and a third-party test developer, began working together to assess and identify evolving real estate job standards, exam specifications, and, put simply, the level of knowledge needed to be a responsible real estate salesperson or broker who can effectively support consumers throughout the homebuying process.

From start to finish, the EDP consists of four phases and is expected to take approximately two years to complete.

- Phase 1: Occupational Analysis
- Phase 2: Item Review
- Phase 3: Gap Analysis and Item Writing
- Phase 4: Implementation of New Exams



The first phase of the process began in the summer of 2023 and consisted of nearly 30 subject-matter experts from across the real estate industry gathering in Sacramento to develop a job analysis survey. Many of the in-the-field experts participating in the EDP are active members of various professional real estate organizations, including the Multicultural Real Estate Alliance for Urban Change, the Association of Black Real Estate Professionals, and the Asian Real Estate Association of America.



The group reviewed and updated essential tasks and knowledge required to perform the duties of a licensed real estate professional in the state of California. The information gathered was also used to prepare a large-scale survey sent out to California real estate licensees this past September.

In December 2023, DRE and its third-party test developer conducted a job analysis and exam specification meeting in Sacramento. Approximately 20 subject matter experts from the real estate industry again gathered in Sacramento to review the results of the job analysis survey and to use those findings as the basis to update the test specifications for California’s Real Estate Broker and Salesperson examinations.

The EDP is expected to wrap up by December 2024.

DRE is committed to ensuring that subject matter experts participating in each phase of the EDP represent different parts of the real estate industry and the diverse regions of our state to ensure future real estate exams reflect our state’s diverse marketplace. 🏠



If you’re a licensee who is interested in sharing your expertise by participating in the exam development process, please contact DRE’s Exam Administration and Development team at: ExamAdmin_DevUnit@dre.ca.gov.



SUMMARY OF NEW REAL ESTATE LAWS

Below are summaries of new state laws that affect real estate licensees and applicants. Unless otherwise noted, the laws became effective on January 1, 2024.

- Beginning July 1, 2024, Assembly Bill (AB) 12 limits the amount landlords can charge a tenant for a rental housing security deposit to one month's rent for either a furnished or unfurnished unit. Exempted from this limitation are landlords who 1) are a natural person or limited liability company in which all members are natural persons, and 2) who own no more than two residential rental properties that collectively include no more than four dwelling units. Such landlords will be allowed to charge deposits of two months' rent, provided that the tenant is not a service member.
- AB 225 requires, as existing resources permit or as private resources are made available, that the next update of the Homeowners' Guide to Environmental Hazards booklet include information regarding wildfires, climate change, and sea level rise. The bill requires the Department of Toxic Substances Control to seek the advice and assistance of the departments in the Natural Resources Agency in updating the booklet.
- AB 572 prohibits homeowners associations that are originally formed on or after January 1, 2025, from imposing a regular assessment against an owner of a deed-restricted affordable housing unit that is more than a five percent

DRE Feature | Summary of New Laws

increase from the current regular assessment, plus the percentage change in the cost of living, but not exceeding ten percent. These provisions do not apply to a development 1) with 20 or fewer units or 2) where the percentage of deed-restricted affordable units exceeds that required by a local inclusionary ordinance. This bill also does not apply to a development built in an area without an inclusionary ordinance if either 1) the percentage of units that are deed-restricted affordable housing exceeds 10 percent or 2) for projects approved via AB 2011 (Wicks, Chapter 647, Statutes of 2022) low-income streamlining, the percentage of units that are deed-restricted affordable housing exceeds 15 percent of the units in the development.

- [AB 648](#) authorizes a homeowners association to hold both board or member meetings entirely by teleconference without any physical location, if certain conditions are met. A teleconference includes meetings held via electronic connection, through audio or video means. Meetings where ballots are to be counted for the purposes of elections will still require a physical location.
- [AB 968](#) requires the seller of a single-family residential property to disclose work done on the property, if the seller obtained title of the property within the previous 18 months. Specifically, the law requires the seller to provide information regarding all room additions, structural modifications, alterations, or repairs made to the property since obtaining title if they were performed by a contractor. Only contracts totaling \$500 or more are required to be reported. The name of each contractor with whom the seller entered into a contract for the work and copies of permits must also be disclosed. This disclosure requirement applies on or after July 1, 2024.
- [AB 1280](#) revises the Natural Hazard Disclosure Statement that a seller of single-family residential property is required to provide a buyer. It now requires the statement to include whether the property is located within a high fire hazard severity zone, whereas previous law only required the disclosure of a very high fire hazard severity zone. Additionally, the statement must indicate whether the property is located in a state responsibility area or a local responsibility area. Responsibility areas indicate who must provide fire protection.
- [AB 1345](#) makes it unlawful for an exclusive listing agreement for the sale of a single-family residential property to last longer than 24 months and for renewals to last longer than 12 months. For purposes of this measure, exclusive listing agreement also includes any agreement to enter into a future one. In addition, the new law makes it unlawful to present an

DRE Feature | Summary of New Laws

exclusive listing agreement for recording with a county recorder. Exclusive listing agreements lasting longer than 24 months are void and unenforceable and recordings of any exclusive listing agreement are void and enforceable. A violation of this new law will be considered a violation of a person's licensing law, thereby authorizing the Department of Real Estate to take action against a real estate licensee's professional license.

- [AB 1418](#) prohibits local governments from enacting nuisance ordinances and crime-free housing programs that impose penalties against tenants and landlords solely for contact with a law enforcement agency. Also, local governments will not be allowed to require or encourage landlords to perform criminal background checks on tenants or applicants. This bill outlines how the measure may be enforced including a cease and desist court order, nullification of the ordinance by a court, and injunctive relief, among other remedies.
- [AB 1458](#), if there is a lack of quorum at a meeting to count ballots for a homeowner's association board of director's election, allows the board to call a subsequent meeting at which the quorum required to elect directors will only be 20 percent of the association's members voting in person, by proxy, or by secret ballot.
- For multifamily housing, [AB 1620](#) amends the Costa-Hawkins Rent Control Act (Costa-Hawkins). It authorizes a local ordinance for rent-controlled units to allow a tenant with a mobility-related disability to move to an accessible floor when a comparable unit becomes available, and to keep the same rent as the existing lease.
- [Senate Bill \(SB\) 143](#) requires the Department of Real Estate (DRE) to create a registration system that conforms with federal law permitting military servicemembers and their spouses who are in California on military orders to practice with a license from another state, territory, or district, if they meet certain requirements. These requirements include: (a) having actively used their license during the two years immediately preceding the relocation required by the military orders; (b) providing DRE with a copy of the military orders showing the relocation to California; (c) remaining in good standing with the licensing authority of each state, district or territory that issued a license; and (d) submitting to DRE's authority for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.

DRE Feature | Summary of New Laws

- [SB 267](#) prohibits housing providers, in instances where a prospective tenant has a government rent subsidy, from requiring an applicant's credit history as part of the rental application if the provider does not also allow applicants to submit lawful, verifiable alternative evidence of a reasonable ability to pay the portion of rent for which the tenant will be responsible. If the applicant with a government rent subsidy elects to provide such alternative evidence, the bill requires the housing provider to 1) provide the applicant reasonable time to respond with the alternative evidence and 2) consider that evidence in lieu of credit history. Violations of these provisions are a violation of the Fair Employment and Housing Act (FEHA).
- [SB 455](#) requires a mortgage servicer, when transferring a mortgage to another servicer, to transmit to this new mortgage servicer any written records regarding the borrower's decision to use insurance proceeds to repair or replace property damaged during a proclaimed state or local emergency. This applies to residential properties with up to four dwelling units or mobile homes. The bill also requires the new servicer to honor a previous written agreement to repair the property if approved by the prior servicer, borrower, and owner of the promissory note.
- Beginning April 1, 2024, [SB 567](#) revises the no-fault just cause eviction provisions of the Tenant Protection Act of 2019 and provides additional enforcement mechanisms for all provisions of the Act, including for violations of restrictions on residential rent increases and no-fault just cause evictions. New enforcement mechanisms include injunctive relief, reasonable attorney's fees, damages, the possibility of triple damages and punitive damages, as well as legal enforcement by the Attorney General and a city attorney or county counsel.
- [SB 712](#) prohibits a landlord from disallowing a tenant from owning personal micromobility devices, or from storing and recharging up to one device per person in the dwelling unit. Examples of these devices include electric bicycles and electric scooters, among others. The bill also allows a landlord to alternatively provide secure, long-term storage for tenants' devices, and maintain any prohibitions on tenants storing devices in their dwelling units.
- [SB 887](#), among other provisions, allows the Department of Real Estate to accept applications to the Consumer Recovery Account electronically, in a manner prescribed by the department. 

WHO LOVES TRIVIA?



1 WHAT IS THE OLDEST KNOWN SUBDIVISION PUBLIC REPORT ON RECORD?

- A. 1949
- B. 1959
- C. 1969
- D. 1979

2 WHAT WAS THE ANNUAL SALARY OF THE FIRST REAL ESTATE COMMISSIONER, FREEMAN HENRY BLOODGOOD, IN 1917?

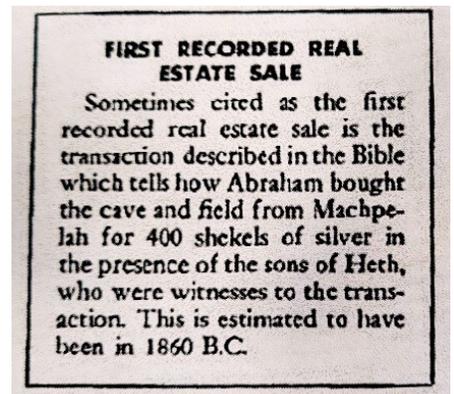
- A. \$5,000
- B. \$10,000
- C. \$20,000
- D. \$35,000

3 WHAT YEAR WAS THE FIRST REAL ESTATE SALESPERSON LICENSE ISSUED TO A WOMAN?

- A. 1917
- B. 1937
- C. 1957
- D. 1977

4 WHAT YEAR WAS THIS CLIP TITLED, "FIRST RECORDED REAL ESTATE SALE" PUBLISHED IN THE PUBLIC DRE REAL ESTATE BULLETIN?

- A. 1949
- B. 1959
- C. 1969
- D. 1979



ANSWERS:

- 1) B. The Subdivision inspection public report was issued for the sale of about 7,640 acres of land in Perris Valley, CA by the fifth Real Estate Commissioner Stephen R. Barnson out of the Los Angeles office.
- 2) A. The first four Real Estate Commissioners each earned an annual salary of \$5,000. The first Commissioner to earn over \$20,000 was the 14th Commissioner Burton Emerich Smith, Sr. (\$22,500 in 1967).
- 3) A. The first real estate salesperson license issued to a women was to Lucille T. Allan of Los Angeles on August 8, 1917. Lucille was employed by broker Adelia Hickman, who, according to one source, "was the first female real estate agent in Los Angeles when she opened her office in 1902."
- 4) B. The report was published in the September - October DRE Real Estate Bulletin in 1959.

CALHFA TO BEGIN ACCEPTING REGISTRATIONS ON APRIL 4 FOR ITS DREAM FOR ALL VOUCHER DRAWING

The California Housing Finance Agency has been helping first-time homebuyers achieve the dream of homeownership for more than 45 years through its down payment and closing cost assistance programs, such as MyHome.

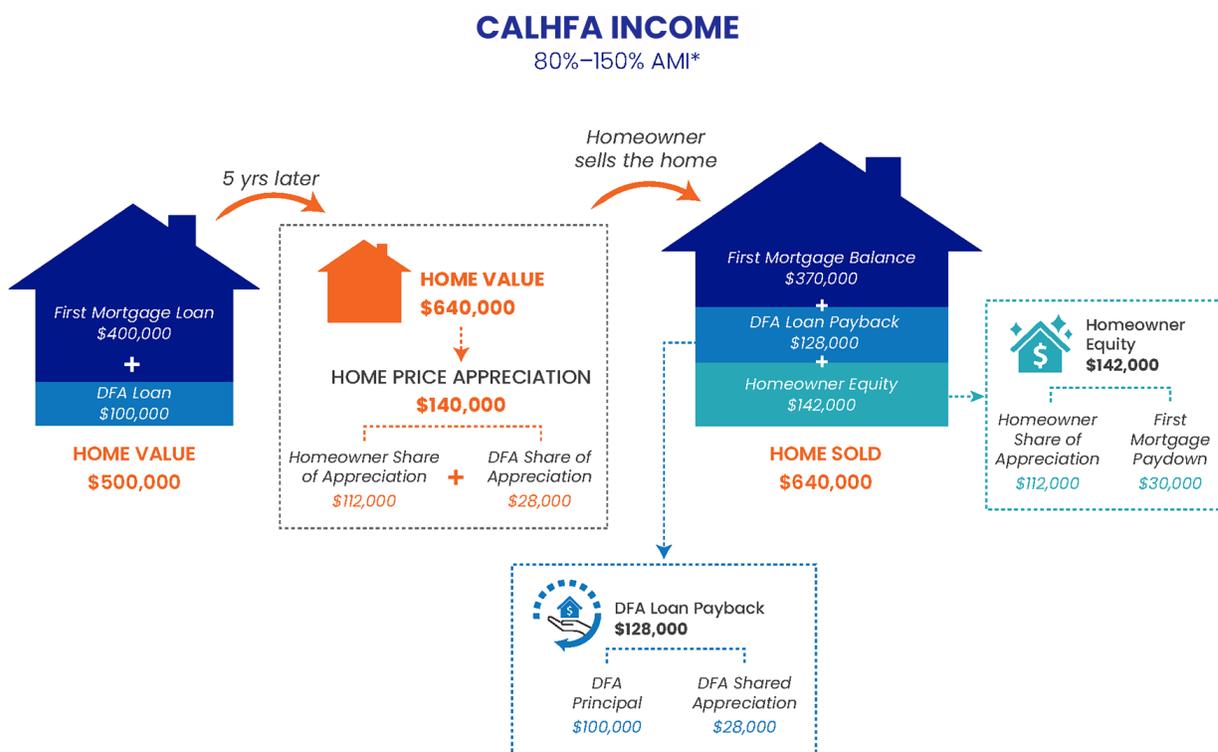
To supplement the MyHome Program, CalHFA this spring is launching the second round of its California Dream For All Shared Appreciation Loan program. This innovative loan program offers eligible borrowers a loan of up to 20% of the purchase price for down payment or closing costs, up to a maximum of \$150,000.

In 2023, the first round of Dream For All helped more than 2,100 Californians with more than \$245 million in down payment assistance. This year, CalHFA is making more than \$250 million available.

The full program guidelines can be found at www.calhfa.ca.gov/dream and key elements include:

- One borrower on the loan must be a first-generation homebuyer, by a definition that can be found on the CalHFA website.
- All borrowers on the loan must be first-time homebuyers.
- Income must meet CalHFA income limits.
- At least one borrower must take an 8-hour Homebuyer Education course and CalHFA’s free 1-hour Shared Appreciation course. It would be beneficial for the borrower to take the Shared Appreciation course as soon as possible to determine if this type of loan is right for them.

It should be noted that this is a shared appreciation loan, which means that upon sale or transfer of the home, the homebuyer repays the original down payment loan, plus a share of the appreciation in the value of the home. Those funds recycle to help future homebuyers purchase their first home. 🏠



* CalHFA income borrowers are those borrowers earning between 80% Area Median Income (per the Fannie Mae Area Median Income Lookup Tool) and 150% Area Median Income (based on CalHFA’s income limits).

DRE Mission

To safeguard and promote the public interests in real estate matters through licensure, regulation, education and enforcement.