



Real Estate Bulletin

DEPARTMENT OF REAL ESTATE

FALL 2018

Vol. 77, No. 3

The Department of Real Estate Returns: Transition Tasks

Since 1917, there have been 23 Real Estate Commissioners, from Freeman H. Bloodgood in 1917 to Wayne S. Bell, who served from 2013 until his departure on July 9, 2018. These Real Estate Commissioners served as the chief officer of a department, board, division or bureau within state government with responsibility over the real estate sales industry. Recently, in 2013, the Department of Real Estate (DRE) became the Bureau of Real Estate and was placed under the Department of Consumer Affairs. On July 1, 2018, the Bureau was returned to department status and is, once again, known as the Department of Real Estate.

The process of moving toward department status started in late 2017 after the passage of Senate Bill 173 and requires completion of many tasks for DRE to operate as a department.

The last ten months have been spent working on the transition tasks to make the Department of Real Estate a reality. It's actually a very complicated process, because the administrative and legal requirements imposed on a department in California are much greater than those imposed on a board or bureau. There's a lot that goes into making the change from bureau to department happen. These tasks include:

- **Rebuilding the Accounting/Budget Section** – We must set up a separate accounting function under the new statewide Fi\$Cal accounting system. We will be responsible for building annual budgets and establishing an accounting function to track money in and out of the Real Estate Fund versus budget. This is a complicated task—one that will take much of this fiscal year (July 1, 2018 – June 30, 2019) to achieve.
- **Rebuilding the Human Resources Section** – We must rebuild a Human Resources shop that will provide administrative support to the divisions of DRE through support services such as recruitment, hiring, position classification, civil service examinations, labor relations, employee discipline, employee benefits, training, employee counseling, and equal employment.
- **Adding a Legislation Section** – DRE must evaluate the effect of proposed legislation on consumers, the State, and the real estate industry by performing analyses on pending legislative bills. It is critical in making sure that consumer protection is maintained and that the effect of legislation on licensees and the State is known. DRE will often be asked to provide technical input on bills, including what a bill's impact would be, including any fiscal impacts.
- **Creating a Publications and Communications Section** – This section will be responsible for updating the Real Estate Law Book and CD, the Real Estate Reference Book, which provides general information on many aspects of real estate practice, the quarterly "Real Estate Bulletins," as well as DRE booklets, consumer and industry advisories, and alerts. This section will also prepare and update policy manuals, and will be responsible for DRE's website content. In addition, this section will be responsible for the Public Information Officer duties, which include preparation of press releases and responding to media inquiries.
- **Hiring an Information Security Officer** – DRE will hire an Information Security Officer, who will be responsible for protecting private information and ensuring that our information security practices and reporting are in full compliance.

We look forward to rebuilding the DRE, and will keep you posted on our progress!

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**BUSINESS, CONSUMER SERVICES
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REAL ESTATE BULLETIN

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Investigator II, Licensing Exams and Education*

**NORTHERN ENFORCEMENT AREA—
DISTRICT OFFICES**

Joe M. Carrillo, *Managing
Deputy Commissioner IV*

SACRAMENTO PRINCIPAL OFFICE

Tricia Parkhurst,
Supervising Special Investigator II

1651 Exposition Blvd., Sacramento
Mailing Address:
P.O. Box 137011
Sacramento, CA 95813-7001
Consumer Information (877) 373-4542

OAKLAND DISTRICT OFFICE

Robin Tanner, *Supervising Special
Investigator II*

1515 Clay St., Suite 702
Oakland, CA 94612-1462
Consumer Information (877) 373-4542

**CENTRAL ENFORCEMENT AREA—
DISTRICT OFFICES**

Joe M. Carrillo, *Managing
Deputy Commissioner IV*

FRESNO DISTRICT OFFICE

Brenda Smith, *Supervising Special
Investigator II*

2550 Mariposa Mall, Suite 3070
Fresno, CA 93721-2273
Consumer Information (877) 373-4542

STATEWIDE ENFORCEMENT PROGRAMS

Vacant, *Managing Deputy Commissioner IV*

320 West 4th St., Suite 350
Los Angeles, CA 90013-1105
Consumer Information (877) 373-4542

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**SOUTHERN ENFORCEMENT AREA—
DISTRICT OFFICES****LOS ANGELES**

Maria Suarez, *Supervising Special
Investigator II*

320 West 4th St., Suite 350
Los Angeles, CA 90013-1105
Consumer Information (877) 373-4542

SAN DIEGO DISTRICT OFFICE

Veronica Kilpatrick, *Supervising Special
Investigator II*

1350 Front St., Suite 1063
San Diego, CA 92101-3687
Consumer Information (877) 373-4542

**SUBDIVISIONS NORTH—
SACRAMENTO DISTRICT OFFICE**

Sylvia Yrigollen, *Supervising
Special Investigator II*

Beth Danielson, *Staff Services Manager I*

1651 Exposition Blvd., Sacramento
Mailing Address:
P.O. Box 137005
Sacramento, CA 95813-7005
Consumer Information (916) 263-8929

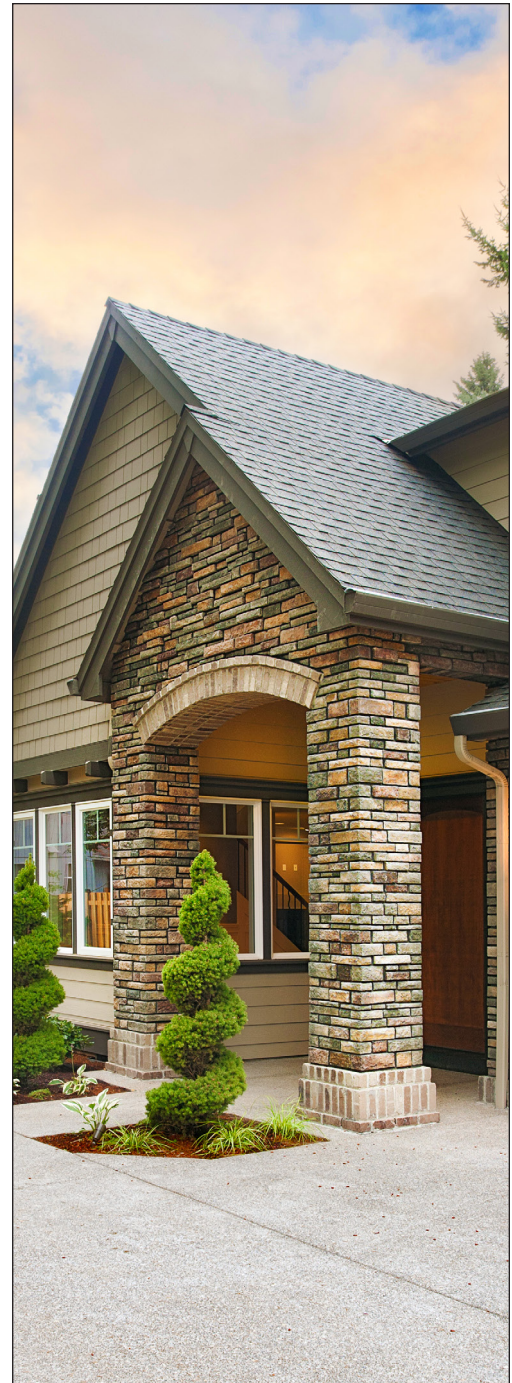
**SUBDIVISIONS SOUTH—
LOS ANGELES DISTRICT OFFICE**

Tony Fan, *Supervising Special Investigator II*

Angele Chemsian, *Supervising Special
Investigator II, Budget Review*

Joseph Aiu, *Subdivisions Statewide Compliance*

320 West 4th St., Suite 350
Los Angeles, CA 90013-1105
Consumer Information (213) 576-6983



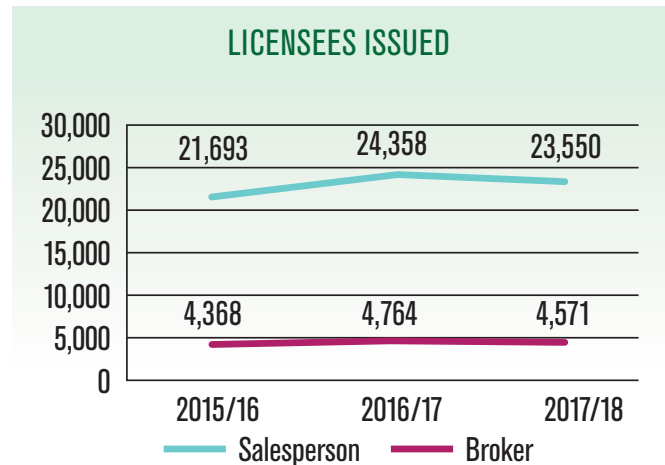
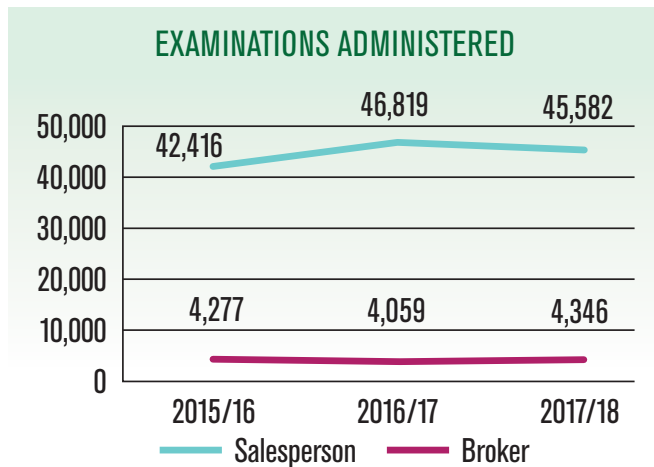
Due to our transition to a new State fiscal accounting system, we did not yet have complete financial numbers to share for fiscal year 2017-18 as of this bulletin's press time. We will try to include those figures in an upcoming "Real Estate Bulletin."

Licensing Annual Report

The Licensing section is responsible for the administration of real estate license examinations and the issuance and renewal of salesperson and broker licenses, as well as the issuance and renewal of mortgage loan originator (MLO) license endorsements through the Nationwide Multistate Licensing System (NMLS). This section also receives and responds to a large volume of telephone inquiries from licensees, consumers, as well as potential applicants.

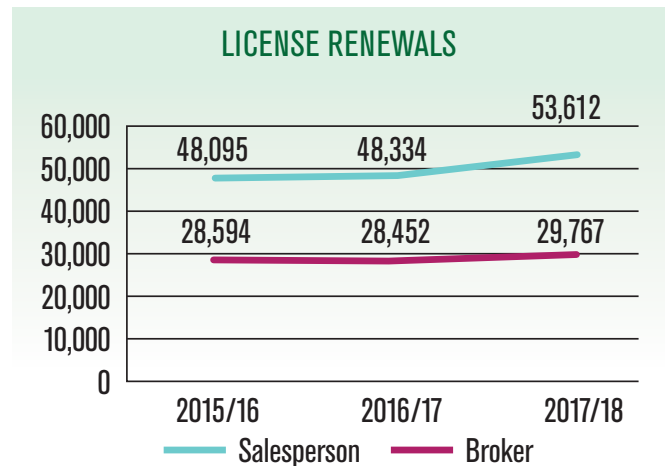
Licensing and Examination Activity

The workload statistics for fiscal year 2017-18, as well as the prior two FYs are outlined in the charts below. As you can see from the charts, the number of applications for salesperson examinations administered has decreased 3 percent from FY 2017-18 when compared to FY 2016-17, while the number of broker examinations administered increased 7 percent during that same period. The issuance of new salesperson licenses has decreased by 3 percent over the last FY, while the issuance of broker licenses decreased by 4 percent.



Licensing Population

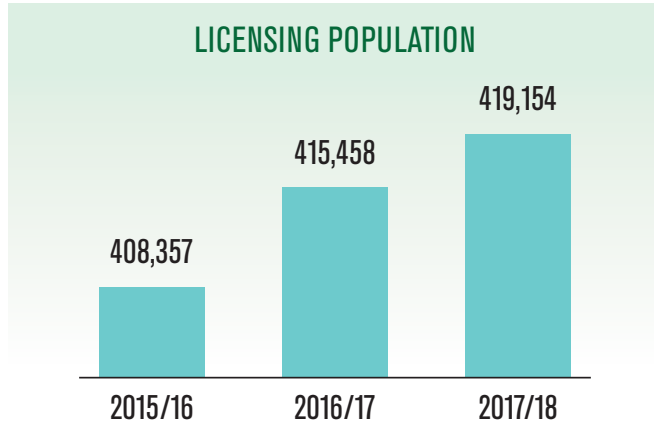
License renewals for FY 2017-18 among salespersons and broker remained steady, with 80 percent of all salespersons and 91 percent of all brokers renewing their licenses. By the end of FY 2017-18, the licensing population was 419,154, which included 132,103 brokers and 287,051 salespersons. This reflects an increase of 1 percent over the number of licensees over the prior FY. Furthermore, in FY 2017-18, 23,619 MLOs successfully renewed their license endorsement, and by the end of FY 2017-18, 25,448 MLOs were either in an approved or approved-inactive status.



(Continued on page 4)



LICENSING ANNUAL REPORT (CONTINUED FROM PAGE 3)



Phone Calls

The increase in workload as well as a large licensing population means the number of calls DRE receives continues to be high. For FY 2017-18, licensing staff handled over 213,000 calls.

Occupational Analysis and Exam Development Study

As part of its program to ensure real state exams accurately describe current industry practice, the Department's Examination Administration and Development Unit, in agreement with the Office of Professional Examination Services (OPES), completed the first phase of an examination validation study. The completed occupational analysis phase identified the knowledge, skills, and abilities (KSAs) that are a necessary part of the practice of real estate so they may be reflected in the real estate licensing examinations. This task required the assistance of industry practitioners to help define the scope of the business through a survey to develop a current occupational analysis of KSAs. The Department is now commencing the second phase of the examination validation study consisting of written examination development. This task also involves the participation of industry subject matter experts who will revise and create examination items that reflect the results of the new occupational analysis.

Education and Research

The Education and Research section, within the Licensing section, is responsible for the review and approval of all real estate license continuing education course offerings, as well as pre-license/statutory qualification courses offered by private schools. In FY 2017-18, the section reviewed and approved 285 continuing education course offerings, 169 pre-license/statutory courses, and 187 continuing education equivalency petitions. At the conclusion of FY 2017-18, there were 88 continuing education course providers offering 573 approved courses and 149 pre-license/statutory course providers offering 1,903 approved courses.

Looking Forward

DRE's Licensing section continues to respond to the challenges associated with providing timely delivery of services while preserving the integrity of the results. Going forward, the Licensing program will build upon the Licensing benchmarks by continuing to expand the use of technologies, such as improvements to our eLicensing system and improvements to our public information phone system.



Enforcement

The Enforcement section plays a vital role in DRE’s mission to enforce the Real Estate Law and the Subdivided Lands Law to protect purchasers of real property and those persons conducting business with real estate licensees.

DRE accomplishes this mission by investigating complaints that have been filed against real estate licensees, subdividers, and unlicensed individuals and entities. DRE also launches investigations based on other sources of information. Investigations determine if violations of the Real Estate Law or Subdivided Lands Law occurred in a transaction and provide recommendations on the appropriate type of disciplinary action that should be brought against the parties involved.

Investigative Process

DRE investigates the actions of any person engaged in the business of or acting in the capacity of a real estate licensee upon receipt of a verified written complaint or upon the motion of DRE. When a complaint is initially received, it is reviewed to determine if it is under DRE’s jurisdiction. For DRE to have jurisdiction, the complaint should involve a real estate licensee, subdivider, or unlicensed person or entity who has performed acts that require a real estate license. Additionally, the issues of the complaint must present a potential violation of the Real Estate Law or Subdivided Lands Law and be within the statute of limitations prescribed by law.

After a complaint is received and it is determined that the issues are within DRE’s jurisdiction, it is assigned to DRE’s Enforcement section for investigation. If, after a thorough review of the evidence obtained during the course of the investigation, it is determined that there is “clear and convincing” evidence that a violation of the Real Estate Law and/or Subdivided Lands Law has occurred, it will be sent to DRE’s Legal section for consideration of administrative prosecution. In many cases, sufficient evidence to establish a cause for discipline cannot be developed, because the allegations made by the complainant prove to be either incorrect or unsubstantiated.

There are multiple levels and forms of disciplinary action. As an example, when challenging an applicant’s qualifications for licensure, a Statement of Issues may be filed; when seeking to suspend or revoke an existing

license, an Accusation may be filed; to stop ongoing violations of either the Real Estate Law or the Subdivided Lands Law, a Desist and Refrain Order may be filed; to enjoin persons from working in real estate or related industries, a Bar Order may be filed. In addition, DRE has authority to issue citations and impose fines for any violation of the Real Estate Law and the Subdivided Lands Law. Citations issued to real estate licensees are typically for relatively minor, or de minimis, violations of the law that do not merit higher disciplinary action. Citation authority also permits DRE to issue a citation and impose a fine on an unlicensed person engaged in an activity for which a real estate license is required.

The number of complaints assigned for investigation in fiscal year 2017–18, and the results of those investigations, as well as the number of citations issued, are outlined in the chart below (the significant increase for complaints received and referred for investigation for FY 2017-18 reflect DRE’s proactive efforts and assignments in assuring compliance in the industry and increased oversight into restricted licensees’ real estate activities).

	FY 2017/18	FY 2016/17
Received	6,197	4,282
Referred for investigation	4,181	1,394
Referred to legal	1,093	1,265
Citations issued	868	714

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



Audits

The mission of the Audit section is to protect consumers through financial compliance audits of real estate licensees and subdivision developments. The primary focus of DRE audits is trust fund handling by licensees and subdividers. Auditors determine if real estate brokers or subdividers comply with the requirements of the Real Estate Law and the Subdivided Lands Law.

DRE auditors perform two types of audits. The first type is an investigative audit, which is an audit related to a complaint or a follow-up audit to some previous disciplinary action or report. The second type of audit is a proactive routine audit. The subjects of these proactive audits are often brokers who handle a large volume of trust funds. For fiscal year 2017-18, the Audit section closed 316 investigative audits and 340 proactive audits.

Our audits were focused on brokers who handle a high volume of trust funds since we have a limited number of auditors as compared to the population of real estate licensees. Audit cases completed revealed a very high incidence and dollar amount of trust fund shortages. The 656 audits completed resulted in findings of more than \$10.9 million in trust fund shortages. The highest incidence of shortage was found on audits of brokers involved with property management or broker escrow activities, as follows:

Broker activity	Number of audits closed	Number (%) of audits with shortage		Dollar amount of shortage found
Property management	413	170	41%	\$3,065,487
Broker escrow	118	41	35%	\$7,872,892
Mortgage loan	85	6	7%	\$19,111
Sales/other	40	0	0%	\$0
Total	656	217	33%	\$10,957,489

Of the total audits closed during the FY, 48 percent were investigative audits and 63 percent were focused on brokers who performed property management activities.

The tables below show more information on audit results and trust fund shortages:

Actions	Audits closed	% with violations
Major violations	156	24%
Cite and fine	57	9%
Corrective action letters	127	19%
Minor violations	189	29%
No violations	127	19%
Total audits performed	656	100%

Trust fund shortages		
Total found with shortages	217	33%
Total amount of shortages found		\$10,957,489
Total shortage cured during audit		\$1,840,437

The Audit section will continue to provide a critical role in public protection and the education of real estate licensees through the performance of investigative and proactive routine audits in FY 2018-19.

Information Technology Services

The Information Technology Services section (ITS) is intricately involved in the alignment, investment and deployment of innovative systems and technologies. ITS is instrumental in providing modern technological solutions and tools to quickly process volumes of data, track cases, provide various web services to the public and generally enable the Department to integrate its internal operation and information sharing capabilities on an enterprisewide basis.

Three of the major projects ITS staff have been working on over the past year include:

- **Subdivisions Online Public Report Application System (SOPRAS)**
ITS staff developed an online application for subdividers and their authorized agents to submit an application and supporting documentation for a public report to the California Department of Real Estate (DRE) through the internet. The system will go into production on September 4, 2018.
- **Voice over Internet Protocol (VoIP) Conversion**
ITS staff have been working with Verizon to convert the Department's five district offices and two exam sites from the existing analog phone system to a Voice over IP (VoIP) phone system. The project is scheduled to be completed in late September 2018.
- **Interactive Voice Response (IVR) System Replacement**
Staff have been working with NICE inContact and Verizon to replace the Department's current Interactive Voice Response (IVR) system with Verizon's Virtual Call Center system. The current IVR system had been in place since 2009 and was not able to process the high volume of calls the Department received on a daily basis. The new system will go live after the VoIP conversion is complete.

Mortgage Loan Activities

The Mortgage Loan Activities (MLA) section is the part of the Enforcement program responsible for a variety of functions associated specifically with real estate brokers engaged in the mortgage business. The functions of MLA primarily include the following:

Mortgage loan compliance and enforcement – MLA performs investigations related to a wide range of mortgage loan-related topics, including advance fees taken for loan modifications, lender fraud, loan servicing, private money transactions, unlicensed loan activity, and advertising compliance. MLA also performs broker office survey site visits to review mortgage loan brokers' books, accounts, and records for compliance and for appropriate broker supervision, often working in concert with auditors from the DRE's Audit section.

Background investigations – MLA performs background investigations on salesperson, broker, and corporation licensees applying for a mortgage loan originator (MLO)

license endorsement. Investigations are conducted with respect to prior criminal convictions, disciplinary actions, civil litigation, and other financial responsibility issues, to determine if issuing a license endorsement to that person or corporation would pose a risk to the public. Last year, MLA performed approximately 311 total MLO background investigations.

Reports compliance – MLA tracks and monitors the activities of brokers who meet a prescribed level of activity in private money mortgage activity (threshold brokers) and in multi-lender servicing activity (multi-lender brokers). The threshold and multi-lender brokers are required to submit quarterly and annual reports to DRE. Currently there are 323 reporting threshold brokers and 126 reporting multilender brokers. MLA also monitors compliance with respect to the online submission of Business Activity Reports and Escrow Activity Reports via DRE's website, and the Mortgage Call Reports (MCRs) submitted in NMLS.

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MORTGAGE LOAN ACTIVITIES SECTION (CONTINUED FROM PAGE 7)

Voluntary mortgage loan advertising reviews – MLA performs reviews of mortgage loan advertisements submitted voluntarily by brokers requesting to have their advertisements approved by DRE. Brokers may submit their advertisements with the “Mortgage Loan Advertising Submittal” (RE 884) form along with the required fee for the review. Last fiscal year, 11 advertisements were submitted by brokers for approval.

Industry and consumer resource – Each day MLA fields a high volume of phone calls from licensees and consumers

who have questions regarding various compliance issues and complaints. MLA receives and responds to written correspondence as well, and on average each year will respond to approximately 2,500 calls and letters combined. MLA also is involved in enforcement outreach through both on-site visits to brokers’ offices as well as participating in industry and consumer events.

Looking forward, MLA will continue its enforcement efforts while working with industry to increase consumer protection, knowledge, and compliance.





Subdivisions

Before a subdivision can be marketed in California, the subdivider must obtain a Subdivision Public Report (California project), permit (out-of-state timeshare) or confirmation of their registration (non-California project located within the United States) from the California Department of Real Estate (DRE). The public report/permit discloses to prospective purchasers pertinent information about the subdivision. Prior to issuance of a public report or permit, the subdivider must submit evidence to DRE that adequate financial arrangements have been made for completion.

Through the public report process, DRE oversees the creation of new standard, common interest, and timeshare developments. To protect purchasers from fraud and misrepresentation in subdivision sales, DRE maintains uniform minimum statewide standards for site suitability, financing of improvements and facilities, sales agreements, purchase money handling, the release of blanket encumbrances, and vital disclosures concerning the availability of fire protection, water supply and quality, vehicular access, latent natural hazards, reservations of mineral rights and easements, and community association assessments. DRE's Subdivision section also seeks to ensure that the intricate arrangements required for managing common interest developments, including association budgets and governing instruments, are established in a way which balances the needs of the builder with those of purchasers.

Statistics

DRE received 3,368 Final Subdivision Public Report (Final) applications in fiscal year 2017-18. This was an increase of 6.3 percent compared to the previous FY total of 3,168. To put these numbers in perspective, over the last 15 years, the highest number of Final applications received occurred in FY 2005-06 (4,538) and lowest in FY 2008-09 (1,262). Final applications received in FY 2017-18 were 21.8 percent above our 15-year average of 2,766 files per year. The fact that the numbers were almost identical year-over-year substantiates several forecasts which called for slow or no growth during the current timeframes.

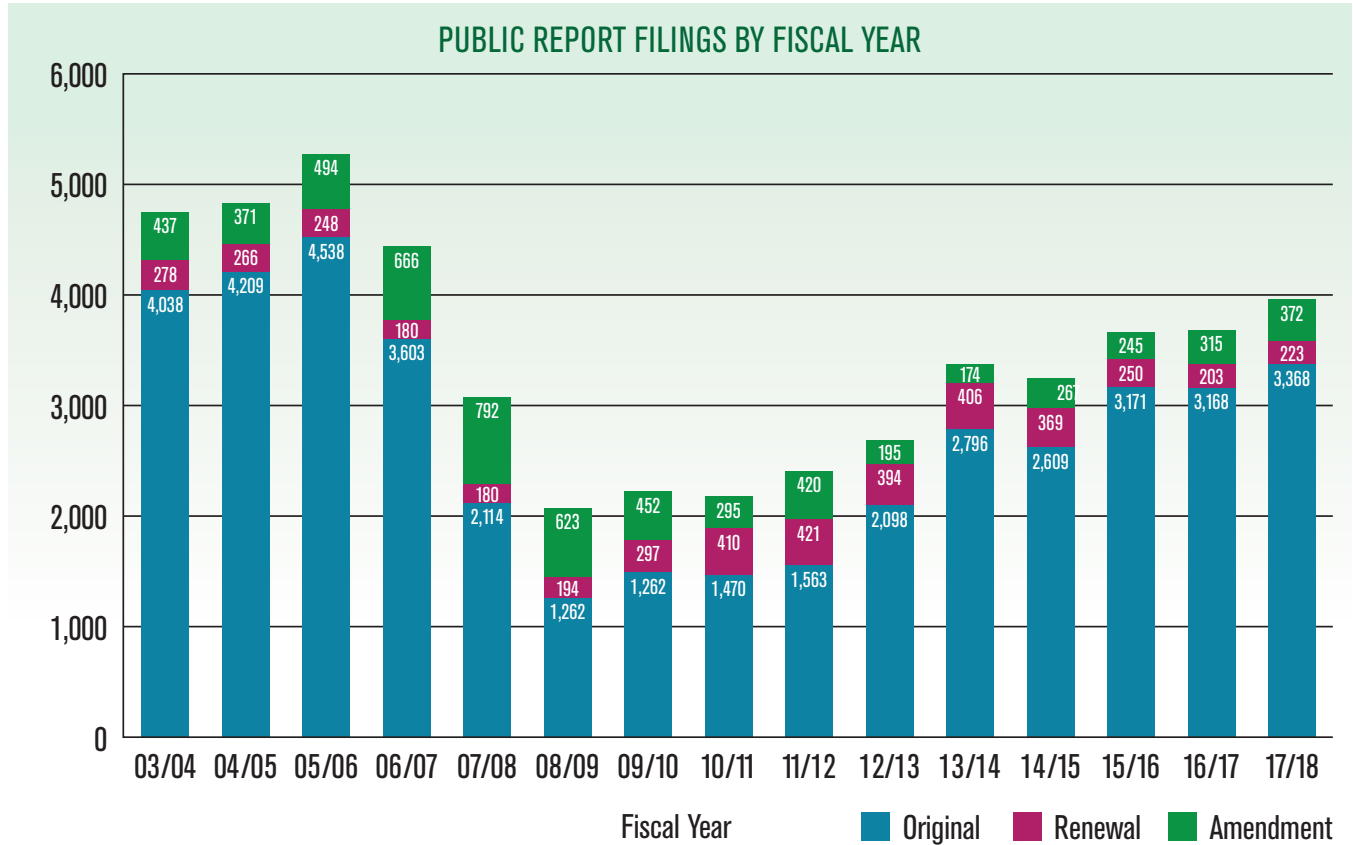
Amended Subdivision Public Report (Amendment) applications increased 18.1 percent in FY 2017-18, while Renewed Subdivision Public Report (Renewal) applications increased 9.9 percent. These numbers reflect an active yet tempered market as project changes and moderate sales increased our Amendment and Renewal application receipts. Typically, lower Renewal numbers reflect that more subdivision sale-outs were able to be made within the five-year term of the Final Public Report.

Subdivision section staffing has increased slightly over the past year in order to better serve the needs of the Subdivision Industry. The following chart illustrates fiscal year workload over the last 15 years.

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SUBDIVISIONS SECTION (CONTINUED FROM PAGE 9)



Future Plans

The Subdivision section released the first phase of its electronic application system. The Subdivision Online Public Report Application System (SOPRAS) fully automates the application process by establishing paperless submittals and instantaneous communications. It is expected that the SOPRAS will save time and resources while maintaining the highest level of public protection. When fully implemented, this process will improve productivity and service to the public.

Further, we will continue to partner with state and federal agencies to address issues of mutual concern aimed at improving consumer protection. We acknowledge the importance of enhancing efforts to educate consumers on the home-buying/selling process as well as to increase their awareness of inappropriate actions and real estate fraud. We continue to explore methods to increase exposure of critical information to consumers, including the distribution of electronic and print media, as well as the expansion of consumer educational materials posted on the DRE’s website.

Legal

The California Department of Real Estate's (DRE) Legal section remained busy during fiscal year 2017-18, which ran from July 1, 2017, through June 30, 2018. The Legal section plays a critical role in DRE's application review and license discipline processes, including the preparation of statements of issues to deny license applications and accusations to discipline license rights. The Legal section's attorneys regularly appear before administrative law judges to argue in favor of application denials or license discipline. Through its efforts, the Legal section protected consumers during FY 2017-18 by revoking 353 licenses, suspending 91 licenses, accepting the voluntary surrender of 105 licenses, and denying 220 license applications.

In addition to administrative prosecutions described above, the Legal section also manages DRE's Consumer Recovery Fund, a fund of last resort where victims of real estate fraud may recover some or all of their actual losses when a licensee lacks assets to pay for that loss. During FY 2017-18, the fund received 66 new claims for payment, paid 39 claims totaling \$1,424,559 million, and denied 86 claims. The fact that DRE paid or denied more claims than it received during FY 2017-18 is not unusual since most claims were filed during prior FYs.

Below are statistics for administrative prosecutions for FY 2017-18:

Activity	Cases Filed	Orders Issued
Statement of issues	250	–
Accusation cases	446	–
Desist & refrain cases	–	77
Petitions for reinstatement	–	104
Petitions for removal of restrictions	–	37
License revocations (including restricted)	–	353
License suspensions	–	91
Voluntary surrenders	–	105
Dismissals (accusations or statement of issues)	–	62
Public reprovals	–	9
License denials (including restricted)	–	220
Final bar orders	–	1
Total	696	1059





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We'd like to hear from you!
Email us at editor@dre.ca.gov.