

AMENDED IN ASSEMBLY APRIL 1, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 447

Introduced by Assembly Member Kuykendall

February 24, 1997

An act to amend Sections 10148, 10170.4, ~~and 10170.5~~ of 10170.5, 10226, 10236.2, and 10250.3 of, to amend and repeal Sections 10208.5, 10210, 10213.5, 10213.6, 10215, 10222, and 11011 of, and to add Section 10226.5 to, the Business and Professions Code, to amend Section 1920 of, and to repeal Sections 1918 and 1919 of, the Civil Code, ~~and~~ to repeal Sections 35815 and 35816 of the Health and Safety Code, and to repeal Section 28 of Chapter 416 of the Statutes of 1993, relating to real estate.

LEGISLATIVE COUNSEL'S DIGEST

AB 447, as amended, Kuykendall. Real estate.

(1) Existing law authorizes the Real Estate Commissioner to charge a real estate broker for the cost of an audit, as specified.

This bill would provide that if a broker fails to pay for the cost of an audit within 60 days of mailing a notice of billing, the commissioner may suspend the broker's license or deny renewal of the license. The suspension of denial would remain in effect until the cost is paid or the broker's right to renew has expired.

(2) Existing law requires the commissioner to adopt regulations as to an appropriate form of testing, examination

or evaluation by the sponsor of certain approved educational programs.

This bill would provide that the regulations pertain to correspondence or homestudy educational programs. The bill would also revise certain continuing education requirements for applicants for the renewal of a real estate license, as specified.

(3) Existing law authorizes the Secretary of the Business, Transportation and Housing Agency to adopt regulations to permit lenders, upon the security of residential real property, to make loans and advance credit thereon, and requires the secretary to make a specified report to the Legislature.

This bill would repeal these provisions and would make a related change.

(4) *Existing law provides for certain fee amounts related to real estate license, examination, and subdivision application fees. Section 28 of Chapter 416 of the Statutes of 1993, provides that these fee provisions will be repealed or operative, as specified, if at any time during specified fiscal years funds are transferred from the Real Estate Fund to the General Fund. Existing law also requires the commissioner to issue regulations to reduce these fees during those fiscal years if as of June 30 the balance of the funds in the Real Estate Fund exceeds an amount equal to 50% of the authorized budget for the following fiscal year of the Department of Real Estate.*

This bill would repeal certain of the fee provisions that provide for lower fee amounts. The bill would also provide that at any time funds are transferred from the Real Estate Fund to the General Fund by the Budget Act, specified real estate license, examination, and subdivision application fees shall be reduced to a specified maximum amount.

(5) Existing law requires the secretary to monitor and investigate lending patterns and practices of financial institutions for compliance with specified provisions of law relating to financial discrimination, and to adopt regulations applicable to certain persons who are in the business of originating residential mortgage loans.

This bill would repeal these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

1 SECTION 1. Section 10148 of the Business and
2 Professions Code is amended to read:

3 10148. (a) A licensed real estate broker shall retain
4 for three years copies of all listings, deposit receipts,
5 canceled checks, trust records, and other documents
6 executed by him or her or obtained by him or her in
7 connection with any transactions for which a real estate
8 broker license is required. The retention period shall run
9 from the date of the closing of the transaction or from the
10 date of the listing if the transaction is not consummated.
11 After notice, the books, accounts, and records shall be
12 made available for examination, inspection, and copying
13 by the commissioner or his or her designated
14 representative during regular business hours; and shall,
15 upon the appearance of sufficient cause, be subject to
16 audit without further notice, except that the audit shall
17 not be harassing in nature.

18 (b) The commissioner shall charge a real estate broker
19 for the cost of an audit, if prior to the audit the
20 commissioner has found, in a final desist and refrain order
21 issued under Section 10086 or in a final decision following
22 a disciplinary hearing held in accordance with Chapter 5
23 (commencing with Section 11500) of Part 1 of Division 3
24 of Title 2 of the Government Code that the broker has
25 violated Section 10145 or a regulation or rule of the
26 commissioner interpreting Section 10145.

27 (c) If a broker fails to pay for the cost of an audit as
28 described in ~~-(b)-above~~ *subdivision (b)* within 60 days of
29 mailing a notice of billing, the commissioner may suspend
30 *or revoke* the broker's license or deny renewal of the
31 broker's license. The suspension or denial shall remain in
32 effect until the cost is paid or until the broker's right to
33 renew a license has expired.

34 The commissioner may maintain an action for the
35 recovery of the cost in any court of competent
36 jurisdiction. In determining the cost incurred by the
37 commissioner for an audit, the commissioner may use the



1 estimated average hourly cost for all persons performing
2 audits of real estate brokers.

3 SEC. 2. Section 10170.4 of the Business and
4 Professions Code is amended to read:

5 10170.4. The commissioner shall adopt regulations
6 pursuant to Section 10080, to prescribe all of the
7 following:

8 (a) A definition of basic requirements for continuing
9 education of 45 clock hours of attendance at approved
10 educational courses, seminars, workshops, or
11 conferences, or their equivalent, achieved during a
12 four-year period preceding license renewal application.

13 (b) A basis and method of qualifying educational
14 programs, the successful completion of which, will satisfy
15 the requirements of this article.

16 (c) A procedure for evaluation of petitions based on a
17 claim of equivalency with the requirements of
18 subdivision (a), and a reasonable standard by which an
19 activity would be judged equivalent, including, but not
20 limited to, instruction in real estate subjects, publication
21 of professional articles or books, or development of real
22 estate educational programs, law or research.

23 (d) A system of control and reporting qualifying
24 attendance.

25 (e) An appropriate form of testing, examination or
26 evaluation by the sponsor of each approved
27 correspondence or homestudy educational program, or
28 equivalent, of the student.

29 (f) A statement of the conditions of exemption from
30 the continuing education requirements established
31 under this article, as well as a method of applying and
32 qualifying for these exemptions, for reasons of health,
33 military service, or other compelling cause.

34 In exercising the authority under this article, the
35 commissioner shall establish standards which will assure
36 reasonable currency of knowledge as a basis for a level of
37 real estate practice which will provide a high level of
38 consumer protection and of competence in achieving the
39 objectives of members of the public who engage the
40 services of licensees. The standards shall permit a variety



1 of alternatives of subject material to licensees taking
2 cognizance of specialized areas of practice, and
3 alternatives in sources of programs considering
4 availability in area and time. The standards shall include,
5 where qualified, generally accredited educational
6 institutions, private vocational schools, correspondence
7 institutions, educational programs, workshops, and
8 seminars of professional societies and organizations, other
9 organized educational programs on technical subjects, or
10 equivalent offerings.

11 SEC. 3. Section 10170.5 of the Business and
12 Professions Code is amended to read:

13 10170.5. (a) Except as otherwise provided in Sections
14 10153.4 and 10170.8, no real estate license shall be
15 renewed unless the commissioner finds that the applicant
16 for license renewal has, during the four-year period
17 preceding the renewal application, successfully
18 completed the 45 clock hours of education provided for
19 in Section 10170.4, including all of the following:

20 (1) A three-hour course in ethics, professional
21 conduct, and legal aspects of real estate, which shall
22 include, but not be limited to, relevant legislation,
23 regulations, articles, reports, studies, court decisions,
24 treatises, and information of current interest.

25 (2) A three-hour course in agency relationships and
26 duties in a real estate brokerage practice, including
27 instruction in the disclosures to be made and the
28 confidences to be kept in the various agency relationships
29 between licensees and the parties to real estate
30 transactions.

31 (3) A three-hour course in trust fund accounting and
32 handling.

33 (4) A three-hour course in fair housing.

34 (5) Not less than 18 clock hours of courses or programs
35 related to consumer protection, and designated by the
36 commissioner as satisfying this purpose in his or her
37 approval of the offering of these courses or programs,
38 which shall include, but not be limited to, forms of real
39 estate financing relevant to serving consumers in the
40 marketplace; land use regulation and control; pertinent



1 consumer disclosures; agency relationships; capital
2 formation for real estate development; fair practices in
3 real estate; appraisal and valuation techniques;
4 landlord-tenant relationships; energy conservation;
5 environmental regulation and consideration; taxation as
6 it relates to consumer decisions in real estate transactions;
7 probate and similar disposition of real property;
8 governmental programs such as revenue bond activities,
9 redevelopment, and related programs; business
10 opportunities; and mineral, oil, and gas conveyancing.

11 (6) Other courses and programs that will enable a
12 licensee to achieve a high level of competence in serving
13 the objectives of consumers who may engage the services
14 of licensees to secure the transfer, financing, or similar
15 objectives with respect to real property, including
16 organizational and management techniques that will
17 significantly contribute to this goal.

18 (b) Except as otherwise provided in Sections 10153.4
19 and 10170.8, no real estate license shall be renewed for a
20 licensee who already has renewed under subdivision (a),
21 unless the commissioner finds that the applicant for
22 license renewal has, during the four-year period
23 preceding the renewal application, successfully
24 completed the 45 clock hours of education provided for
25 in Section 10170.4, including a six-hour update survey
26 course that covers the subject areas specified in
27 paragraphs (1) to (4), inclusive, of subdivision (a).

28 (c) Any denial of a license pursuant to this section shall
29 be subject to Section 10100.

30 SEC. 4. *Section 10208.5 of the Business and*
31 *Professions Code, as amended by Section 1 of Chapter 342*
32 *of the Statutes of 1996, is amended to read:*

33 10208.5. The real estate broker license examination
34 fee is ninety-five dollars (\$95). The real estate broker
35 license reexamination fee is ninety-five dollars (\$95).

36 If an applicant fails to appear for the examination
37 within two years from the date of filing his or her
38 application and fee for the examination, his or her
39 application shall thereupon lapse and no further
40 proceedings thereon shall be taken.



1 This section shall remain in effect unless it is ~~repealed~~
2 ~~pursuant to the provisions of Section 28 of Chapter 416 of~~
3 ~~the 1993-94 Regular Session superseded pursuant to~~
4 ~~subdivision (a) of Section 10226.5.~~

5 *SEC. 5. Section 10208.5 of the Business and*
6 *Professions Code, as amended by Section 2 of Chapter 342*
7 *of the Statutes of 1996, is repealed.*

8 ~~10208.5. The real estate broker license examination~~
9 ~~fee is fifty dollars (\$50). The real estate broker license~~
10 ~~reevaluation fee is fifty dollars (\$50).~~

11 ~~If an applicant fails to appear for the examination~~
12 ~~within two years from the date of filing his or her~~
13 ~~application and fee for the examination, his or her~~
14 ~~application shall thereupon lapse and no further~~
15 ~~proceedings thereon shall be taken.~~

16 ~~This section shall only become operative pursuant to~~
17 ~~the provisions of Section 28 of Chapter 416 of the Statutes~~
18 ~~of 1993.~~

19 *SEC. 6. Section 10210 of the Business and Professions*
20 *Code, as amended by Section 5 of Chapter 342 of the*
21 *Statutes of 1996, is amended to read:*

22 10210. The fee for a real estate broker license shall not
23 exceed three hundred dollars (\$300).

24 In the case of an original applicant, the fee is payable
25 after the applicant is notified of passing the examination
26 for license.

27 This section shall remain in effect unless it is ~~repealed~~
28 ~~pursuant to the provisions of Section 28 of Chapter 416 of~~
29 ~~the 1993-94 Regular Session superseded pursuant to~~
30 ~~Section 10226 or subdivision (a) of Section 10226.5,~~
31 ~~whichever is applicable.~~

32 *SEC. 7. Section 10210 of the Business and Professions*
33 *Code, as amended by Section 6 of Chapter 342 of the*
34 *Statutes of 1996, is repealed.*

35 ~~10210. The fee for a real estate broker license shall not~~
36 ~~exceed one hundred sixty-five dollars (\$165).~~

37 ~~In the case of an original applicant, the fee is payable~~
38 ~~after the applicant is notified of passing the examination~~
39 ~~for license.~~



1 ~~This section shall only become operative pursuant to~~
2 ~~the provisions of Section 28 of Chapter 416 of the Statutes~~
3 ~~of 1993.~~

4 *SEC. 8. Section 10213.5 of the Business and*
5 *Professions Code, as amended by Section 7 of Chapter 342*
6 *of the Statutes of 1996, is amended to read:*

7 10213.5. The real estate salesperson license
8 examination fee is sixty dollars (\$60). The real estate
9 salesperson license reexamination fee is sixty dollars
10 (\$60).

11 If an applicant fails to appear for the examination
12 within two years from the date of filing his or her
13 application and fee for the examination, his or her
14 application shall thereupon lapse and no further
15 proceedings thereon shall be taken.

16 This section shall remain in effect unless it is ~~repealed~~
17 ~~pursuant to the provisions of Section 28 of Chapter 416 of~~
18 ~~the 1993-94 Regular Session superseded pursuant to~~
19 ~~subdivision (a) of Section 10226.5.~~

20 *SEC. 9. Section 10213.5 of the Business and*
21 *Professions Code, as amended by Section 8 of Chapter 342*
22 *of the Statutes of 1996, is repealed.*

23 ~~10213.5. The real estate salesperson license~~
24 ~~examination fee is twenty five dollars (\$25). The real~~
25 ~~estate salesperson license reexamination fee is~~
26 ~~twenty five dollars (\$25).~~

27 ~~If an applicant fails to appear for the examination~~
28 ~~within two years from the date of filing his or her~~
29 ~~application and fee for the examination, his or her~~
30 ~~application shall thereupon lapse and no further~~
31 ~~proceedings thereon shall be taken.~~

32 ~~This section shall only become operative pursuant to~~
33 ~~the provisions of Section 28 of Chapter 416 of the Statutes~~
34 ~~of 1993.~~

35 *SEC. 10. Section 10213.6 of the Business and*
36 *Professions Code, as amended by Section 9 of Chapter 342*
37 *of the Statutes of 1996, is amended to read:*

38 10213.6. If an applicant for any examination fails to
39 take the examination on the date scheduled, he or she
40 may make application in writing to the principal office of



1 the department in Sacramento for a new date. A fee of
2 twenty dollars (\$20) shall accompany the written request
3 for applying for the first new examination date in the case
4 of a broker applicant, and a fee of fifteen dollars (\$15)
5 shall accompany the written request for the first new
6 examination date in the case of a salesperson applicant. A
7 fee of thirty dollars (\$30) shall accompany the written
8 request for all subsequent new examination dates for both
9 broker and salesperson applicants.

10 This section shall remain in effect unless it is ~~repealed~~
11 ~~pursuant to the provisions of Section 28 of Chapter 416 of~~
12 ~~the Statutes of 1993 superseded pursuant to subdivision~~
13 ~~(a) of Section 10226.5.~~

14 *SEC. 11. Section 10213.6 of the Business and*
15 *Professions Code, as amended by Section 10 of Chapter*
16 *342 of the Statutes of 1996, is repealed.*

17 ~~10213.6. If an applicant for any examination fails to~~
18 ~~take the examination on the date scheduled, he or she~~
19 ~~may make application in writing to the principal office of~~
20 ~~the department in Sacramento for a new date. A fee of~~
21 ~~fifteen dollars (\$15) shall accompany the written request~~
22 ~~for applying for the first new examination date in the case~~
23 ~~of a broker applicant, and a fee of ten dollars (\$10) shall~~
24 ~~accompany the written request for the first new~~
25 ~~examination date in the case of a salesperson applicant. A~~
26 ~~fee of twenty-five dollars (\$25) shall accompany the~~
27 ~~written request for all subsequent new examination dates~~
28 ~~for both broker and salesperson applicants.~~

29 ~~This section shall only become operative pursuant to~~
30 ~~the provisions of Section 28 of Chapter 416 of the Statutes~~
31 ~~of 1993.~~

32 *SEC. 12. Section 10215 of the Business and Professions*
33 *Code, as amended by Section 13 of Chapter 342 of the*
34 *Statutes of 1996, is amended to read:*

35 10215. The fee for a real estate salesperson license
36 shall not exceed two hundred forty-five dollars (\$245),
37 except that for an applicant qualifying pursuant to
38 Section 10153.4 who has not satisfied all of the educational
39 requirements prior to issuance of the license, the fee shall
40 not exceed two hundred seventy-five dollars (\$275).



1 In the case of an original applicant, the fee is payable
2 after the applicant is notified of passing the examination
3 for license.

4 This section shall remain in effect unless it is repealed
5 pursuant to the provisions of Section 28 of Chapter 416 of
6 the 1993-94 Regular Session superseded pursuant to
7 Section 10226 or subdivision (a) of Section 10226.5,
8 whichever is applicable.

9 *SEC. 13. Section 10215 of the Business and Professions*
10 *Code, as amended by Section 14 of Chapter 342 of the*
11 *Statutes of 1996, is repealed.*

12 ~~10215. The fee for a real estate salesperson license~~
13 ~~shall not exceed one hundred twenty dollars (\$120),~~
14 ~~except that for an applicant qualifying pursuant to~~
15 ~~Section 10153.4 who has not satisfied all of the educational~~
16 ~~requirements prior to issuance of the license, the fee shall~~
17 ~~not exceed one hundred forty five dollars (\$145).~~

18 ~~In the case of an original applicant, the fee is payable~~
19 ~~after the applicant is notified of passing the examination~~
20 ~~for license.~~

21 ~~This section shall only become operative pursuant to~~
22 ~~the provisions of Section 28 of Chapter 416 of the Statutes~~
23 ~~of 1993.~~

24 *SEC. 14. Section 10222 of the Business and Professions*
25 *Code, as amended by Section 15 of Chapter 342 of the*
26 *Statutes of 1996, is amended to read:*

27 10222. For any examination required under any order
28 issued pursuant to the provisions of the Administrative
29 Procedure Act, the fee is thirty dollars (\$30) for
30 salespersons and sixty dollars (\$60) for brokers shall be
31 the same as for a salesperson or broker license
32 examination, as appropriate.

33 ~~This section shall remain in effect unless it is repealed~~
34 ~~pursuant to the provisions of Section 28 of Chapter 416 of~~
35 ~~the Statutes of 1993.~~

36 *SEC. 15. Section 10222 of the Business and Professions*
37 *Code, as amended by Section 16 of Chapter 342 of the*
38 *Statutes of 1996, is repealed.*

39 ~~10222. For any examination required under any order~~
40 ~~issued pursuant to the provisions of the Administrative~~



1 ~~Procedure Act, the fee is twenty-five dollars (\$25) for~~
2 ~~salespersons and fifty dollars (\$50) for brokers.~~

3 ~~This section shall only become operative pursuant to~~
4 ~~the provisions of Section 28 of Chapter 416 of the Statutes~~
5 ~~of 1993.~~

6 *SEC. 16. Section 10226 of the Business and Professions*
7 *Code is amended to read:*

8 10226. (a) The commissioner may periodically by
9 regulation prescribe fees lower than the maximum fees
10 provided in Sections 10209.5, 10210, 10214.5, and 10215,
11 ~~when he~~ 10250.3, and 11011 whenever he or she
12 determines ~~such~~ those lower fees are sufficient to offset
13 the costs and expenses incurred in the administration of
14 Part 1 (commencing with Section 10000) of this division.
15 The commissioner shall hold at least one regulation
16 hearing each calendar year, to determine if lower fees
17 should be prescribed.

18 (b) *If, as of June 30 of any fiscal year, the balance of*
19 *funds in the Real Estate Fund exceeds an amount equal*
20 *to 50 percent of the department's authorized budget for*
21 *the following year, then within 30 days thereafter the*
22 *commissioner shall, notwithstanding the Administrative*
23 *Procedure Act (Chapter 3.5 (commencing with Section*
24 *11340) of Part 1 of Division 3 of Title 2 of the Government*
25 *Code), issue regulations reducing real estate license and*
26 *subdivision fees so that as of June 30 of the next fiscal year*
27 *the balance of funds in the Real Estate Fund shall not*
28 *exceed an amount equal to 50 percent of the*
29 *department's authorized budget for that year.*

30 (c) *If the commissioner fails to reduce these fees*
31 *within the timeframe specified in subdivision (b), then*
32 *fees shall automatically be reduced to the levels as*
33 *indicated in subdivision (b) of Section 10226.5. Such a*
34 *reduction shall be effective no later than September 1 of*
35 *the fiscal year wherein the commissioner is obliged to*
36 *issue regulations pursuant to subdivision (b).*

37 *SEC. 17. Section 10226.5 is added to the Business and*
38 *Professions Code, to read:*

39 10226.5. (a) *If at any time funds are transferred from*
40 *the Real Estate Fund to the General Fund by the Budget*



1 Act then 30 days from and after the date of the transfer,
2 fees shall be reduced as indicated in subdivision (b),
3 irrespective of any provisions of the Budget Act
4 precluding that reduction.

5 (b) Fees shall be reduced pursuant to paragraph (a)
6 to the following maximum amount as follows:

7 (1) Broker examination or reexamination: Fifty dollars
8 (\$50).

9 (2) First reschedule of broker examination: Fifteen
10 dollars (\$15); subsequent reschedules: Twenty-five
11 dollars (\$25).

12 (3) Real estate broker license, original or renewal:
13 One hundred sixty-five dollars (\$165).

14 (4) Salesperson examination or reexamination:
15 Twenty-five dollars (\$25).

16 (5) First reschedule of salesperson examination: Ten
17 dollars (\$10); subsequent reschedules: Twenty-five
18 dollars (\$25).

19 (6) Real estate salesperson license, normal original or
20 renewal: One hundred twenty dollars (\$120).

21 (7) Real estate salesperson license without all
22 educational requirements: One hundred forty-five
23 dollars (\$145).

24 (8) A notice of intention without a completed
25 questionnaire: One hundred fifty dollars (\$150).

26 (9) An original public report for subdivision interests
27 described in Section 11004.5: One thousand six hundred
28 dollars (\$1,600) plus ten dollars (\$10) for each subdivision
29 interest to be offered.

30 (10) An original public report for subdivision interests
31 other than those described in Section 11004.5: Five
32 hundred dollars (\$500) plus ten dollars (\$10) for each
33 interest to be offered.

34 (11) A conditional public report for subdivision
35 interests described in Section 11004.5: Five hundred
36 dollars (\$500).

37 (12) A conditional public report for subdivision
38 interests other than those described in Section 11004.5:
39 Five hundred dollars (\$500).



1 (13) A preliminary public report for subdivision
2 interests described in Section 11004.5: Five hundred
3 dollars (\$500).

4 (14) A preliminary public report for subdivision
5 interests other than those described in Section 11004.5:
6 Five hundred dollars (\$500).

7 (15) A renewal public report for subdivision interests
8 described in Section 11004.5: Five hundred dollars (\$500).

9 (16) A renewal public report for subdivision interests
10 other than those described in Section 11004.5: Five
11 hundred dollars (\$500).

12 (17) An amended public report for subdivision
13 interests described in Section 11004.5: Three hundred
14 dollars (\$300) plus ten dollars (\$10) for each subdivision
15 interest to be offered under the amended public report
16 for which a fee has not previously been paid.

17 (18) An amended public report to offer subdivision
18 interests other than those described in Section 11004.5:
19 Three hundred dollars (\$300) plus ten dollars (\$10) for
20 each subdivision interest to be offered under the
21 amended public report for which a fee has not previously
22 been paid.

23 (19) An application for an original, renewal, or
24 amended registration as required by Section 10249: One
25 hundred dollars (\$100).

26 (20) The filing fee for an application for a permit to be
27 issued pursuant to Article 8.5 (commencing with Section
28 10250) for each subdivision or phase of the subdivision in
29 which interests are to be offered for sale or lease shall be
30 as follows:

31 (A) One thousand six hundred dollars (\$1,600) plus
32 ten dollars (\$10) for each subdivision interest to be
33 offered for an original permit applications.

34 (B) Five hundred dollars (\$500) plus ten dollars (\$10)
35 for each subdivision interest to be offered that was not
36 permitted to be offered under the permit to be renewed
37 for a renewal permit application.

38 (C) Three hundred dollars (\$300) plus ten dollars
39 (\$10) for each subdivision interest to be offered under the



1 amended permit for which a fee has not previously been
2 paid for an amended permit application.

3 (D) Five hundred dollars (\$500) for a conditional
4 permit application.

5 SEC. 18. Section 10236.2 of the Business and
6 Professions Code is amended to read:

7 10236.2. (a) A real estate broker who satisfies the
8 criteria of subdivision (a) or (b) of Section 10232 and who
9 fails to notify the Department of Real Estate, in writing,
10 of that fact within 30 days thereafter as required by
11 subdivision (f) of Section 10232 shall be assessed a penalty
12 of fifty dollars (\$50) per day for each additional day
13 written notification has not been received up to and
14 including the 30th day after the first day of the assessment
15 penalty. On and after the 31st day the penalty is one
16 hundred dollars (\$100) per day, not to exceed a total
17 penalty of ten thousand dollars (\$10,000) regardless of the
18 number of days, until the department receives the
19 written notification.

20 (b) The commissioner may suspend or revoke the
21 license of any real estate broker who fails to pay a penalty
22 imposed under this section. In addition, the commissioner
23 may bring an action in an appropriate court of this state
24 to collect payment of the penalty.

25 (c) All penalties paid or collected under this section
26 shall be deposited into the *Recovery Account of the Real*
27 *Estate Fund*.

28 SEC. 19. Section 10250.3 of the Business and
29 Professions Code is amended to read:

30 10250.3. (a) The commissioner may by regulation
31 prescribe filing fees in connection with applications to the
32 Department of Real Estate pursuant to the provisions of
33 this article that are lower than the maximum fees
34 specified in subdivision (b) if the commissioner
35 determines that the lower fees are sufficient to offset the
36 costs and expenses incurred in the administration of this
37 article. The commissioner shall hold at least one hearing
38 each calendar year to determine if lower fees than those
39 specified in subdivision (b) should be prescribed.



1 (b) The filing fee for an application for a permit to be
2 issued under authority of this article shall not exceed the
3 following for each subdivision or phase of the subdivision
4 in which interests are to be offered for sale or lease:

5 (1) One thousand seven hundred dollars (\$1,700) plus
6 ten dollars (\$10) for each subdivision interest to be
7 offered for an original permit application.

8 (2) Six hundred dollars (\$600) plus ten dollars (\$10)
9 for each subdivision interest to be offered that was not
10 permitted to be offered under the permit to be renewed
11 for a renewal permit application.

12 (3) Five hundred dollars (\$500) plus ten dollars (\$10)
13 for each subdivision interest to be offered under the
14 amended permit for which a fee has not previously been
15 paid for an amended permit application.

16 (4) Five hundred dollars (\$500) for a ~~preliminary~~
17 *conditional* permit application.

18 (c) Fees collected by the Department of Real Estate
19 under authority of this article shall be deposited into the
20 Real Estate Fund under Chapter 6 (commencing with
21 Section 10450) of Part 1. Fees received by the department
22 pursuant to ~~the provisions of~~ this article shall be deemed
23 earned upon receipt. A part of a fee is not refundable
24 unless the commissioner determines that it was paid as a
25 result of mistake or inadvertence.

26 *This section shall remain in effect unless it is*
27 *superseded pursuant to Section 10226 or subdivision (a)*
28 *of Section 10226.5, whichever is applicable.*

29 *SEC. 20. Section 11011 of the Business and Professions*
30 *Code, as amended by Section 17 of Chapter 342 of the*
31 *Statutes of 1996, is amended to read:*

32 11011. (a) The commissioner may by regulation
33 prescribe filing fees in connection with applications to the
34 Department of Real Estate pursuant to ~~the provisions of~~
35 this chapter ~~which~~ *that* are lower than the maximum fees
36 specified in subdivision (b) if the commissioner
37 determines that the lower fees are sufficient to offset the
38 costs and expenses incurred in the administration of this
39 chapter. The commissioner shall hold at least one hearing



1 each calendar year to determine if lower fees than those
2 specified in subdivision (b) should be prescribed.

3 (b) The filing fee for an application for a public report
4 to be issued under authority of this chapter shall not
5 exceed the following for each subdivision or phase of a
6 subdivision in which interests are to be offered for sale or
7 lease:

8 (1) A notice of intention without a completed
9 questionnaire: One hundred fifty dollars (\$150).

10 (2) An original public report for subdivision interests
11 described in Section 11004.5: One thousand seven
12 hundred dollars (\$1,700) plus ten dollars (\$10) for each
13 subdivision interest to be offered.

14 (3) An original public report for subdivision interests
15 other than those described in Section 11004.5: Six
16 hundred dollars (\$600) plus ten dollars (\$10) for each
17 subdivision interest to be offered.

18 (4) A conditional public report for subdivision
19 interests described in Section 11004.5: Five hundred
20 dollars (\$500).

21 (5) A conditional public report for subdivision
22 interests other than those described in Section 11004.5:
23 Five hundred dollars (\$500).

24 (6) A preliminary public report for subdivision
25 interests described in Section 11004.5: Five hundred
26 dollars (\$500).

27 (7) A preliminary public report for subdivision
28 interests other than those described in Section 11004.5:
29 Five hundred dollars (\$500).

30 (8) A renewal public report for subdivision interests
31 described in Section 11004.5: Six hundred dollars (\$600).

32 (9) A renewal public report for subdivision interests
33 other than those described in Section 11004.5: Six
34 hundred dollars (\$600).

35 (10) An amended public report for subdivision
36 interests described in Section 11004.5: Five hundred
37 dollars (\$500) plus ten dollars (\$10) for each subdivision
38 interest to be offered under the amended public report
39 for which a fee has not previously been paid.



1 (11) An amended public report to offer subdivision
2 interests other than those described in Section 11004.5:
3 Five hundred dollars (\$500) plus ten dollars (\$10) for
4 each subdivision interest to be offered under the
5 amended public report for which a fee has not previously
6 been paid.

7 (c) The actual subdivision fees established by
8 regulation under authority of this section and Section
9 10249.3 shall not exceed the amount reasonably required
10 by the department to administer ~~the provisions of this~~
11 ~~part and the provisions of Article 8 (commencing with~~
12 ~~Section 10249) of Chapter 3 of Part 1.~~

13 (d) All fees collected by the department under
14 authority of this chapter shall be deposited into the Real
15 Estate Fund under Chapter 6 (commencing with Section
16 10450) of Part 1. All fees received by the department
17 pursuant to ~~the provisions of this chapter shall be deemed~~
18 ~~earned upon receipt. No part of any fee is refundable~~
19 ~~unless the commissioner determines that it was paid as~~
20 ~~the result of a mistake or inadvertence.~~

21 This section shall remain in effect unless ~~it is repealed~~
22 ~~pursuant to the provisions of Section 28 of Chapter 416 of~~
23 ~~the Statutes of 1993 it is superseded pursuant to Section~~
24 ~~10226 or subdivision (a) of Section 10226.5, whichever is~~
25 ~~applicable.~~

26 *SEC. 21. Section 11011 of the Business and Professions*
27 *Code, as added by Section 27.5 of Chapter 416 of the*
28 *Statutes of 1993, is repealed.*

29 ~~11011. (a) The commissioner may by regulation~~
30 ~~prescribe filing fees in connection with applications to the~~
31 ~~Department of Real Estate pursuant to the provisions of~~
32 ~~this chapter which are lower than the maximum fees~~
33 ~~specified in subdivision (b) if the commissioner~~
34 ~~determines that the lower fees are sufficient to offset the~~
35 ~~costs and expenses incurred in the administration of this~~
36 ~~chapter. The commissioner shall hold at least one hearing~~
37 ~~each calendar year to determine if lower fees than those~~
38 ~~specified in subdivision (b) should be prescribed.~~

39 ~~(b) The filing fee for an application for a public report~~
40 ~~to be issued under authority of this chapter shall not~~



1 ~~exceed the following for each subdivision or phase of a~~
2 ~~subdivision in which interests are to be offered for sale or~~
3 ~~lease:~~

4 ~~(1) A notice of intention without a completed~~
5 ~~questionnaire: One hundred fifty dollars (\$150):~~

6 ~~(2) An original public report for subdivision interests~~
7 ~~described in Section 11004.5: One thousand six hundred~~
8 ~~dollars (\$1,600) plus ten dollars (\$10) for each subdivision~~
9 ~~interest to be offered.~~

10 ~~(3) An original public report for subdivision interests~~
11 ~~other than those described in Section 11004.5: Five~~
12 ~~hundred dollars (\$500) plus ten dollars (\$10) for each~~
13 ~~subdivision interest to be offered.~~

14 ~~(4) A conditional public report for subdivision~~
15 ~~interests described in Section 11004.5: Five hundred~~
16 ~~dollars (\$500):~~

17 ~~(5) A conditional public report for subdivision~~
18 ~~interests other than those described in Section 11004.5:~~
19 ~~Five hundred dollars (\$500):~~

20 ~~(6) A preliminary public report for subdivision~~
21 ~~interests described in Section 11004.5: Five hundred~~
22 ~~dollars (\$500):~~

23 ~~(7) A preliminary public report for subdivision~~
24 ~~interests other than those described in Section 11004.5:~~
25 ~~Five hundred dollars (\$500):~~

26 ~~(8) A renewal public report for subdivision interests~~
27 ~~described in Section 11004.5: Five hundred dollars (\$500):~~

28 ~~(9) A renewal public report for subdivision interests~~
29 ~~other than those described in Section 11004.5: Five~~
30 ~~hundred dollars (\$500):~~

31 ~~(10) An amended public report for subdivision~~
32 ~~interests described in Section 11004.5: Three hundred~~
33 ~~dollars (\$300) plus ten dollars (\$10) for each subdivision~~
34 ~~interest to be offered under the amended public report~~
35 ~~for which a fee has not previously been paid.~~

36 ~~(11) An amended public report to offer subdivision~~
37 ~~interests other than those described in Section 11004.5:~~
38 ~~Three hundred dollars (\$300) plus ten dollars (\$10) for~~
39 ~~each subdivision interest to be offered under the~~



1 ~~amended public report for which a fee has not previously~~
2 ~~been paid.~~

3 ~~(e) The actual subdivision fees established by~~
4 ~~regulation under authority of this section and Section~~
5 ~~10249.3 shall not exceed the amount reasonably required~~
6 ~~by the department to administer the provisions of this~~
7 ~~part and the provisions of Article 8 (commencing with~~
8 ~~Section 10249) of Chapter 3 of Part 1.~~

9 ~~(d) All fees collected by the department under~~
10 ~~authority of this chapter shall be deposited into the Real~~
11 ~~Estate Fund under Chapter 6 (commencing with Section~~
12 ~~10450) of Part 1. All fees received by the department~~
13 ~~pursuant to the provisions of this chapter shall be deemed~~
14 ~~earned upon receipt. No part of any fee is refundable~~
15 ~~unless the commissioner determines that it was paid as~~
16 ~~the result of a mistake or inadvertence.~~

17 ~~This section shall become operative on January 1, 1998,~~
18 ~~unless it becomes operative on an earlier date pursuant~~
19 ~~to the provisions of Section 28 of the act that adds this~~
20 ~~section at the 1993 portion of the 1993-94 Regular Session.~~

21 ~~SEC. 22. Section 1918 of the Civil Code is repealed.~~

22 ~~SEC. 5.—~~

23 ~~SEC. 23. Section 1919 of the Civil Code is repealed.~~

24 ~~SEC. 6.—~~

25 ~~SEC. 24. Section 1920 of the Civil Code is amended to~~
26 ~~read:~~

27 ~~1920. Any mortgage instrument that is made~~
28 ~~pursuant to the provisions of this chapter shall meet the~~
29 ~~following requirements:~~

30 ~~(a) Standards for the adjustment of interest rates or~~
31 ~~monthly payments shall consider factors which can~~
32 ~~reasonably be deemed to affect the ability of borrowers~~
33 ~~to meet their mortgage obligations.~~

34 ~~(b) No change in interest provided for in any provision~~
35 ~~for a variable interest rate contained in a security~~
36 ~~document, or evidence of debt issued in connection~~
37 ~~therewith, shall be valid unless the provision is set forth~~
38 ~~in the security document, and in any evidence of debt~~
39 ~~issued in connection therewith, and the document or~~
40 ~~documents contain the following provisions:~~



1 (1) A statement attached to the security document
2 and to any evidence of debt issued in connection
3 therewith printed or written in a size equal to at least
4 10-point bold type, consisting of language authorized by
5 the secretary or the secretary's designee notifying the
6 borrower that the mortgage may provide for changes in
7 interest, principal loan balance, payment, or the loan
8 term.

9 (2) Before the due date of the first monthly
10 installment following each change in the interest rate,
11 notice shall be mailed to the borrower of the following:

12 (A) The base index.

13 (B) The most recently published index at the date of
14 the change in the rate.

15 (C) The interest rate in effect as a result of the change.

16 (D) Any change in the monthly installment.

17 (E) The amount of the unpaid principal balance.

18 (F) If the interest scheduled to be paid on the due date
19 exceeds the amount of the installment, a statement to that
20 effect and the amount of the excess, and the address and
21 telephone number of the office of the lender to which
22 inquiries may be made.

23 (c) The borrower is permitted to prepay the loan in
24 whole or in part without a prepayment charge at any
25 time, and no fee or other charge may be required by the
26 lender of the borrower as a result of any change in the
27 interest rate, the payment, the outstanding principal loan
28 balance, or the loan term.

29 (d) Changes in the rate of interest on the loan shall
30 reflect the movement of an index, which shall be
31 authorized by the secretary or the secretary's designee.

32 (e) To the extent that any monthly installment is less
33 than the amount of interest accrued during the month
34 with respect to which the installment is payable, the
35 borrower shall be notified of such instance in a form and
36 manner prescribed by the secretary or the secretary's
37 designee. Such notice shall include, but not be limited to,
38 the amount of interest exceeding the monthly
39 installment, and any borrower options under these
40 circumstances.



1 (f) The lender shall provide to the borrower, prior to
2 the execution by the borrower of any mortgage payment
3 instrument authorized pursuant to this chapter, full and
4 complete disclosure, as specified by the secretary or the
5 secretary's designee, of the nature and effect of the
6 mortgage payment instrument, and all costs or savings
7 attributed to the mortgage instrument.

8 ~~SEC. 7.—~~

9 *SEC. 25.* Section 35815 of the Health and Safety Code
10 is repealed.

11 ~~SEC. 8.—~~

12 *SEC. 26.* Section 35816 of the Health and Safety Code
13 is repealed.

14 *SEC. 27.* *Section 28 of Chapter 416 of the Statutes of*
15 *1993 is repealed.*

16 ~~Sec. 28.~~ ~~The purpose of the fee increases proposed by~~
17 ~~this act is to recognize the cyclical nature of the real estate~~
18 ~~industry and the historic variations in income to the~~
19 ~~Department of Real Estate from examination fees, license~~
20 ~~fees, and public report application fees over extended~~
21 ~~periods of time due to changes in economic conditions in~~
22 ~~the state so that the department can continue to carry out~~
23 ~~its statutory responsibility to enforce the Real Estate Law~~
24 ~~under Chapter 1 (commencing with Section 10000) of~~
25 ~~Part 1 of Division 4 of the Business and Professions Code~~
26 ~~and the Subdivided Lands Law under Chapter 1~~
27 ~~(commencing with Section 11000) of Part 2 of Division 4~~
28 ~~of the Business and Professions Code in a manner which~~
29 ~~will not adversely reduce the level of protection for the~~
30 ~~purchasers of real property and those persons dealing~~
31 ~~with real estate licensees because of transfer of funds~~
32 ~~from the Real Estate Fund to the General Fund of the~~
33 ~~state.~~

34 ~~The purpose of this act is also to recognize that if, as of~~
35 ~~June 30 of any fiscal year, the amount of funds in the Real~~
36 ~~Estate Fund is equal to 50 percent of the department's~~
37 ~~authorized budget for the following fiscal year, these~~
38 ~~funds will be presumptively sufficient to allow the~~
39 ~~commissioner to adequately enforce the provisions of the~~
40 ~~Real Estate Law and the Subdivided Lands Law in~~



1 accordance with the standard set forth in Section 10050
2 of the Business and Professions Code, and as such the
3 increase of fees provided for herein will not be necessary,
4 and thereby enable the commissioner to lower fees to
5 either the amount in effect as of the date of this act or to
6 an amount to be determined by the commissioner as set
7 forth below.

8 Finally, the purpose of the fee increases proposed by
9 this act is to provide sufficient funds for the Real Estate
10 Recovery Account so that the department can continue
11 to timely pay valid claims filed for payment from the
12 Recovery Account. As such, the integrity of license fees
13 credited to the Recovery Account shall be observed and
14 remain therein to ensure the ability of the department to
15 carry out the provisions of Chapter 6.5 (commencing
16 with Section 10470) of Part 1 of Division 4 of the Business
17 and Professions Code.

18 Therefore, to effect the purpose of this act, if at any
19 time during the 1994-95, 1995-96, 1996-97, or 1997-98
20 fiscal year any funds are transferred from the Real Estate
21 Fund to the General Fund by the Budget Acts for those
22 fiscal years, then the provisions of Sections 5, 6, 7, 8, 9, 10,
23 11, 12, and 27 of this act shall be repealed and of no force
24 or effect 30 days from and after the date of the transfer
25 of any funds, and Sections 5.5, 6.5, 7.5, 8.5, 9.5, 10.5, 11.5,
26 12.5, and 27.5 of this act shall become effective and
27 operative and added to the Business and Professions Code
28 30 days from and after the date of the transfer,
29 irrespective of the operative dates set forth in Sections
30 5.5, 6.5, 7.5, 8.5, 9.5, 10.5, 11.5, 12.5, and 27.5.

31 Furthermore, if as of June 30 of the 1994-95, 1995-96,
32 1996-97, or 1997-98 fiscal year the balance of funds in the
33 Real Estate Fund exceeds an amount equal to 50 percent
34 of the department's authorized budget for the following
35 year, then within 30 days thereafter the commissioner
36 shall, notwithstanding the provisions of the
37 Administrative Procedure Act (Chapter 3.5
38 (commencing with Section 11340) of Part 1 of Division 3
39 of Title 2 of the Government Code), issue regulations
40 reducing real estate license, examination, and subdivision



1 application fees so that as of June 30 of the next fiscal year
2 the balance of funds in the Real Estate Fund shall not
3 exceed an amount equal to 50 percent of the
4 department's authorized budget for that year. If the
5 commissioner fails to reduce these fees within the
6 timeframe specified in this paragraph, then Sections 5, 6,
7 7, 8, 9, 10, 11, 12, and 27 of this act shall be repealed and
8 of no force and effect, and Sections 5.5, 6.5, 7.5, 8.5, 9.5,
9 10.5, 11.5, 12.5, and 27.5 shall become immediately
10 effective and operative and added to the Business and
11 Professions Code, irrespective of the operative dates set
12 forth in those sections.

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