

# Department of Real Estate Annual Report



2011



## STATE OF CALIFORNIA

**Edmund G. Brown Jr.**  
Governor

**Business, Transportation and  
Housing Agency**

**Brian P. Kelly**  
Acting Secretary

**Department of Real Estate**

**Barbara Bigby**  
Acting Commissioner

### Executive Leadership

**Barbara Bigby**, *Chief Deputy and Acting Commissioner*

**Wayne Bell**, *Chief Counsel*

**William E. Moran**, *Assistant Commissioner, Enforcement*

**Chris Neri**, *Assistant Commissioner, Subdivisions*

**Steve Ellis**, *Assistant Commissioner,  
Administrative Services and Licensing*

**Dan Sandri**, *Chief Auditor*

**Thomas L. Pool**, *Assistant Commissioner,  
Legislation, Public Affairs and Mortgage Lending Activities*

## *A Message from Acting Commissioner Barbara Bigby*



As we reflect upon the accomplishments of 2011, we should proudly note the finales to what had once been thought to be impossible undertakings: the expansion of our regulatory authority, and the preludes of new achievements in professional competence through training and mentoring programs offered as part of the vision that has evolved into the DRE Institute. We brought down the curtain on the first year of our 5-year Strategic Plan with what can only be described as enormous applause, if not a standing ovation. Working together we have been able to accomplish much of what we set out to do and we adapted along the way to new challenges and opportunities as they were presented.

2011 was also a year of transition with changes in leadership, personal growth, classification upgrades, program expansions, and the completion of some long and short term projects. Through productive cooperation, we initiate improvements every day in every corner of DRE that make our collective jobs more fulfilling and rewarding, as well as expanding the effectiveness and quality of our efforts. Our managers and staff are creatively applying new solutions to long term problems and are actively looking for ways to improve our operations, motivating us all to achieve our core values. It is our sustained commitment to a shared vision that propels us forward. To our various

stakeholders, the impact of what we do every day has been felt, appreciated and acknowledged.

2011 also ushered in significant expansion in our statutory mandate. These changes began with codifying DRE's new mission statement, developed along with the Strategic Plan, into law:

### ***Public Protection***

**10050.1.** Protection of the public shall be the highest priority for the Department of Real Estate in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

2011 was the right time for the right legislation to be enacted. These new mandates, collectively born from the strategic planning process, include cite and fine, cost recovery for disciplinary actions, petition fees, and many other provisions documented in this report. These new tools will serve DRE well as the catalysts for the continued advancement of consumer protection in real estate matters.

We should also be cognizant that the tasks we once considered innovative are now ingrained in our normal operation and are a critical part of our commitment. In 2011, we were able to maintain momentum with the issuance of new consumer alerts, expansion of the publication of disciplinary actions, and utilization of our resources statewide to achieve maximum results. We laid the ground work and began some long term technology endeavors including the Subdivision Online Public Report Application System, Enforcement Call Center, and Centralized Complaint projects. We are putting the final touches on other worthwhile endeavors including the high school Financial Literacy Program and an expansion of the Certified Sites Program. We are also continuing to cultivate and invest in our new organizational culture with the drafting of our Communications Plan.

As the curtain goes up on 2012, transformation will once again be at the forefront. DRE is now well suited to conquer any new challenging opportunities and problems; respond to changes in assignments, conditions and priorities; and implement creative solutions.



**Barbara Bigby**, Acting Real Estate Commissioner



*Real Estate MATTERS!*

# MISSION

To safeguard and promote the public interests in REAL ESTATE MATTERS through licensure, regulation, education and enforcement.

# PURPOSE

- To be an effective consumer advocate by monitoring and regulating industry practices while promoting public awareness.
- To be an effective customer-focused department providing timely and efficient services to licensees, subdividers and consumers.

# WORKPLACE VALUES

- Excellence
- Professionalism
- Knowledge
- Communication
- Caring

# VISION

**To be the Champion for Public Protection in Real Estate.**

The vision of the future for the Department is focused upon adopting innovations that will create new standards of excellence in service offerings and enhance consumer protection by:

- Incorporating advanced technology in its processes to better serve the industry and the public.
- Improving the accessibility to information that is progressive and secure.
- Expanding the knowledge base of staff.
- Maximizing enforcement efforts to address violations of the Real Estate and Subdivided Lands Laws.
- Providing licensing, subdivision qualification and consumer-related services conveniently and timely.
- Promoting consumer outreach to facilitate the making of informed decisions in real estate transactions.
- Adapting to the changing business environments of the real estate industry.
- Providing leadership in housing issues in California.

# PRIORITIES

- Enhance enforcement and outreach efforts to address a variety of consumer issues and focus on real estate fraud enforcement efforts.
- Improve services to the real estate industry.
- Support and promote California housing.



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## DEPARTMENT DESCRIPTION

The core function and legal mandate of the Department of Real Estate is to protect the consumer and the public through the administration of license examinations to evaluate real estate knowledge and expertise, issuance of real estate licenses to qualified individuals, regulation of real estate license activities, and qualification of subdivision offerings.

The Department is a special fund agency that derives virtually all its revenues from examination, license and subdivision fees. The Department previously had limited authority to fine and, as a result, regulatory related fines composed less than one percent of its budget. Fines collected by the Department were traditionally paid into the Recovery Account to help compensate victims of real estate fraud. 2011 legislation (effective on January 1, 2012) will allow the DRE to design and implement a “citation and fine” system which will enhance its enforcement capabilities and the Recovery Account will instead be called the “Consumer Recovery Account.”

The Department of Real Estate maintains five offices: Sacramento, Oakland, Fresno, Los Angeles, and San Diego, and currently has 356 authorized positions. Currently, there are approximately 429,755 real estate licensees in California.

To carry out its primary responsibility to the public, the Department acts in concert with other governmental agencies, education providers, and community organizations to enhance its enforcement and consumer awareness efforts to lessen the risk of loss to consumers in real estate transactions. Through consumer outreach, the public is better able to make more informed decisions and protect themselves to the extent they are able. By educating its licensees, the Department helps ensure that they are aware of their legal responsibilities, as well as their fiduciary obligations to their clients. With increased interactions with law enforcement agencies, the Department can contribute to the criminal prosecution of licensed and unlicensed individuals who violate the law. By approaching these principal responsibilities from the multiple avenues of education and enforcement, the Department maximizes the effectiveness of its consumer protection efforts. However, when a consumer has been victimized, the Department enforces the provisions of the real estate law by investigating complaints, performing audits and taking appropriate administrative action.

The Department provides many enhanced services to the real estate industry including electronic examinations with immediate results, online licensing options through eLicensing, an automated Licensing call center; and promotes economic growth through sponsorship of new opportunities such as the Certified Sites Program and the DRE Housing Committee.



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## **ENABLING LEGISLATION**

Originally enacted in 1917, DRE programs are in place to satisfy the Department's statutorily mandated obligations of licensing, approval of subdivision offerings, and consumer protection. Within the framework of requirements of Division 4 of the Business and Professions Code and the Regulations of the Real Estate Commissioner as contained in the California Code of Regulations, each of DRE's programs contributes toward satisfying its mission.

Section 10050 of the Business & Professions Code requires the Real Estate Commissioner to enforce all laws commencing with Section 10000 and Section 11000 of Part 2 in a manner which achieves the maximum protection for the purchasers of real property and those persons dealing with real estate licensees. Business and Professions Code Section 10050.1 was added to the Real Estate Law in 2011 and codified the principle that protection of the public is the Department's highest priority.

## **LEGAL MANDATE**

Pursuant to B&P Code Section 10050, "It shall be the principal responsibility of the Commissioner to enforce all laws in this part (commencing with Section 10000) and Chapter 1 (commencing with Section 11000) of Part 2 of this division in a manner which achieves the maximum protection for the purchasers of real property and those persons dealing with real estate licensees."



**SIGNIFICANT ISSUES**

**EVENTS INFLUENCING THE CALIFORNIA REAL ESTATE MARKET**

To understand the Department’s focus and activities during 2011, we must acknowledge the state and national housing economy. Although the overall economy has shown subtle signs of improvement recently, real estate home prices and sales volumes are still at historical lows. DRE has carried forward many of the same themes that began when the housing market bubble burst several years ago: consumer education and protection, and enforcement of the real estate law against licensed as well as unlicensed persons or entities, especially with respect to fraud prevention. Foreclosures, while the numbers are trending downward, remain near-historic highs.

The upside to the housing crisis is that homes have become more affordable due to the number of distressed properties on the market and historically low interest rates. According to the California Association of Realtors®, 55% of households in California could afford to purchase a median-priced existing single-family home at the end of the fourth quarter of 2011. The state median price was \$285,920 Sales of existing single-family homes reached 497,860 in 2011, up 1.1% from the number of homes sold in 2010. The unsold inventory index can also be a good indicator of home prices; when the housing supply falls below seven months, it usually leads to price appreciation. The December 2011 unsold inventory index was 4.2 months, indicating the length of time necessary to sell the entire current housing supply.

The following chart represents the housing economy outlook according to a California Association of Realtors® forecast from September 2011 and shows historical numbers for comparison:

**California Housing Market Outlook**

	2005	2006	2007	2008	2009	2010	2011f	2012f
<b>SFH Resales (000s)</b>	625.0	477.5	346.9	441.8	546.9	491.5	491.1	496.2
<b>% Change</b>	0.03%	-23.6%	-27.3%	27.3%	23.8%	-10.1%	-0.1%	1.0%
<b>Median Price (\$000s)</b>	\$522.7	\$556.4	\$560.3	\$348.5	\$275.0	\$303.1	\$291.0	\$296.0
<b>% Change</b>	16.0%	6.5%	0.7%	-37.8%	-21.1%	10.2%	-4.0%	1.7%
<b>30-Yr FRM</b>	5.9%	6.4%	6.3%	6.0%	5.1%	4.7%	4.5%	4.7%
<b>1-Yr ARM</b>	4.5%	5.5%	5.6%	5.2%	4.7%	3.5%	3.0%	3.1%

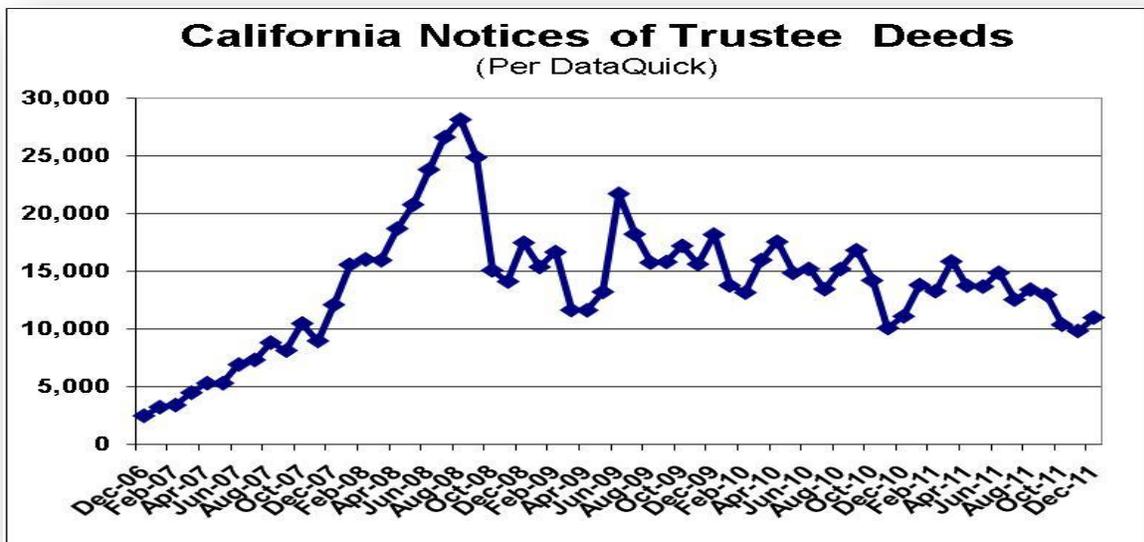
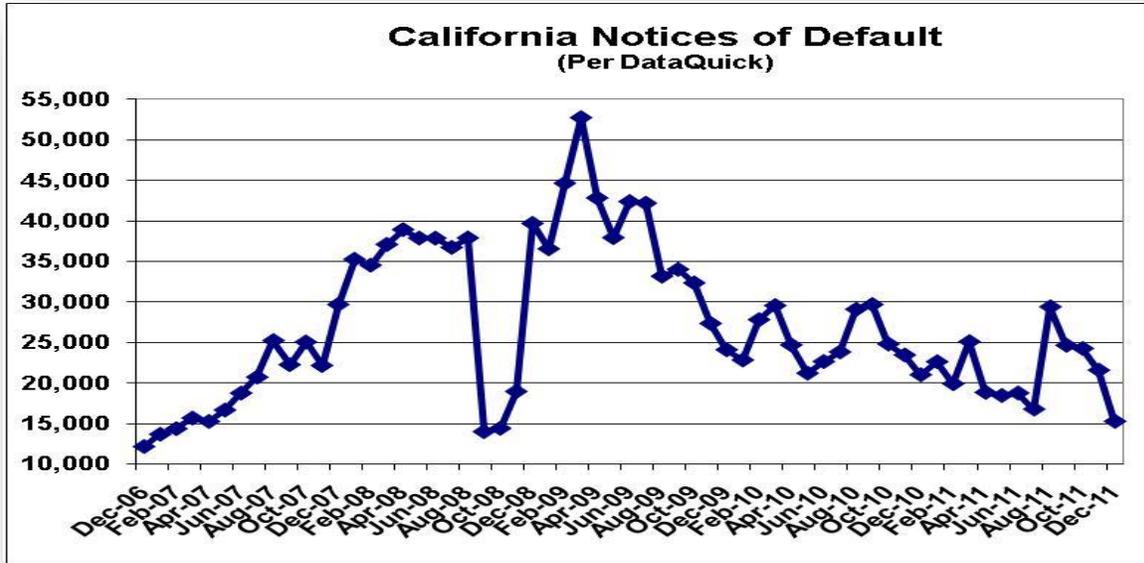
Forecast Date: September 2011  
Source: CALIFORNIA ASSOCIATION OF REALTORS®



## SIGNIFICANT ISSUES

### EVENTS INFLUENCING THE CALIFORNIA REAL ESTATE MARKET (Cont.)

The following charts represent the number of Notices of Default and Notices of Trustee Deeds recorded in California for the past 6 years.





## **SIGNIFICANT ISSUES**

### ***EVENTS INFLUENCING THE CALIFORNIA REAL ESTATE MARKET (Cont.)***

As the previous charts illustrate, while the number of foreclosures decreased during 2011, the numbers still remain high above historical averages. California is not out of the woods yet, despite the cautious optimism of most analysts. The later phase of the foreclosure crisis involved underwater properties that were not part of the subprime group of mortgages. “Strategic defaulters” – homeowners whose loan amounts were higher than the value of their properties – allow their property to be foreclosed even though they can afford to make the payments. “Short sales,” in which the lender agrees to take less in the sale of the property than the loan amount, also led to depressed prices. Distressed properties continue to deflate home prices and some experts predict that California will not see a full economic recovery until 2017.

As detailed above, the California housing market showed signs of slight improvement throughout 2011, although foreclosure inventory and short sales continued to dominate the market. These conditions again resulted in fewer real estate license applications received by the Department, resulting in fewer background investigations conducted. However, the number and complexity of transactional investigation cases (complaint cases filed against real estate licensees and unlicensed perpetrators involving allegations of possible violations of the Real Estate Law) continued to increase as allegations of fraud dominated the landscape.

DRE has continued to protect consumers through a crackdown on loan modification scams, the screening of mortgage loan originators pursuant to the SAFE Act, and initiating numerous transactional investigations. As noted above, California is not out of the woods of the foreclosure crisis yet. During difficult economic times, consumer complaints about issues involving foreclosures, property values and “creative” marketing techniques rise, as do cases of misconduct. This increase is not limited to real estate licensees. California law requires that DRE investigate all verifiable written complaints. The number of disciplinary actions, including desist and refrain orders against unlicensed entities, resulting from fraud or misconduct correlates to increased complaint activity and transactional investigations triggered by market and economic trends. Since the numbers of unlicensed perpetrators was so significant and DRE authority over these actions so limited, the DRE has expended significant effort to assist local, state and federal law enforcement entities with the pursuit of criminal and civil actions against such individuals and entities. However, significant changes to the Real Estate Law took place in 2011 that expanded the DRE’s enforcement capabilities. The result of the implementation of these new laws will be a more robust system that allows the DRE to use all of its tools to pursue its paramount public protection mission.



## **SIGNIFICANT ISSUES**

### **EVENTS INFLUENCING THE CALIFORNIA REAL ESTATE MARKET (Cont.)**

In regards to the health of the building industry, the Department's Subdivisions Section reported a slight decrease in subdivision and timeshare filings in 2011, down 1% from the previous year. Statistics over the past three years indicate that the real estate new home sales market has yet to stabilize. Throughout 2010 and 2011, Subdivisions staff worked with the building industry to resurrect broken or abandoned projects and ensure that consumer interests were protected. Bankruptcies, receiverships and other complex issues continued to present themselves like never before in 2011 and staff members worked hard at finding reasonable solutions to these problems.

### **LICENSING OF MORTGAGE LOAN ORIGINATORS**

Title V of HR 3321 - The Secure and Fair Enforcement Mortgage Licensing Act (SAFE Act) of the federal Housing and Economic Recovery Act of 2008 was signed into law on July 30, 2008.



### **Requirements of SAFE**

The SAFE Act defines the term "mortgage loan originator" as one who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain. SAFE creates a distinction between mortgage loan originators who are employed by depository institutions or subsidiaries of depository institutions, and all other mortgage loan originators. Under the SAFE Act, mortgage loan originators who are not employed by a depository institution or a subsidiary of a depository institution must be both licensed by their state and registered on the Nationwide Mortgage Licensing System and Registry (NMLS&R). License applicants must undergo background checks, submit to credit checks, complete and successfully pass pre-licensing education courses approved by NMLS&R, meet specific financial responsibility requirements specified in the SAFE Act, and, once licensed, must complete annual continuing education courses approved by NMLS&R and submit call reports to NMLS&R quarterly and annually.

Senate Bill (SB) 36 was the key piece of legislation that brought California into compliance with SAFE. SB 36 imposed unique requirements on DRE with regard to the licensing endorsement and regulation of MLOs.



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## **SIGNIFICANT ISSUES**

### ***LICENSING OF MORTGAGE LOAN ORIGINATORS (Cont.)***

Two notable requirements of SB 36 with impact specific only to DRE are the MLO notification process and the annual Business Activities Report requirement for all MLO brokers. Under SB 36, every real estate licensee engaging in MLO activities after January 1, 2010 is required to notify the Department within 30 days of the commencement of such activity or face a fine not to exceed \$10,000. These licensees also needed to register with the NMLS and receive a special DRE license Endorsement if they wished to continue MLO activity on or after January 1, 2011. SB 36 also requires real estate brokers engaged in MLO activity to complete an annual Business Activities Report somewhat similar in scope to what is required by the Department's 300 threshold brokers.

During the period from March 1, 2010 through December 31, 2011, DRE approved over 26,977 MLO license endorsements out of a total of 35,080 companies (MU1), branches (MU3) and individuals (MU4) that submitted applications to register with the NMLS. In addition to the 26,977 applications DRE approved by the end of this period, there were 166 MLO applications pending Department review, 6,553 applications filed with the NMLS containing deficiencies which blocked them from DRE endorsement consideration, and 1,384 NMLS applications that were filed and either withdrawn or placed in some other non-active status.



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**DRE PROGRAMS & 2011 ACCOMPLISHMENTS**

The Department is divided into the following budget programs: Licensing and Education, Enforcement, Audit, Legal, Subdivisions and Administration.

**LICENSING AND EDUCATION DIVISION**

To engage in the real estate business and act in the capacity of, advertise as, or assume to act as a real estate broker or salesperson within California, a real estate license must first be obtained from the Department of Real Estate.



Before a real estate salesperson applicant may obtain a license, he or she must fulfill certain educational requirements prior to applying for and passing a real estate examination. A broker applicant, in addition to the required education, must have two years of licensed salesperson experience (or the equivalent) before applying for the exam. Broker and salesperson licenses are issued for a four-year period. In general, both types of licenses may be renewed by submitting the appropriate application and fee, along with evidence of completion of the required hours of Department-approved continuing education courses (including required courses in Ethics, Agency Relationships, Trust Fund Handling, Risk Management and Fair Housing). DRE's Licensing and Education Division is headed by **Steve Ellis**, Assistant Commissioner.

**EDUCATION AND RESEARCH**

The Education and Research Section reviews continuing education courses and approves examination qualification courses offered by private post-secondary schools. In addition, this Section administers a research program authorized under Section 10451.5 of the Business and Professions Code, which makes funds available to be used by the Real Estate Commissioner for the advancement of education and research in the field of real estate.

<i>RES/REB License Application</i>					
	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/2011	July 2011-Dec 2011
<b>CANDIDATES</b>	67,065	31,779	34,650	30,649	13,237
<b>PASS</b>					
<b>Salesperson</b>	47%	56%	60%	60%	63%
<b>Broker %</b>	40%	43%	49%	48%	51%



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<b>AVERAGE DAYS TO RECEIVE LICENSE</b>	<b>FY 2007/08</b>	<b>FY 2008/09</b>	<b>FY 2009/10</b>	<b>FY 2010/11</b>	<b>July 2011 - Dec. 2011</b>
Application to Examination	19	30	33	32	17
License Application to Issuance	10	8	6	16	5
<b>Total Days on Average</b>	<b>29</b>	<b>38</b>	<b>39</b>	<b>48</b>	<b>22</b>

By the end of FY 2010/11, 447,642 California real estate licenses were in effect, down 35,608 or 8% from the end of FY 2009/10.

Starting in 2000, California experienced an uninterrupted increase in the number of real estate licenses for 7 1/2 years while home sales and prices boomed.

- Total real estate license population reached its highest peak at the end of December, 2007 at 542,267.
- In 2010, while the number of broker licensees once again held steady, the number of salesperson licensees fell 4.5% due to market conditions and increased license requirements.

<b>Licensing Data</b>	<b>FY 2007/2008</b>	<b>FY 2008/2009</b>	<b>FY 2009/2010</b>	<b>FY 2010/2011</b>	<b>July 2011- Dec. 2011</b>
<b>Total licensees</b>	<b>Total: 542,267</b>	<b>Total: 519,941</b>	<b>Total: 483,250</b>	<b>Total: 447,642</b>	<b>Total: 431,528</b>
Salesperson	389,661	366,700	333,330	302,249	287,672
Broker/Officers	152,606	153,241	149,920	145,393	143,856
<b>Original Licenses</b>	<b>Total: 39,781</b>	<b>Total: 21,302</b>	<b>Total: 20,894</b>	<b>Total: 19,527</b>	<b>Total: 9,128</b>
Salesperson	29,195	13,237	13,667	13,031	5,958
Brokers/Officers	10,586	8,065	7,227	6,496	3,170
<b>Renewal Licenses</b>	<b>Total: 82,204</b>	<b>Total: 86,619</b>	<b>Total: 95,273</b>	<b>Total: 87,603</b>	<b>Total: 36,444</b>
Salesperson	55,760	59,824	64,249	58,077	24,120
Broker/Officers	26,444	26,795	31,024	29,529	12,324

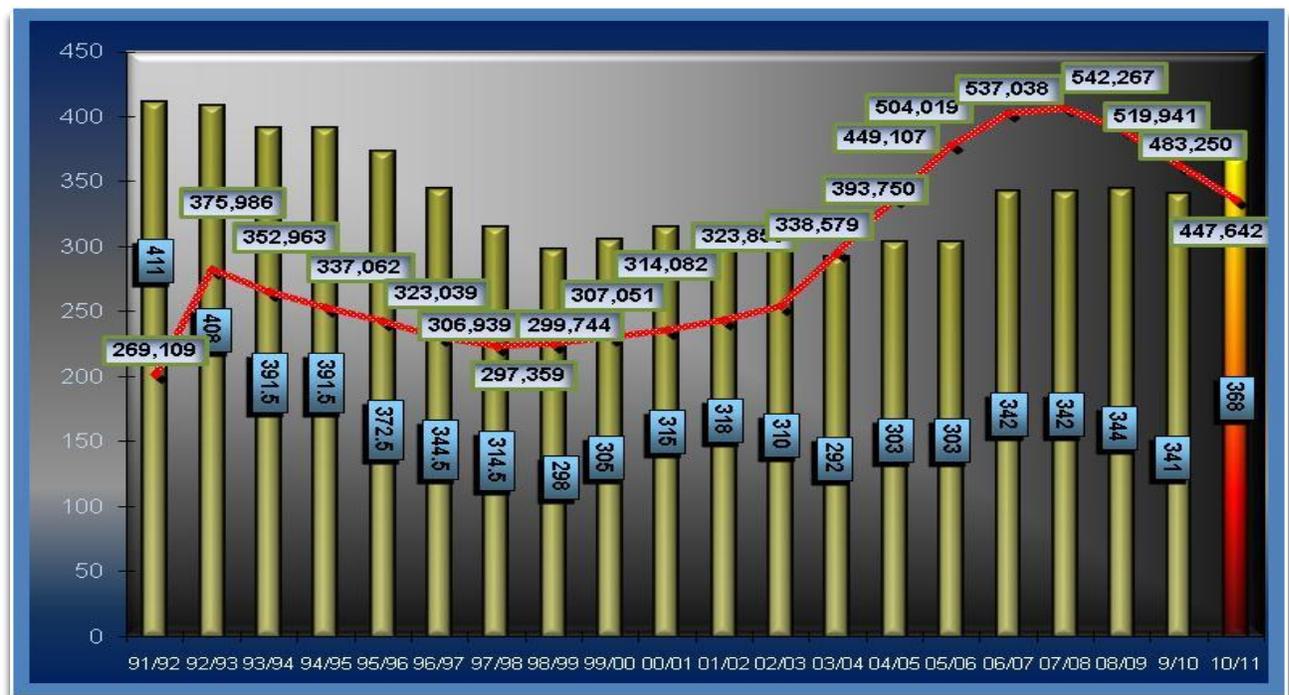


## Real Estate MATTERS!

The following chart shows the license population since FY 04/05 through FY 10/11, which ended June 30, 2011. Despite noteworthy changes and decline in the real estate market, the Department still has a large licensee population to support and regulate.



The Department tracks Licensing trends in order to compare and monitor workload and processing time frames, project revenue, and forecast personnel (PYs) needs on a department-wide basis. In addition to licensee population, staffing needs are influenced by economic and real estate market issues, the dynamics of unlicensed activities, new home building and construction factors, timeshare expansion, and new legislative mandates.





## ***Real Estate MATTERS!***

### **2011 Accomplishments - Licensing Program**

In 2011, the Licensing Program made significant contributions to ensure compliance with new continuing education regulations, handled its first MLO license renewal period, and strived to implement environmentally friendly processes.

#### ***Continuing Education Regulation Changes***

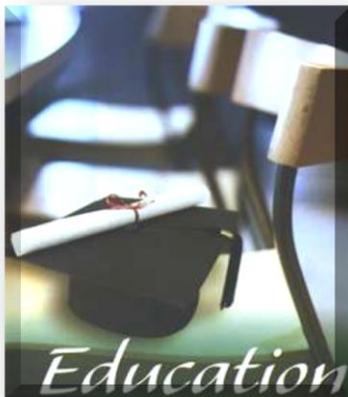
The regulation changes proposed during 2010 went into effect on January 1, 2011. The Education Section is ensuring compliance with the new regulations, of which several key revisions include the requirement of incremental assessments within a course, which provide remediation to the participant; final examinations consisting only of multiple choice, true/false or fill-in-the-blank questions are limited to a maximum of 10% true/false questions; and participants who fail both the final examination and the re-examination must re-complete the credit hours and pass the final examination to receive credit for the course.

#### ***MLO License Endorsement Renewal Period***

In 2011, the Department successfully completed its first nationwide Mortgage Licensing System & Registry (NMLS) renewal period. Pursuant to the provisions set forth in the SAFE Act, all mortgage loan originator (MLO) license endorsements expire on December 31<sup>st</sup> of each year and must be renewed annually by submitting a renewal request/attestation electronically through NMLS along with the appropriate fees and continuing education, as specified. The NMLS renewal period began on November 1<sup>st</sup> and ended on December 31<sup>st</sup>. MLOs who failed to renew their MLO license endorsement by January 1<sup>st</sup> had their MLO license endorsement status changed to “Terminated – Failed to Renew” and were required to cease performing all activities requiring a MLO license endorsement. By March 29, 2012, the Department had approved over 24,033 MLO license endorsement renewals.

#### ***Formal Action Scanning Project***

The Department, working with Softfile Business Services, began the process of converting formal action hearing files to an electronic format for eventual uploading to a licensee’s public information record.



#### ***Continuing Education Monitoring***

The Education Section continues to monitor courses for education compliance by approved sponsors and licensees for structure and to ensure that course content has not materially changed from when the course was approved. Sponsors found to be in violation of the new regulations may face formal withdrawal of course approvals.

#### ***Paperless CE Course Provider Renewal Project***

The Education and Research Section completed an environmentally friendly and paperless modernization project involving the renewal of continuing education (CE) offerings by course providers. Prior to the implementation of this project, the Department would mail renewal applications to CE course providers 80 days before their approved offering was set to expire,



## ***Real Estate MATTERS!***

pursuant to Commissioner's Regulation 3009(a). Now course providers will receive a renewal reminder e-mailed to them 120 days prior to the offering's expiration date, along with DRE's website link to all the necessary forms required to complete the renewal process.

### ***Real Estate License Examination Validation Study***

In 2011, DRE concluded the license examination validation study. This study included ensuring that DRE license examinations are appropriate in content, subject category and weight for entry into the real estate profession. Subject Matter Experts spent months of meeting days and pored over thousands of questions, issues and concerns, deliberating the merits of each while determining which test items should appear in the new real estate salesperson and broker examinations. They made it their mission to ensure that the study concluded with a comprehensive, meaningful and relevant review of the practical knowledge levels required to enter the real estate profession, and then focused their efforts on developing real estate license examinations that would appropriately test and measure the knowledge levels of salesperson and broker license applicants.

### ***Electronic Examinations Project***

The newest Electronic Examination Site opened on September 21, 2011, in the city of La Palma in the greater Los Angeles area. This state of the art electronic exam facility is the third electronic examination site for the Department. This La Palma site accommodates 96 examinees at electronic workstations, has lockers available for use by examinees, and has free parking. The next electronic exam site will serve the San Diego region in the Spring of 2012.



## ***Real Estate MATTERS!***



### **ENFORCEMENT DIVISION**

The Enforcement Program has a multi-tiered responsibility. In addition to responding to complaints, performing audits and taking administrative action against both licensees and unlicensed individuals, Enforcement also focuses on fraud prevention and ways to increase consumer awareness and promote real estate financial literacy. **Bill Moran**, Assistant Commissioner for Enforcement heads this division.

#### ***Enforcement Investigations***

The Real Estate Law provides that, either upon receipt of a verified written complaint, or on his/her own motion, the Commissioner may investigate, within the jurisdiction of the Department, the actions of any person acting in the capacity of a real estate licensee within California.

To investigate these complaints, the Department maintains five Enforcement offices: Oakland, Sacramento, Fresno, Los Angeles, and San Diego. Enforcement staff administers the law through the investigation of consumer complaints against licensees, the investigation of alleged subdivision violations, and the qualification of applicants for real estate licensure. Staff also conducts investigations of unlicensed persons who may be performing activities for which a real estate license is required.

The primary purpose of an investigation is to determine whether or not a violation of the Real Estate Law has occurred. If the evidence gathered by the assigned investigator indicates that a violation has occurred, a staff attorney will review the file for legal sufficiency in anticipation of filing an Accusation against the licensee. An Accusation is a formal accusatory pleading informing the licensee of the alleged violations and the intention of the Department to either suspend or revoke his or her license if the violations are proven at an administrative hearing.

### **2011 Accomplishments - Enforcement Program**

2011 marked yet another challenging year for the California housing market as median home prices hovered around 2001/02 levels with foreclosure inventory and short sales continuing to dominate the housing market. Fewer license applications were received by the Department, which, correspondingly, resulted in fewer background investigations conducted. However, the number and complexity of transactional investigation cases (complaint cases filed against real estate licensees involving allegations of possible violations of the Real Estate Law) continued to increase as allegations of short sale scams and real estate fraud victimized the market.

The following chart provides a comparison of Enforcement/Legal's Statistics for the past four Fiscal Years along with statistics for 2011. The Department's Fiscal Year ends June 30<sup>th</sup>.



**Overall Enforcement Investigations Statistics**

<b>Enforcement Data</b>	<b>FY 07/08</b>	<b>FY 08/09</b>	<b>FY 09/10</b>	<b>FY 10/11</b>	<b>July 2011- Dec. 2011</b>
<b>Investigations Commenced</b>	Total: <b>8,287</b>	Total: <b>7,821</b>	Total: <b>8,028</b>	Total: <b>8,870</b>	Total: <b>2,892</b>
<b>Cases Closed – Enforcement</b>	Total: <b>6,742</b>	Total: <b>5,651</b>	Total: <b>6,178</b>	Total: <b>6,184</b>	Total: <b>3,265</b>
<b>Compliance Actions</b>	Total: <b>130</b>	Total: <b>205</b>	Total: <b>222</b>	Total: <b>243</b>	Total: <b>128</b>
Corrective Action Letters	52	49	41	24	13
Public Letter of Reprimand	4	11	20	18	5
Desist & Refrain/Warning*	74	145	161	201	110
<b>Referred to DRE’s Legal Section</b>	Total: <b>2,252</b>	Total: <b>2,436</b>	Total: <b>2,488</b>	Total: <b>2,598</b>	Total: <b>1,361</b>
Accusations Filed	633	895	783	783	450
Statement of Issues Filed	1,144	661	321	274	165
<b>Stipulated Settlements Statement of Issues</b>	352	233	89	46	31

\*D&R’s include multiple respondents with multiple investigative efforts.

***Continuing Efforts to Combat Against Mortgage Fraud***

In 2009, the Department instituted an Internal Real Estate and Mortgage Fraud Task Force and by 2011 the Department was involved in over 5,167 investigations against loan modification companies, made 138 referrals to the California State Bar, issued Desist and Refrain Orders to over 1,178 respondents, and filed 353 accusations against real estate licensees.



***Transition of Deputy Commissioner Classification to Special Investigator***

On October 1, 2011, the former Deputy Commissioner class became the Special Investigator class. The reclassification followed the Department of Personnel Administration’s study to consolidate investigator classifications within two new statewide classification series – Investigator and Special Investigator. This new classification changed the minimum



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qualifications for entry level investigator positions at the Department, requiring more investigatory qualifications and experience.



### ***DRE Advocacy Program***

The DRE initiated a pilot Advocacy Program in 2010 to resolve simple disputes or minor issues between consumers and licensees or subdividers as an alternative to setting up and pursuing formal investigations into such matters. The program includes advocates from the Enforcement, Subdivision, and Mortgage Loan Broker Activities sections. This program was made permanent in 2011.

The mission of the Advocacy Program is to respond quickly and informally to current concerns of consumers and members of the real estate industry by serving in a facilitative role to help resolve conflicts and mitigate or prevent Real Estate Law violations. Through this effort, the Enforcement Section expects to resolve issues at the beginning points of contact as opposed to at the conclusion of a lengthy investigation. Statewide, 454 advocacy cases were set up in 2011, and the advocacy team logged more than 1,900 hours working on consumer issues. Despite the fact that not all advocacy matters involve monetary issues, in 2011 the advocates were instrumental in assisting consumers to recover more than \$300,000 and successfully resolved other consumer issues. This program's coordinator is **Dolores Weeks**, Managing Deputy Commissioner IV, Enforcement.

### ***DRE Community Presence***

The Telework program was made permanent in 2011, allowing special investigators to work 10 days or more per month without coming into the office, saving energy and contributing to a reduction in traffic congestion. Additionally, the program provides investigators with an opportunity to spend more time conducting field investigations and less time confined to conducting investigations from their desks. Face-to-face investigations and a more active presence in the industry are positive steps toward making the most of the Department's resources.



### ***Bilingual Outreach and Advocacy Team***

The Department expanded its Bilingual Outreach and Advocacy (BOA) Team in 2011. This special unit assists the non-English speaking consumer who has been a victim and target of real estate or mortgage fraud, has questions about the real estate law, or needs assistance in filing a complaint. The BOA is also actively involved in public outreach and activities in underserved communities. The BOA now serves all of California. The BOA is proactively attending Scam Stopper town hall meetings, general real estate information forums, and, in partnership with Univision (Channel 34 – Los Angeles), participates in real estate telethons. In addition, the BOA currently has a monthly segment on Radio Luz FM 105.3, a



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Sacramento based radio talk show. These outreach efforts address issues and topics that are relevant to non-English speaking consumers.

Additionally, the BOA unit has certified staff to act as interpreters, to translate correspondence and provide input for the “En Espanol” section of the DRE’s Web site. This unit is charged with timely investigation of complaints involving an array of real estate misrepresentations and real estate fraud. This unit is dedicated to assist, educate, and advocate for those individuals who are not able to effectively access or maneuver through the process of obtaining government assistance and intervention. To this end, this is one of the avenues that demonstrate the DRE’s commitment to our VISION to be “The Champion for Public Protection in Real Estate” by providing opportunities for all California residents to have easy access to our services and to promote consumer protection.

### ***Enforcement Case Triage***

The Enforcement Program implemented a common law enforcement case screening method in both the



Enforcement and Legal Sections in which cases were evaluated based upon their importance to, or enhancement of, public protection efforts. Legal and Enforcement staff discussed and determined which cases were compliance issues that could be resolved via corrective active measures without formal legal action being filed, and which cases could benefit from the Department’s Advocacy Program as a means of disposing of issues of lesser importance. This triage effort cleared

the way for more substantive, and time consuming, Administrative Actions where greater public protection benefits are achieved. Additional benefits of the program included a reduced number of aged cases as reflected in the Department’s Fiscal Year End percentage of cases under investigation to 3.9% of total case inventory.

The Department is continuing with the Enforcement Case Triage Program in the current fiscal year where we are on target for another successful effort as Legal and Enforcement Staff focuses on cases that yield the highest return in our anti-fraud and consumer protection efforts, and assess where our limited resources can be most effective in protecting consumers as a top priority.

### ***Benefit of the Doubt Program***



The DRE has made permanent the “Benefit of the Doubt Program”, which establishes clear protocols that allow the broker who fires an employee for cause to notify the DRE without fear that the DRE will automatically investigate the broker for lack of supervision. Existing law requires that a broker notify the DRE when the broker discharges a salesperson for a violation of the Real Estate Law, and it is important to the DRE’s policing efforts that this be done. The law also requires that the broker provide the



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DRE with a detailed written description of the reasons the employee was fired. However, based on the small number of notifications previously received by the DRE, it is clear few brokers are notifying the DRE when they let a rogue agent go, and it was easy to avoid the requirement by simply arriving at a mutual understanding that it was time for a salesperson to leave without a formal termination. The program does not provide a safe harbor, but it does provide assurances that the file will be carefully reviewed at a central desk and that the benefit of the doubt will be given to a reporting broker if at all warranted. Since the inception of the program, there have been 28 referrals as opposed to the four received by the Department during the previous two year period. While a majority of the assigned cases are being investigated, five formal action recommendations have been referred to our Legal Division for review, and there have been three Accusations filed, of which only one resulted in formal action being sought against the reporting broker.

### *Law Enforcement Collaboration*

The Department reached out to, and cooperated and collaborated with, federal, state and local law enforcement agencies in an effort to assist them in prosecuting those individuals taking advantage of the public during these challenging times. As part of this collaboration, not only did the Department assist with the law enforcement's investigations, but we have enabled our investigators, attorneys and auditors to provide summary testimony at criminal preliminary hearings by having them certified through a Proposition 115 training program. This collaboration has resulted within the last two years in approximately 122 criminal and civil actions consisting of 109 arrest/criminal filings and/or criminal convictions and 13 civil filings seeking injunctive and other equitable relief. The Department will continue to be a vital support to the law enforcement community.



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### **AUDIT DIVISION**

The Audit Division protects the consumer through financial compliance audits of real estate licensees and subdivision developments. DRE's Chief Auditor is **Dan Sandri**. The primary focus of an audit is the handling of trust funds by licensees and subdividers. Through the Audit Program, Department Auditors determine if the operations of real estate brokers or subdividers, as reflected in their business records, comply with the requirements of the Real Estate Law and the Subdivided Lands Law. In addition, the Audit Program reviews threshold mortgage loan broker annual and quarterly reports for possible trust fund handling violations, and is responsible for the internal audit function of the Department. It also acts as the Audit Resolution Liaison for all external audits of the Department by its control agencies; e.g., Department of Finance, State Controller's Office, Bureau of State Audits.

The Department has field auditors assigned to the Sacramento, Oakland, Fresno, Los Angeles, and San Diego offices. Audits performed are either investigative audits initiated based on a complaint from the public or information received indicating probable violations by a licensee or routine audits performed, when resources allow, on selected licensees engaged in real estate activities, primarily where the risk of financial loss to the public is high; e.g., mortgage loan brokers, property managers and broker escrows.

As to cost recovery, the Department charges for those audits that relate to substantiating trust fund mishandling by a real estate broker, provided the violation is subsequently proven and results in some form of disciplinary action. The Department may also bill the licensee for follow-up compliance audits.

### **2011 Accomplishments - Audits**

The Audit Section provides a key component to the success of the Enforcement Program through the examination of books and records. These audits are quite complex, very time consuming, require a team of resources and have resulted in the discovery of extensive real estate law violations and license disciplinary actions. In addition to their task force participation, Audits is acknowledged with the following main accomplishments, under the leadership of **Dan Sandri**:

#### *Audit Closings*

During 2011, the Audit Section closed 701 audits, 569 of which were investigative audits.

- 70% of completed audits were new Investigative Audits;
- 48% of completed audits had Major Violations.
- 30% of completed audits were Mortgage Loan Audits.
- 93 completed audits involved Loan Modification cases of which 73% of these had findings of Major Violations.
- 143 audits revealed trust fund shortages totaling \$12,454,712.23. Shortages cured during these audits totaled \$3,862,306.78.



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<i>Audit &amp; Broker Office Surveys (BOS) Summary Information</i>					
	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	July-Dec 2011
<b>Total Audits Performed/Closed</b>	745	691	631	683	339
<b>Total BOS Performed/Closed</b>	123	107	139	107	34

Broker office surveys are conducted by enforcement special investigators to review specific issues and documentation in multiple transactions to evaluate a broker’s business practices and their compliance with the Real Estate Law. Surveys do not include an in-depth examination of the trust fund handling or finance-related compliance issues, which are best performed by auditors. If a broker office survey identifies potential trust fund or financial-related noncompliance, an audit is requested for detailed DRE examination.

Audits are financial compliance examinations. The central focus of an audit is on trust fund handling by the licensee and examination and reconciliation of the trust accounts maintained to assure that investor/client monies are handled and accounted for properly. However, audits also focus on compliance with financial-related laws and regulations such as predatory lending, multi-lender law, private money reporting (threshold broker), broker-escrow laws, subdivider assessment payments, and other money-related issues. Auditors will also examine licenses, records and files for compliance with the Real Estate Law and Commissioner’s Regulations related to licensing, disclosure, recording of interests and other issues. Audit reports are issued to the Enforcement section for decision on what action should be taken.

As to cost recovery, the Department charges for those audits that relate to substantiating trust fund mishandling by a real estate broker, provided the violation is subsequently proven and results in some form of disciplinary action. The Department may also bill the licensee for follow-up compliance audits.

<i>COST RECOVERY DATA</i>	<i>FY 2007/08</i>	<i>FY 2008/09</i>	<i>FY 2009/10</i>	<i>FY 2010/11</i>	<i>July-Dec 2011</i>
# Cases Recovery Ordered	70	57	49	188	45
Amount of Cost Recovery Ordered	434,964.88	290,953.99	257,092.66	996,485.48	250,978.32



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### *Threshold/Multi-Lender Report Review*

Mortgage brokers that arrange loans that are funded by private investors and whose loan volume exceeds a prescribed threshold of business, must submit reports about the broker's business activities. During the period 1/1/11 – 12/31/11, the Audit Section reviewed 1,903 Threshold/Multi-lender reports forwarded from the Mortgage Lending Section. The most recently released Composite Report of Mortgage Loan/Trust Deed Annual Reports is available on the Department's Web site at [http://www.dre.ca.gov/pdf\\_docs/composite\\_report\\_2009.pdf](http://www.dre.ca.gov/pdf_docs/composite_report_2009.pdf)



#### Audits Section Highlights for 2011:

- Audits has developed a risk-focused audit plan in order to target for audit those licensees involved in high-risk activities and actively used risk assessment in scheduling routine audits in 2011. The goal of assessing risk and risk-based planning is the strengthening of the audit planning and scheduling process to permit achievement of audit objectives and the use of audit resources in an effective and efficient manner. Currently, this program, run through the EIS, is also used to prioritize completion of investigative audit cases. With the help of the IT Section, Audits will continue to refine the risk assignment system.
- Updated mortgage loan, property management, broker escrow and resale working papers for extensive law changes of 2010 and 2011.
- Audit case triage procedures were undertaken to assist LA Audits with reduction of investigative backlog.
- Audits completed an extensive Financial Integrity and State Managers Accountability (FISMA) Act audit, as required by GC 13400–13407. This detailed examination of the accounting and administrative controls in effect at the Department is required to be completed every other year. This FISMA study and evaluation is risk-based and must be conducted in accordance with the Standards for the Professional Practice of Internal Auditing by the Institute of Internal Auditors, Inc. Due to the complexity, the FISMA audit has become a year-long audit every other year.
- Audits began providing informational materials on trust fund handling and other compliance as part of entrance conference procedures on audits. The purpose of this procedure is to better serve practitioners as an educational source;
- Audits included the procedure of auditor detailing corrective measures that can be taken by licensee as part of the audit exit conference.
- Audits incorporated procedures to assure the redaction of Confidential Information from documents in audit files into its audit programs and supervisory review documents;
- Audits incorporated procedures to assure that Confidential Information is not maintained on laptop computers;



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- With assistance of IT Section, Audits updated reports and internal documents for NMLS audit activities.
- In conjunction with the Legal Section and IT Section, Audits developed an improved system to track audit cases for which a licensee should be charged as a result of a disciplinary hearing, settlement or desist & refrain order.

Audit Staff has participated in many DRE task forces and committees, including, but not limited to: *Employee Recognition Committee, Enforcement Statistics Committee, Broker Supervision Committee, Enforcement Standards, Enforcement Working Papers and Case Evidence, Training, Enforcement Computerized Records and Issues, Enforcement Regulations, Broker Escrow Committee, Real Estate and Mortgage Fraud Task Force, Safety Committee, and others.*

**Dan Sandri**, Chief Auditor:

- Speaker at the Department of Real Estate Forums in the California Association of Realtors Conferences – Topic: Audit Cases (1/28/11, San Diego; 5/6/11, Sacramento; 9/21/11, San Jose)
- Speaker in “Ask the Expert” video presentation for Department of Real Estate Sponsored “Financial Literacy 101 – High School Course”, posted on the Website of the California Department of Real Estate, November 2011
- Co-authored brochure: “Finding the Right Real Estate Agent: What You Should Do” (Posted on the California Department of Real Estate website in July, 2011)



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### **LEGAL DIVISION**

#### ***Administrative Prosecution Section***

The Legal Section administratively prosecutes violations of the Real Estate Law and the Subdivided Lands Law, files disciplinary actions, issues Desist and Refrain and Bar Orders, represents the Department in Administrative Procedure Act hearings, and prepares and processes regulations. The Legal Section also provides legal guidance and advice to Department staff regarding legal instruments and the law, including the Regulations of the Real Estate Commissioner and the provisions of the Real Estate and Subdivided Lands Laws.



License disciplinary actions are instituted by filing either a Statement of Issues to challenge an applicant's qualifications for licensure or a mortgage loan originator endorsement, or an Accusation to seek the suspension or revocation of an existing license/endorsement. These pleadings are then brought to trial in a formal adversary evidentiary hearing before an Administrative Law Judge. The hearings are conducted in accordance with the provisions of the Administrative Procedure Act. A Desist and Refrain Order is an administrative injunction issued to stop violations of either the Real Estate Law or the Subdivided Lands Law that may be issued to any person, licensed or not. A broad Bar Order (covering a wide spectrum of real estate related activities) may be issued against a licensed or unlicensed person, for a period not exceeding three years, for the conduct identified in Section 10087 of the Business and Professions Code.

#### ***General Law***

The General Law function operates separately and distinctly from administrative prosecution section in order to provide the Commissioner, the Chief Deputy, and other Department staff and stakeholders with appropriate legal advice and ex parte communication on a broad range of administrative law issues as well as other significant legal matters under the Department's jurisdiction that must remain independent of the administrative prosecution of real estate licensees. General Law counsel ensure proper separation of functions so as not to jeopardize, weaken, or diminish administrative actions against licensees; provides balance of policies and procedures; delegates responsibilities and assignments to appropriate levels; and ensures timely completion of appropriate administrative actions without bias.





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### Consumer Recovery Fund Unit

Currently, 12% of all license fees are paid into the Consumer Recovery Account. This money is then used to reimburse “aggrieved” members of the public who have obtained a civil judgment, arbitration award or criminal restitution order, based on intentional fraud, deceit, misrepresentation or conversion of trust funds in connection with a transaction in which the licensee (judgment debtor or criminal defendant) was performing acts for which a real estate license was required, and have been unable to fully collect on their judgment or order. To be eligible for payment, applicants must be able to prove that they have satisfied the requirements set forth in the Business and Professions Code.



### Consumer Recovery Account Summary

In Fiscal Year 2010/11, the newly-named Consumer Recovery Account received 198 claims – higher than the number of claims filed in FY 07/08 and FY 08/09 combined, indicating that there continues to be a high volume of persons receiving fraud judgments for which the licensee has no assets. These victims are therefore filing claims for recovery fund payouts.

### Recovery Account Statistics

	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	July 2011 – Dec. 2011
Claims Filed	62	111	180	198	103
Estimated Fund Liability (EFL) of Claims Filed	\$868,871	\$2,269,150	\$4,737,345	\$4,947,816	\$1,460,900
Claims Paid	14	22	72	62	61
Claims Denied	5	6	8	18	8

Note: Claim resolution can span multiple fiscal years.



## 2011 Accomplishments - Legal

In addition to their task force participation, Legal had the following accomplishments, among others:

### *Desist & Refrain and Bar Order Information*

	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	July-Dec 2011
<b>TOTAL D&amp;R's Issued</b>	74	145	161	202	110
<b>Total Bar Orders Issued</b>	N/A	N/A	N/A	23	11

### *Accusation Summary*

	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	July-Dec 2011
<b>Accusations Filed</b>	633	895	783	783	449
<b>Accusations Withdrawn/Dismissed</b>	30	33	63	76	64
<b>Revocation Outright</b>	375	528	484	563	317
<b>Revocation w/right to Restricted License</b>	122	146	149	115	56
<b>Voluntary Surrender</b>	72	106	90	115	51
<b>Suspension Orders</b>	136	146	163	93	80



*Statement of Issues Summary*

	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	July-Dec 2011
<b>Statement of Issues Filed</b>	1,144	661	321	274	146
<b>Statement of Issues Withdrawn</b>	98	65	20	32	9
<b>Licenses Denied Outright</b>	650	462	224	59	154
<b>Licenses Denied w/ right to a Restricted License</b>	508	346	135	44	91

Note: Cases can carry over, transcending fiscal years.

**Chief Counsel Contributions**

In 2011, California continued to see both traditional and emerging fraud in connection with residential short sales, various forms of “affinity” fraud, and abuses of and conversions of consumers’ trust funds. The following highlights some of the efforts of **Wayne Bell**, the Department’s Chief Counsel, to address and combat these fraud issues in 2011.

**W. Bell, Writings/Publications 2011**

- Co-authored “Short Sale Transactions: The ‘Lawfulness’ of Fees Charged to Buyers,” Real Estate Bulletin 3 (Pub. of the Department of Real Estate, Winter 2011).
- “Consumer Alert – Fraud Warning Regarding Lawsuit Marketers Requesting Upfront Fees for So-Called ‘Mass Joinder’ or Class Litigation Promising Extraordinary Home Mortgage Relief.” Posted on the Website of the California Department of Real Estate in March 2011. This alert was cited and discussed in a March 25, 2011 article titled “Homeowners, Don’t Be Fooled by this Foreclosure Scam” and printed in a Reuters online blog captioned Prism Money (and re-printed in foxbusiness.com/personal-finance on March 28, 2011), and an article titled “Another Warning About Loan Modification Scams Issued,” in the California Bar Journal, April 2011.
- “Consumer Alert – What You Can Do to Protect Yourself from Being Ripped Off in Real Estate and Home Loan Relief Scams.” (Posted on the Website of the California Department of Real Estate, [www.dre.ca.gov](http://www.dre.ca.gov), in February 2011).
- “New Federal Rule Outlaws Advance Fees and False Claims, and Requires Clear Disclosures, Regarding Mortgage Assistance Relief (including Loan Modification, Short Sale, and Deed-in-Lieu of Foreclosure) Services.” Posted on the Website of the California Department of Real Estate in February 2011. Also published in Real Estate Bulletin 2 (Pub. of the Department of Real Estate, Spring 2011).



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### **W. Bell, Representative Community and Professional Activities 2011**

- Speaker, in video presentation titled “Ask the Expert: How Should Someone Go About Interviewing a Real Estate Professional,” for Department of Real Estate Sponsored “Financial Literacy 101 – High School Course” (Posted on the Website of the California Department of Real Estate, [www.dre.ca.gov](http://www.dre.ca.gov), under the Consumers: Financial Literacy tab).
- Speaker, “Fraud, *The Beat Goes On*,” at the Department of Real Estate Forum of the California Association of Realtors Directors’ Conference. San Jose, California. September 2011.
- Speaker, California Department of Justice Press Conference Announcing Collaborative Action to Shut Down the Operations of Several Lawyers and Marketing Firms that Have Fraudulently Targeted Financially Distressed Homeowners (Joined by Attorney General Kamala Harris and representatives of the FTC, HUD, and the State Bar of California). San Francisco, California. August 2011.
- Panel Member and Speaker, “Hot Topics from the Hotline.” Coldwell Banker’s Realtor Risk Management Seminar. Pasadena, California. July 2011.
- Speaker, “Short Sale Dilemmas and Recent Developments.” The State Bar of California (Sales and Brokerage Subsection of the Real Estate Section). Los Angeles, California. May 2011.
- Speaker, “California Department of Real Estate Update.” San Diego County Bar Association (Real Property Law Section (MCLE Program). San Diego, California. April 2011.
- Speaker, at Russian outreach program, on “Development s in the Real Estate Market and Efforts of the California Department of Real Estate to Fight Fraud.” Sacramento, California. March 2011. As a result of the outreach, an article titled “Loan Modifications: Do Not Let Desperation Help the Crooks” was published in the Russian Observer (April 22, 2011).
- Speaker, “Short Sales Transactions: Troubling Trends,” at Mortgage Fraud Task Force Meeting Organized and Sponsored by the U.S. Attorney for the Eastern District of California. Sacramento, California. January 2011.

### **Los Angeles Legal Division Contributions**

Amelia Vertrone: Article, “Broker’s Fate: The Department of Real Estate has Wide-Ranging Powers to Discipline Brokers Who Violate the Public Trust,” Los Angeles Lawyer Magazine. January 2011.

Lisette Garcia: Bilingual Outreach Telethon by Univision News. Answered questions and gave information to consumers regarding loan modification fraud. May 2011.

Martha Rosett: Real Property Class Presentation, “The Regulation of Real Estate Brokers and What Brokers Do.” University of Southern California Law Center. September 2011.

### **Sacramento Legal Division Contributions**

Angela Cash: Panel Member, “Real Estate Broker Practice.” Continuing Education of the Bar (CEB). San Francisco, California. December 2011.



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### **SUBDIVISIONS PROGRAM**

The principal State law regulating most sales (or leases) of subdivided land in California is the Subdivided Lands Law (Business and Professions Code Sections 11000 – 11200). The Vacation and Time-share Ownership Act of 2004 (Business and Professions Code Sections 11210-11288) regulates the sale of timeshares. These laws protect the public against fraud and misrepresentation in the sale or lease of



subdivided land through the issuance of public reports, which are disclosure documents provided to prospective purchasers of subdivision interests. The Real Estate Commissioner is charged with the responsibility for adopting regulations to oversee the creation and marketing of subdivision interests. These regulations are found at Title 10 California Code of Regulations Sections 2790 – 2817.

#### ***2011 Accomplishments - Subdivisions Program***

In 2011, Subdivisions experienced a slight decrease in subdivision and timeshare filings from the previous year. The number of original filing applications received in FY 2010/11 decreased 1% over the previous fiscal year. The 1,469 original filings represent one of the lowest fiscal year totals in the last 15 years. The only lower fiscal year total was seen in 2008/09 when 1,254 original filings were received. The 18% gain seen in FY 2009/10 compared to FY 08/09 and the slight drop this past fiscal year, indicate that the real estate new home sales market has yet to stabilize. The average number of original filings received each year since FY 1994/95 has been approximately 3000. Public report filings are expected to remain below average for several more years. The following chart shows a graphical history of the volume of subdivision application filings.

#### ***DRE Housing Committee***

The DRE Housing Committee moved into its second year of operation under the direction of Assistant Commissioner, Subdivisions, **Chris Neri**. The committee continues to improve Subdivision Program operations in many ways:

- Increasing Industry awareness of Subdivision program functions. Information was sent to each city and county throughout the state in order to fully inform local governments of the role DRE Subdivisions plays in the home development process. Common misconceptions concerning Subdivision functions were evident so this information was timely and well received.
- Increased training efforts spearheaded by the DRE Housing Committee. File triage training began in Sacramento and Los Angeles district offices. Training focused on common, relevant issues encountered by staff. The group training efforts were both effective and time efficient.



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- Communications with the Department of Insurance regarding title company escrow department violations continued. While violations are still occurring, the frequency is decreasing. Clearly, the cooperative efforts between DRE and DOI are making a difference.

### ***Certified Sites Program Expansion***

The certified sites program expansion project is envisioned to have a new e-file component and will include existing structures and/or smaller sites. This project will enable local jurisdictions to register commercial/industrial sites. It is anticipated that the project will spur economic development by assisting site selectors quickly identify potential sites. Site information will be displayed in an easily comparable, uniform format containing critical site selection information. Currently, DRE is finalizing the bid for the



development of the program expansion based upon our design specifications.

### ***Subdivision Online Public Report Application System***

Currently in progress, the Subdivision Online Public Report Application System (SOPRAS) project will modernize DRE's handling of public report applications. Efficiencies of the system include instantaneous receipt of correspondence, staff flexibility as work may be performed from any DRE office and streamlined Public Records Act requests. Furthermore, the project will eliminate storage costs associated with filing documents and public reports. It is anticipated that the system will save time, money and benefit consumers and real estate developers throughout the state. At present, software design and development is underway. As part of a related process, archived public reports are being imaged by an outside vendor, which, upon project completion, permit online access by consumers.

### ***Subdivision Outreach Efforts***

DRE Subdivisions' staff participated as guest speakers (Speakers Bureau) at outreach events such as Homebuilders Association of Northern California, local Building Industry Association meetings throughout the state, Sacramento Escrow Association and Northern California Escrow Association. We also met with the California Building Industry Association (CBIA) several times to discuss subdivision related matters.



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### **LEGISLATION, PUBLIC AFFAIRS AND MORTGAGE LENDING**

The Legislation and Public Affairs unit is the principal legislative advocate for the Department of Real Estate, and organizes and directs the legislative activities for the Department. It enhances the Department's media contact and public information program.

The Department offers many publications on topics of current interest to the consumer and licensees, such as the Real Estate Reference Book, which provides general information on many aspects of real estate practice; and the Real Estate Law book and CD, which contains the current Real Estate Law, the Commissioner's Regulations, and pertinent excerpts from other California codes. Consumer materials are translated in many languages. The management of Mortgage Loan Activities is also assigned to this division, which is headed by Assistant Commissioner for Public Affairs, Legislation and Mortgage Lending Activities **Thomas L. Pool**.

#### ***DRE Web site – MLO Tab***

The DRE Web site was maintained and updated during 2011 to continue to assist MLO license endorsement applicants and guide them through the first annual renewal process. Features include a link titled "MLO News Flash," an FAQ page, and a link entitled "Questions Regarding Renewing a MLO License Endorsement." The MLO also contains important links to the Nationwide Mortgage Licensing System & Registry (NMLS). Licensees who have subscribed to DRE's RSS information service are notified when this page is published and updated with the latest developments as they occur.



#### ***Statewide Staff Training on New Legislation***

One goal of the DRE's Strategic Plan is to provide Department-wide training for staff on critical legislation to ensure new laws are enforced timely and effectively. At the end of the 2011 legislative session, the Director of Legislation traveled to all DRE district offices to provide summaries of laws passed during the session that affect the Department. During the training, staff had the opportunity to make comments and ask questions regarding the critical implementation phase of new legislation.



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### New Legislation

2011 was a watershed year for legislation affecting the Department. Due to depressed market conditions accompanied by an upsurge in fraudulent activity by licensed and unlicensed individuals, the Legislature recognized that the DRE needed expanded enforcement powers. The DRE now has the authority to recover



the cost of investigations and to issue citations and fines. Over 30 bills were analyzed and tracked during the first year of the 2011-2012 legislative session. The Director of Legislation tracks and analyzes bills at the request of the Governor's office. Although some of the bills did not directly impact the Department, they were tracked in order to keep real estate licensees, consumers and stakeholders adequately informed of legislation that may impact the real estate industry. Throughout the session, representatives from the Department testified at various committee hearings, met with representatives from consumer groups and state agencies and assisted authors by providing technical assistance on the subject matter of

their bills. The Legislation activities of the Department are headed by Assistant Commissioner, **Thomas L. Pool**. The following major 2011 bills had a direct effect on real estate licensees, consumers, and subdividers.

Bill No. & Author(s)	Subject	Summary
<a href="#">AB 208</a> <b>(Fuentes)</b>	Land use: subdivision maps: expiration dates (Chapter 88)	<p>The Subdivision Map Act establishes a statewide regulatory framework for controlling the subdividing of land, which generally requires a subdivider to submit, and have approved, a tentative map by the city and/or county in which the land is situated. The Act requires an approved tentative or vesting tentative map to expire 24 months after its approval, or after an additional period of time prescribed by a local ordinance, not to exceed 12 months.</p> <p>This urgency measure went into effect upon signing and extends by 24 months the expiration date of any approved tentative map or vesting map that has not expired as of the effective date of the bill.</p>
<a href="#">AB 1424</a> <b>(Perea)</b>	Franchise Tax Board: delinquent tax debt (Chapter 455)	<p>This bill requires the State Board of Equalization (BOE) and the Franchise Tax Board (FTB) to each make publicly available a list of the 500 largest tax delinquencies in excess of \$100,000. The bill also requires a state licensing agency, including the DRE, to suspend the professional or occupational licenses, certificates, registrations, or permits held or maintained by a tax debtor who is on the FTB or BOE list of largest tax delinquencies.</p>



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Bill No. & Author(s)	Subject	Summary
<a href="#">SB 6</a> (Calderon)	Mortgages; deficiency judgments (Chapter 716)	This bill makes it illegal for a real estate licensee to knowingly or intentionally misrepresent the value of real property or to provide an opinion of value of residential real property to a lender wherein the licensee has an economic interest in the property.
<a href="#">SB 53</a> (Calderon)	Real estate licensees (Chapter 717)	This major bill made several changes to the Real Estate Law giving the DRE more enforcement tools to combat mortgage fraud and other real estate misconduct. Further, the bill adds safeguards to protect consumers who seek out services from real estate licensees and make technical changes intended to clarify certain provisions of the Real Estate Law. Specific provisions include: <ul style="list-style-type: none"> <li>• Authorizes a new cite and fine system for violations of the Real Estate Law.</li> <li>• Allows the Commissioner to apply to the Superior Court for an order to enforce an administrative subpoena that the DRE issued to a licensee.</li> <li>• Allows the Commissioner to publicly confirm the existence of an investigation against a licensee if the Commissioner determines that there is an imminent risk to the public.</li> <li>• Requires any real estate broker offering broker-controlled escrow services to report such activities to the DRE. Failure to comply will result in penalties.</li> <li>• Requires real estate licensees who engage in multi-lender loans to provide information to their investors regarding the provisions of law under which they are operating.</li> <li>• Allows the Commissioner to obtain specified information about DRE licensees from the Department of Motor Vehicles.</li> </ul>
<a href="#">SB 150</a> (Correa)	Common interest developments (Chapter 62)	This bill, irrespective of a change in the Covenants, Conditions and Restrictions (CC&Rs), allows an owner in a common interest development (CID) to retain the right to rent or lease his or her unit, if that right to rent was vested at the time ownership of the unit commenced. The bill also requires the disclosure of any rental restrictions in the CID's governing documents to a potential buyer.
<a href="#">SB 510</a> (Correa)	Real estate brokers: corporate officers: designating branch managers (Chapter 709)	This bill authorizes an employing real estate broker or corporate designated broker officer to appoint a licensee as a manager of a branch office or division of the employing broker's or employing corporate designated broker officer's real estate business and delegate to that manager responsibility to oversee and supervise operations and licensed activities. The bill also specifies that whenever an appointment of a branch manager is terminated or changed, the employing broker or corporate designated broker officer must immediately notify the DRE.
<a href="#">SB 706</a> (Price)	Business and professions (Chapter 712)	This bill makes numerous changes to the Real Estate Law intended to enhance DRE's enforcement authority to provide increased protections to consumers. Specifically, this bill:



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Bill No. & Author(s)	Subject	Summary
		<ul style="list-style-type: none"> <li>• Provides that public protection is the highest priority for DRE in exercising its licensing, regulatory, and disciplinary functions.</li> <li>• Requires the DRE to disclose on its Internet Web site the status of every license issued, including information on accusations, suspensions and revocations.</li> <li>• Allows DRE to enter into a settlement with a licensee or applicant without first filing a formal accusation or statement of issues.</li> <li>• Allows for cost recovery for expenses the DRE incurs for investigation, bringing an enforcement action, or supervising a restricted licensee.</li> <li>• Allows the DRE to recover the cost of processing a petition for reinstatement or removal of restrictions on a license.</li> <li>• Allows DRE to automatically suspend a real estate license or Mortgage Loan Originator endorsement of a licensee who has been incarcerated after a felony conviction.</li> <li>• Requires a licensee to report to DRE when he or she has been indicted, charged with a felony, convicted of a crime, or had a license disciplined by another licensing authority. Failure to report such action would constitute cause of license disciplinary action.</li> </ul>

### *Administrative Rulemaking*

During 2011, the Department completed a number of additions and amendments to the Regulations of Real Estate Commissioner. The regulations proposals that were adopted are described below.

Regulations, in general, are intended to clarify and implement statutory law. It is important to note that the 2011 legislative actions described in the section above are already subject to regulations development in the Department. The Department will begin publishing corresponding regulations packages shortly and seeking public comment on these important issues. You are invited to add your name to the list of stakeholders who receive mailings at the start of each public comment period. Please call Real Estate Counsel **Dan Kehew** at (916) 227-0425, or mail a request to be added to the "Regulations Mailing List" to the Department of Real Estate, Attn: Dan Kehew (Sacramento Legal), P.O. Box 187007, Sacramento CA 95818-7007.

The regulations adopted or amended in 2011 were:

#### **The Bar Order (Business and Professions Code Section 10087)**

- The Department of Real Estate adopted five regulations sections and amended one other section in order to implement Business and Professions Code Section 10087. This included adoption of Regulations Section 2725.5, expanding the enforceable duties and responsibilities of brokers. The regulation went into effect on October 26, 2011.



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### **Trust Fund Placement with Financial Institutions**

- Under common law, and reflected throughout the Real Estate Law, the relationship between a real estate broker and that broker's client is an agency relationship. Where the broker holds the client's funds in trust, as codified under Section 10145 of the Code, existing principles of agency establish that the broker "stands in the shoes of the client" and may not take benefit from the action unless that benefit is granted by the client. The adopted Section 2830 of the Regulations highlights this issue for licensees. The regulation went into effect on October 26, 2011.

### **Inappropriate Influence of Real Estate Appraisers**

- Civil Code Section 1090.5 was adopted in 2007, barring a person with an interest in a real estate transaction from engaging in a variety of actions that would improperly influence or attempt to improperly influence the appraisal of the real estate. Section 2785 was adopted to highlight the applicability of Civil Code section 1090.5 to real estate licensees regulated by the Department. The proposed section also includes a more extensive, but still not exhaustive, list of specific actions that are deemed, "improper influence" of an appraisal. The Department asserts that each of the behaviors listed would already subject a licensee to license discipline under Civil Code section 1090.5. The revised regulation went into effect on October 26, 2011.

The Department is aware that legislation signed after adoption of this regulation impacts this area of practice, and is considering revision of the section.

### **Use of Nicknames in Licensed Real Estate Practice**

- Previously, a licensee was required to use only his or her legal name (as it appears on his or her license) in all licensed real estate practice. The Department of Real Estate amended Section 2731 to allow specified use of nicknames by licensees who are natural persons in the course of their licensed practice. The revised regulation went into effect on September 10, 2011.

### **"Good Standing" and the Continuing Education Exemption for Senior Licensees**

- Under current laws, a licensee who is age 70 or older, and with 30 years continuous "good standing" as a licensee, is exempt from the Real Estate Law's continuing education requirements. Prior regulation defined "good standing" to exclude periods where the licensee's renewal had temporarily lapsed, despite renewal within the two-year grace period for renewal. The Department's amended regulation redefines "good standing" to include such temporary lapses in licensure within the two-year grace period, allowing more senior licensees to claim the exemption. The revised regulation went into effect on August 31, 2011.



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### **Statutory Citation Clean-up Regarding the License ID Requirement**

Two long-standing statutory citations within the Commissioner's Regulations were subject to potential misinterpretation, based upon a July 1, 2009 amendment to the statute cited (Business and Professions Code section 10140.6). The Department amended Sections 2770.1 and 2847.3 to clarify these citations by reasserting the original meaning. The revised regulations went into effect on August 26, 2011.

### *DRE Legislative Committee*

In previous years, the Department has solicited staff each Fall to provide ideas for future legislative proposals. Recently, in an attempt to enhance these efforts and to discuss and consider ideas that can help the Department achieve its mandate, meet its mission and move forward toward fulfilling its new vision, the Department established an internal Legislative Committee. The core objective(s) of this Committee is to discuss legislative proposals and/or ideas and to provide a forum for staff to present ideas that could potentially provide the framework for future legislation. In addition, proposed legislation may also include any technical clean-up and/or maintenance of statute language made necessary by previous changes to the law or policy. This Committee is open to all interested DRE staff, is chaired by Assistant Commissioner **Thomas L. Pool** and Chief Legal Counsel **Wayne Bell**. Last session, many committee suggestions made it into law, including the ability of the DRE to issue citations and fines and a new requirement that brokers who provide escrow services to notify the DRE of such.

### *Mortgage Loan Activities Section*

The Mortgage Loan Activities (MLA) Section monitors mortgage loan activity through evaluation of mortgage loan license compliance and financial responsibility assessments, analysis of required business and trust account reports submitted by real estate brokers who meet certain criteria, and review of mortgage loan advertising in all media formats. Advance fee compliance activities are monitored and advance fee agreements submitted by brokers are examined for conformity with the law and no objection or corrective action letters are issued. Also, consumers are assisted with problems they encounter with lenders and brokers in mortgage loan transactions. If violations are discovered, they are referred for investigation or to the proper oversight authority. Educational materials are prepared and made available by this unit to both brokers and consumers.





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### ***Consumer Protection and Industry Outreach***



#### ***Consumer Outreach Efforts***

In 2011, DRE continued its aggressive consumer outreach campaign to warn consumers against widespread real estate fraud. The campaigns cautioned homeowners against fraudulent practices associated with loan modifications, short sales, and forensic loan audit transactions.

#### ***DRE Speakers Bureau***

To enhance Consumer Outreach, the Department has made available limited numbers of representatives within the Department to speak at various events. The DRE has refined its

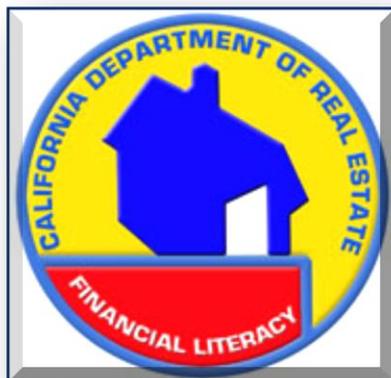
Speakers Bureau program so that any consumer or trade group can obtain a speaker request form from the DRE's Web site.

In 2011, the Department continued its work on consumer outreach. DRE representatives attended 55 outreach events that reached thousands of consumers. Many of the engagements were leveraged with other events such as the Senior Scam Stopper program that was hosted by various elected officials up and down the state. This educational program provided crucial information to seniors on how to avoid falling victim to financial crimes. Many of the other engagements involved presentations at consumer protection events where information about the DRE and useful consumer tips on fraud prevention were provided to the participants.

#### ***Financial Literacy Program***

In April 2010, designated as Financial Literacy Month in California, the California Department of Real Estate (DRE) launched its Financial Literacy Outreach Program. In an effort to educate all Californians to fully understand the complexities of real estate transactions, from school-aged kids to senior citizens. The DRE through this outreach program and by partnering with other government agencies dedicated to Financial

Literacy, promotes a wide range of activities, resources, workshops and other important events. The Financial Literacy Outreach Program is part of the DRE's continued consumer outreach efforts.



In April 2011, the DRE and the Financial Literacy task force celebrated its one year anniversary of the official launch of the DRE Financial Literacy Outreach Program in April 2010 for "April is Financial Literacy Month" as proclaimed by former Governor Arnold Schwarzenegger. In observance of "April is Financial Literacy Month 2011" the Financial Literacy task force created fantastic Financial Literacy awareness lobby displays in all the



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district offices.

In addition, Financial Literacy task force member Brenda Smith in the Sacramento District Office, Jenny Brinlee in the Sacramento District Office and Dionne Faulk in the Los Angeles District Office participated in Financial Literacy fairs sponsored by both the State Controller's Office and Department of Financial Institutions located in Sacramento at the Capitol north steps.

Also, Financial Literacy task force member Shallene McGrath facilitated viewings of the *Financial Sense to White Picket Fence* seminars at the State Building in downtown Oakland. The audience was receptive and very enthusiastic. Shallene has also been working with the Oakland Community Action Partnership to participate in future Financial Literacy events in Oakland.

On May 12, 2011 the DRE Financial Literacy Task Force celebrated the official signing of the Memorandum of Understanding "MOU" with Sacramento Charter High School. The official signers of the MOU were Will Jarrell, the Principal of Sacramento Charter High School, Jacqueline Carlisle, Executive Director, National Association Real Estate Brokers Investment Division-Housing Counseling Agency "NID-HCA" and our very own Acting Real Estate Commissioner, Barbara Bigby.

In June 2011, the University of San Diego, Burnham-Moores Center for Real Estate School of Business Administration was tapped by DRE to create the DRE Financial Literacy high school course for implementation in Sacramento Charter High School's fall 2011 Semester. Sacramento Charter High School's semester began August 1, 2011.

On October 10, 2011, The NID Housing Counseling Agency, California Department of Real Estate and Sacramento Charter High School in partnership launched their new Financial Literacy High School course at Sacramento Charter High School. The focus of this new course will be on the fundamentals of finance, saving and investing, credit card debt, loans, renting and lease agreements, buying, borrowing, budgeting and other important areas of finance. NID-HCA has committed the necessary funding that will allow delivery of the course for 3 years while building a sustainable program less dependent on scarce public resources. A HUD approved housing counseling agency since 1995, NID-HCA operates in 22 states and 75 housing markets across the country, providing in-person housing and mortgage counseling, housing clinics, educational homeownership workshops, financial literacy, credit and budgeting classes and regional Help Lines.



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### ***Website Redesign Project***

One of our Strategic Plan objectives is the redesign of our website to meet the new state mandated template and to make it more dynamic, intuitive, and responsive to its varied audiences. The DRE will be engaging a contractor for the redesign and conducting focus groups to include consumers, Realtors, DRE staff and DRE Stakeholder groups. In addition to creating a website that is more useful to its users, the contractor will recommend new multimedia options, suggest improved methods for search engine optimization, evaluate current as well as proposed social media options, and recommend improvements to better facilitate future site maintenance. The expected launch date for the new website is June 30, 2012.



### ***Consumer Alerts and Publications***

In an effort to educate consumers about the potential pitfalls of the current housing economy, the following Consumer Alerts were posted on the Department's Web site:



- New Federal Rule Outlaws Advance Fees and False Claims, and Requires Clear Disclosures, regarding Mortgage Assistance Relief Services (February 2011)  
[http://dre.ca.gov/pdf\\_docs/ca/ConsumerAlert\\_NewFederalRule.pdf](http://dre.ca.gov/pdf_docs/ca/ConsumerAlert_NewFederalRule.pdf)
- What You Can Do to Protect Yourself from Getting Ripped Off in Real Estate and Home Loan Relief Scams  
[http://dre.ca.gov/pdf\\_docs/ca/ConsumerAlert\\_ProtectYourselfFromGettingRippedOff.pdf](http://dre.ca.gov/pdf_docs/ca/ConsumerAlert_ProtectYourselfFromGettingRippedOff.pdf)
- Fraud Warning Regarding Lawsuit Marketers Requesting Upfront Fees for So-Called "Mass Joinder" or Class Litigation Promising Extraordinary Home Mortgage Relief  
[http://dre.ca.gov/pdf\\_docs/ca/ConsumerAlert\\_WarningreMassLitigation.pdf](http://dre.ca.gov/pdf_docs/ca/ConsumerAlert_WarningreMassLitigation.pdf)

DRE continued to expand its Web site in 2011 to put consumer information at the forefront, as demonstrated by the following examples.

- DRE's Facebook page went live on September 26, 2011.
- Revised, "Using the Services of a Mortgage Broker." This Guide contains important tools for borrowers to understand the process from loan application to loan closing.  
[http://www.dre.ca.gov/pdf\\_docs/re35a.pdf](http://www.dre.ca.gov/pdf_docs/re35a.pdf)



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- Posted, “Loan Modification Self-Help Guide.” This step-by-step guide can assist a homeowner with negotiating or completing his or her own loan modification.  
[http://www.dre.ca.gov/pdf\\_docs/re21.pdf](http://www.dre.ca.gov/pdf_docs/re21.pdf)
- Posted, “Finding the Right Real Estate Agent: What You Should Do.” Encourages buyers and sellers to do their homework before hiring a real estate representative.  
[http://www.dre.ca.gov/pdf\\_docs/re16.pdf](http://www.dre.ca.gov/pdf_docs/re16.pdf)
- Posted, “Preventing Real Estate Fraud: How to Protect Yourself and Your Home.” Provides fraud warning signs and ways to protect against it.  
[http://www.dre.ca.gov/pdf\\_docs/re17.pdf](http://www.dre.ca.gov/pdf_docs/re17.pdf)
- Posted, “A Consumer Guide to Mortgage-Related Complaints.” Addresses common questions about being a borrower, like “What should I do if I have a complaint against my lender and/or servicer?”  
[http://www.dre.ca.gov/pdf\\_docs/re20.pdf](http://www.dre.ca.gov/pdf_docs/re20.pdf)
- Multiple press releases were posted under the “press tab” on the department’s Website.  
[http://www.dre.ca.gov/pre\\_home.html](http://www.dre.ca.gov/pre_home.html)



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### ADMINISTRATIVE SERVICES

Administrative Services, which is headed up by Assistant Commissioner Steve Ellis, consists of the Fiscal (Accounting, Budget, Business Services) Section, Information Technology Section, and Human Resources. These units provide support services to each line program of the Department.

#### Fiscal Assessment

The following chart details DRE's revenue, net expenditures, and reserve balances for the year 2011.

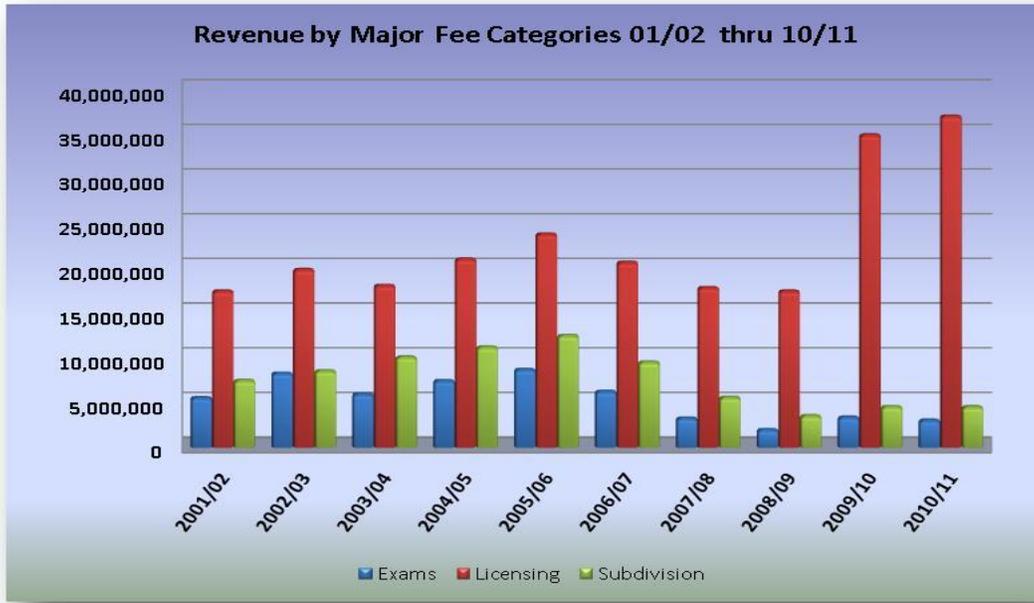
MONTH	REVENUE	NET EXPENDITURES	RESERVES
01/31/2011	\$3,376,104	\$2,223,806	\$32,870,448
02/28/2011	\$3,310,576	\$3,862,142	\$32,432,003
03/31/2011	\$4,090,087	\$3,058,358	\$33,119,462
04/30/2011	\$3,515,876	\$2,859,886	\$34,267,487
05/31/2011	\$3,216,594	\$3,730,931	\$34,770,090
06/30/2011	\$3,297,901	\$6,107,028	\$31,882,236
07/31/2011	\$2,665,170	\$2,248,500	\$29,265,729
08/31/2011	\$3,129,593	\$3,008,404	\$29,469,588
09/30/2011	\$2,973,322	\$2,918,115	\$29,584,471
10/31/2011	\$2,899,589	\$2,658,053	\$29,968,377
11/30/2011	\$4,155,120	\$3,749,455	\$29,304,925
12/31/2011	\$4,914,116	\$2,841,100	\$31,457,089

The following graph shows the comparative revenues generated from three major fee categories (Examinations, Licensing, and Subdivisions) during the period from 2001/02 through 2010/11. Revenue peaked in fiscal year 2009/10 due to applications for mortgage loan originator license endorsements and

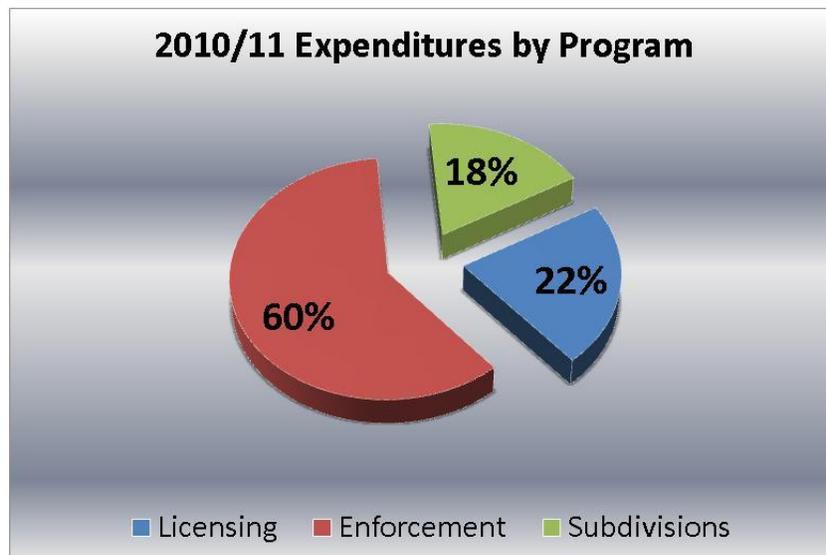


## Real Estate MATTERS!

remained high in 2010/11 due to the annual mortgage loan originator renewal. The Department's three primary revenue sources are directly impacted by fluctuations in licensee population and subdivision filings, both of which are highly volatile and dependant on a cyclical real estate market.



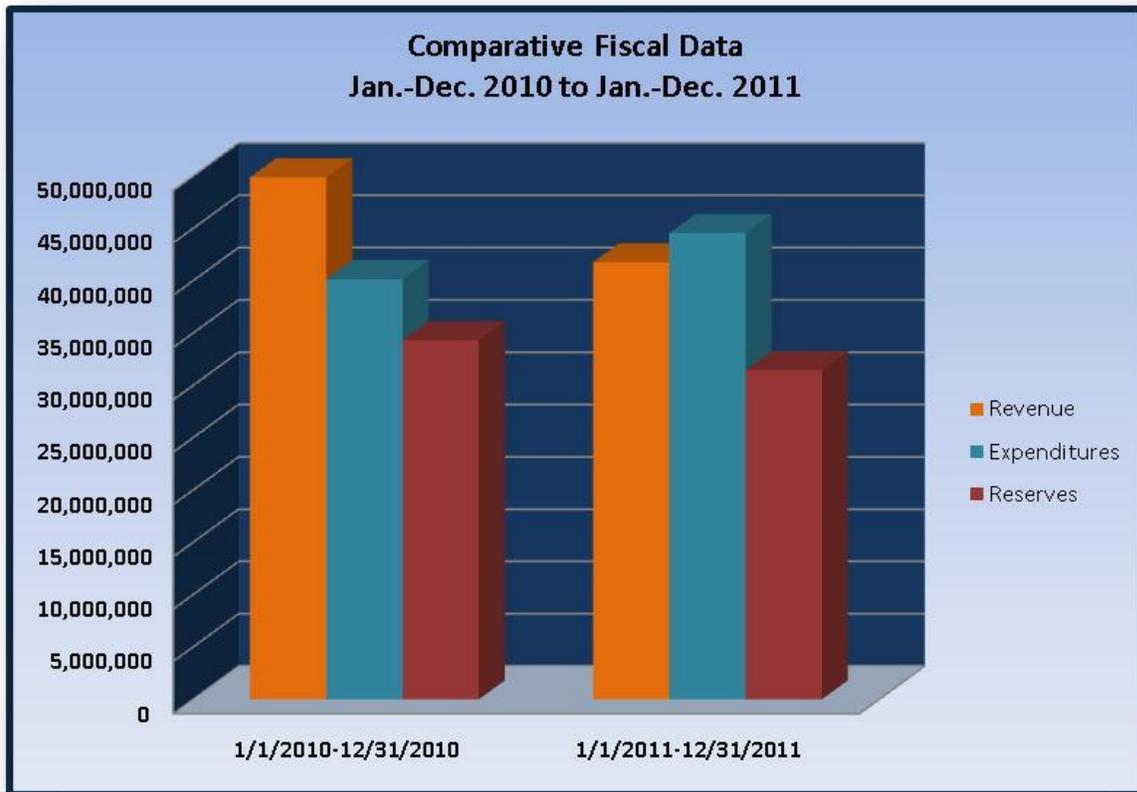
The following chart represents the Department's expenditures by budget program area for Fiscal Year 2010/11 after factoring in distributed administration costs:





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The following chart is a two year comparison of revenue, net expenditures and reserve balances.



The following chart shows DRE’s actual and projected authorized positions and salary totals for five Fiscal Years.

Fiscal Year	Authorized Positions	Salary Total
2007-08	343	\$18,284,715
2008-09	344	\$19,105,108
2009-10	344	\$16,655,251
2010-11	371	\$20,828,017
2011-12	368	\$19,905,117
Fiscal Year	Projected Authorized Positions*	Projected Salary Total*
2012-13	356	19,346,114

\* 5% workforce cap reduction



**MANAGING FOR PERFORMANCE**

The Department has adopted performance-based methodology and measures the Department’s success in meeting performance goals using critical measures that have been reported quarterly to the Business, Transportation and Housing Agency for the last several years. Performance management methodology involves using a “dashboard” concept to set performance metrics goals, to establish parameters for meeting those goals and to establish critical measures of that success. The Department of Real Estate currently reports on five critical measures: 1) licensing processing times; 2) percentage of license and exam transactions that are conducted via the eLicensing system; 3) average time it takes for Enforcement to complete case investigations; 4) average time it takes the Legal section to complete a case; and 5) average time for the Subdivisions section to issue Public Reports. The following chart reports DRE performance achievements for 4<sup>th</sup> quarter, 2011.

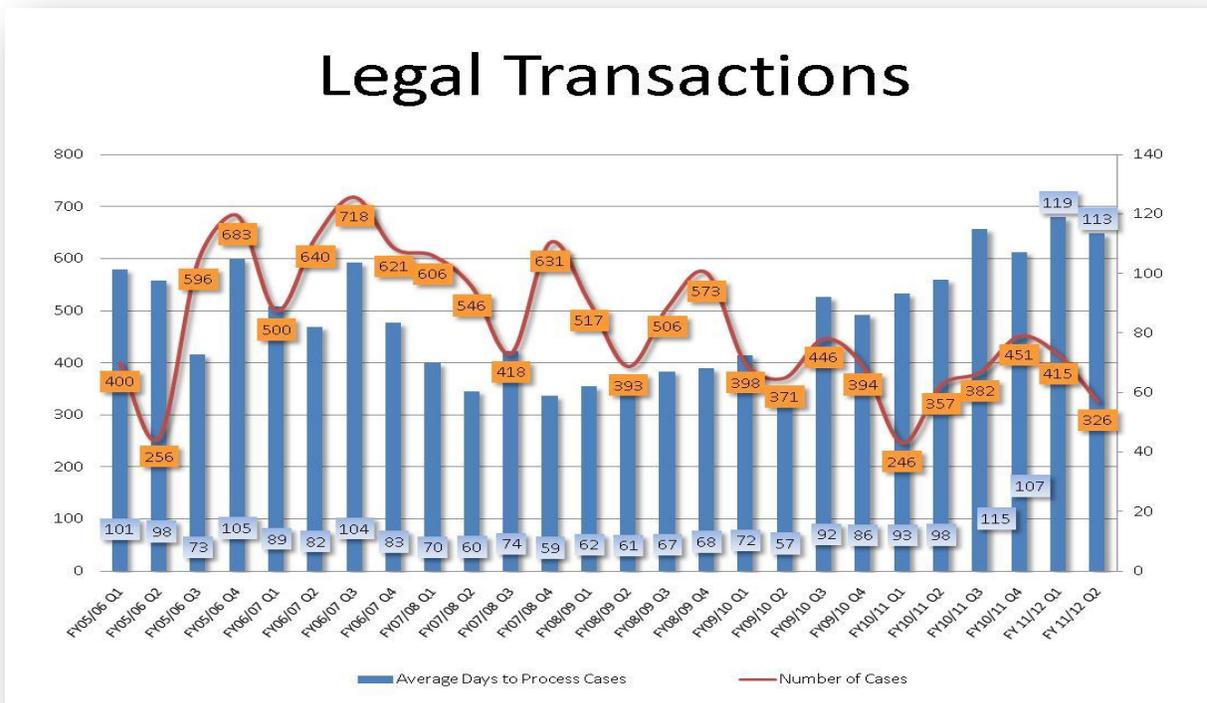
CRITICAL MEASURE	BENCH-MARK	TARGET	CURRENT MEASURE DATA	PERCENT ACHIEVEMENT OF TARGET	MEASURE DATA FROM PREVIOUS REPORT	CHANGE FROM PREVIOUS REPORT	COMMENTS
Processing time to issue a real estate license.	45	45	42	100%	42	0	
Percentage of license and exam transactions conducted via eLicensing.	60%	60%	68%	100%	69%	-0.01	Change is within standard usage variance and exceeds benchmark figure.
Average Processing time to complete case investigations.	189	250	214	41%	122	92	The focus this quarter has been to complete older investigations, hence, the increase in processing time frames.
Average processing time to complete legal case review and/or file disciplinary action	110	105	116	-120%	119	-3	
Percentage of Public Reports issued within statutory timeframes.	90%	100%	100%	100%	100%	0	Prior target of 100% was achieved.



**MANAGING FOR PERFORMANCE**

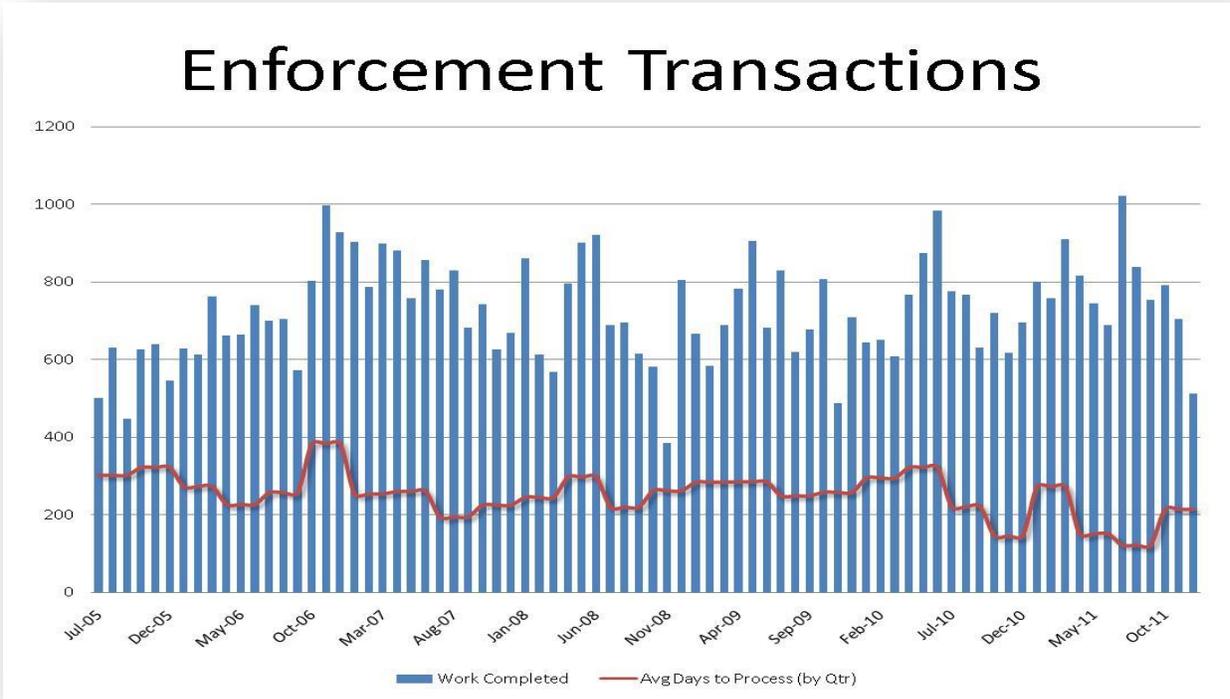
This data illustrates some interesting details about the state of the real estate economy during 2011. The Licensing section usually meets its performance goals and the significant decline in the real estate licensee population correlates directly to the housing market crash. The Legal and Enforcement divisions' caseload became heavier during the mortgage crisis because mortgage and other types of fraud skyrocketed during the past few years. Likewise, the Subdivisions section's caseload is lighter due to a consistently low level of housing development activity over the past few years. The Subdivisions section has redirected staff to support Enforcement and handle distressed projects.

The following charts represent the performance management trends that are tracked and reported to BTH on a quarterly basis.





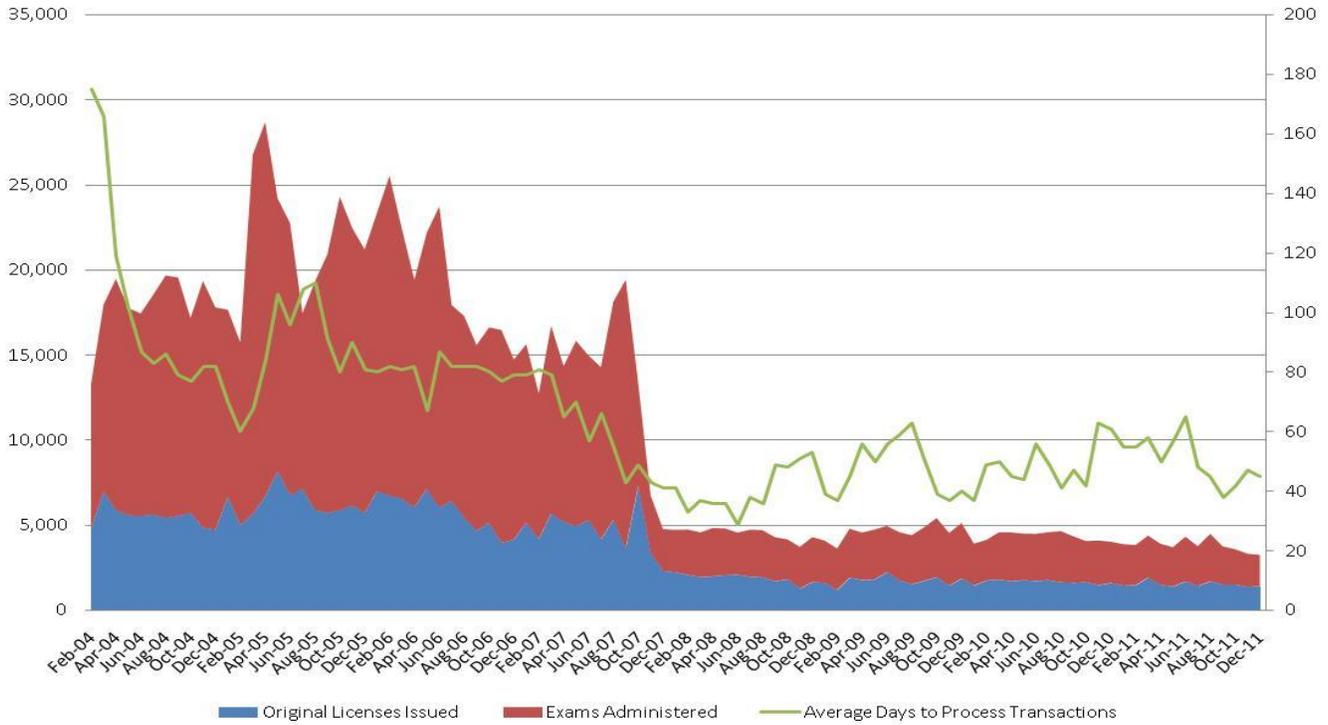
MANAGING FOR PERFORMANCE





MANAGING FOR PERFORMANCE

# Licensing Transactions

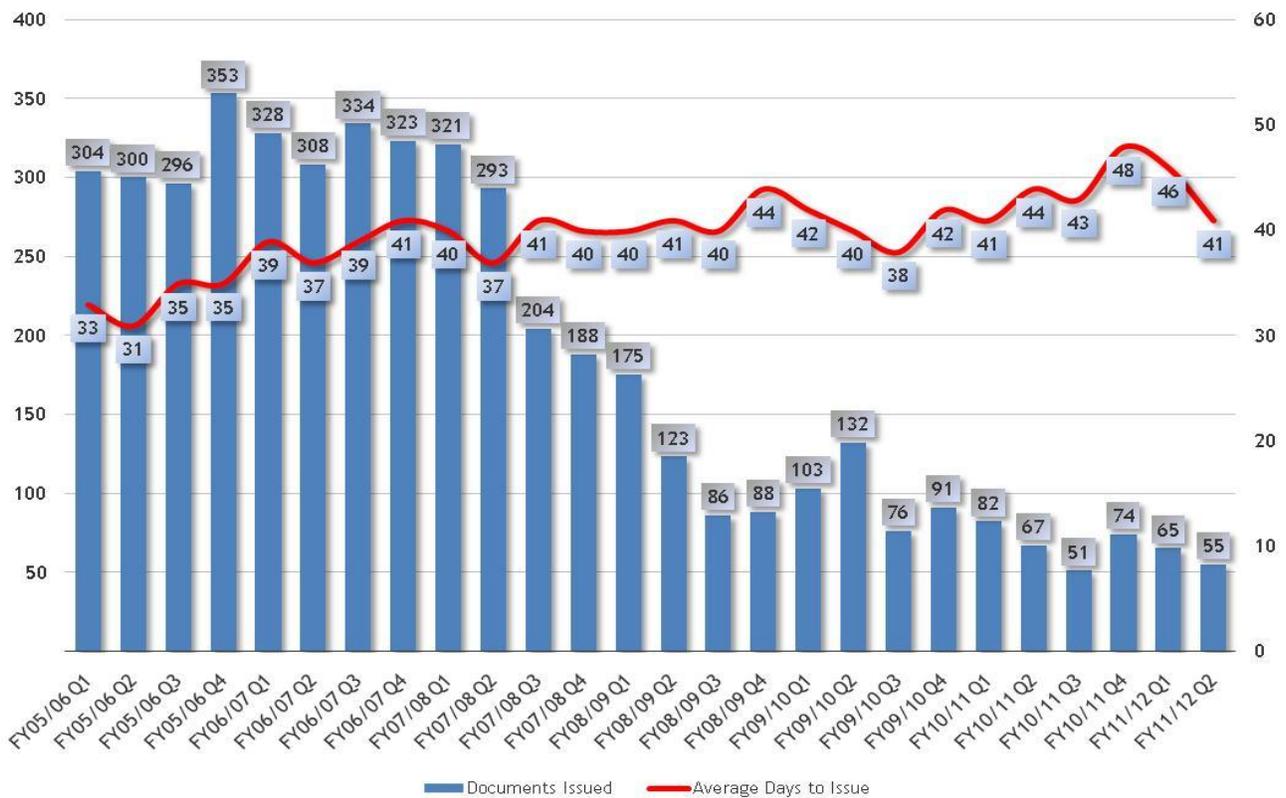


The time to issue a real estate license, once at a high of 175 days, is at 42 days as of the 2<sup>nd</sup> quarter of FY 2011/2012.



MANAGING FOR PERFORMANCE

### Days to Issue Common Interest Documents



While the average number of days to issue common interest public reports has remained within the statutory mandate, the timeframe has not dropped commensurate with the number of documents issued and applications received due to the redirection of subdivision resources and the contract complexities of projects now facing foreclosure and receiverships.



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## LOOKING AHEAD TO 2012

The following will be at the forefront of the Department's 2012 business objectives:

- Continue to comply with and implement and enforce the SAFE Act.
- Expand DRE partnerships with education and financial literacy programs.
- Find a way to publish an open real estate fraud informational repository for law enforcement and regulators.
- Develop a dedicated DRE Training program.
- Adapt proactive thinking and solutions to identify and address emerging trends.
- Update or create (as needed) manuals/resource materials for each position to enable a smooth transition during staff turnovers.
- Provide statewide training for staff on critical legislation to ensure new laws are enforced timely and effectively.
- Continue to collaborate with law enforcement partners to prosecute and penalize law violators.
- Develop, implement and measure staff award/recognition program.
- Initiate formation and continued operation of DRE's Housing Committee in order to enrich the program, encourage economic growth, improve communication with builders and revitalize the operation and growth of Subdivisions.
- Incorporate workforce housing and transportation concepts into subdivision program processes.
- Develop prototype for electronic submission of public report applications and imaging Public Reports into searchable database on the DRE website.
- Utilize the expertise of experienced legal/enforcement/audit staff to train well-rounded special investigators.
- Initiate an IT solution to provide a statewide call center for Enforcement.
- Adopt permanent program operations as warranted by proof of concept analyses from pilot project endeavors.
- Implement the FIVE following Strategic Planning Initiatives:
  1. A more Knowledgeable and Effective Workforce
  2. An Engaged and Connected Staff
  3. Outstanding Public Protection and Outreach
  4. Alignment, Investment and Development of Innovative Systems and Technology
  5. Superior Service