



**DEPARTMENT  
OF  
REAL ESTATE  
FORUM**

**BARBARA BIGBY**  
**Acting Real Estate Commissioner**  
**January 20, 2012**





# Today's Agenda

- **Introductions and Opening Remarks**
- **Operations Report**
- **Enforcement Cases**
- **New Laws**
- **Final Remarks**
- **Questions and Answers**





# *On The Horizon ...*

- **New Web Site**
- **eFile for Subdivision Applications**
- **Expanded Certified Sites Program**
- **Disciplinary Actions coming to the Public License Records**
- **2012 Law Book**
- **New Electronic Exam Site**



**STATE OF CALIFORNIA  
DEPARTMENT OF REAL ESTATE**

The license information shown below represents public information taken from the Department of Real Estate's database at the time of your inquiry. It will not reflect pending changes which are being reviewed for subsequent database updating. Also, the license information provided includes formal administrative actions that have been taken against licensees pursuant to the Business and Professions Code and/or the Administrative Procedure Act. All of the information displayed is public information. Although the business and mailing addresses of real estate licensees are included, this information is not intended for mass mailing purposes.

License information taken from records of the Department of Real Estate on 1/18/2012 2:34:27 PM

**License Type:** BROKER

**Name:** Rankel, William Joseph

**Mailing Address:** PO BOX 6205  
WOODLAND HILLS, CA 91365

**License ID:** 00704535

**Expiration Date:** 08/14/93

**License Status:** EXPIRED

**Broker License Issued:** 06/05/79 (Unofficial -- taken from secondary records)

**Former Name(s):** NO FORMER NAMES

**Main Office:** NO CURRENT MAIN OFFICE ADDRESS ON FILE

**DBA** NO CURRENT DBAS

**Branches:** NO CURRENT BRANCHES

**Affiliated Licensed Corporation(s):** [00745592](#) - Officer Expiration Date: 09/11/83  
Approved Properties Inc  
EXPIRED AS OF 09/11/83

[00921872](#) - Officer Expiration Date: 08/14/93  
T D Management Corp  
EXPIRED AS OF 08/15/93

**Comment:** 07/23/58 - H-13868 LA

07/26/78 - PET FOR REINS RE BRO LIC DENIED W/RTR LIC AFT  
PASS EXAM

07/29/88 - PETITION FOR RE BROKER LICENSE W/O  
RESTRICTIONS GRANTED

08/15/89 - H-13868 LA RELEASED

NO OTHER PUBLIC COMMENTS

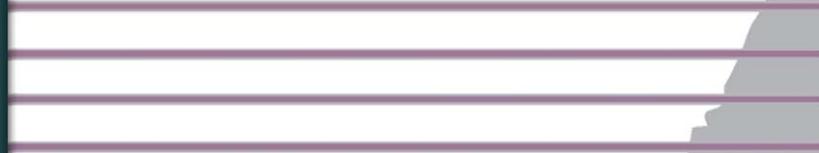
**Disciplinary Actions:** [H-13868 LA](#)

>>>> Public information request complete <<<<



# Real Estate Law

*and Regulations of the Real Estate  
Commissioner with other Pertinent  
Excerpts from the California Codes*



**California  
Department  
of Real Estate  
2012**





SD Region Exam Center

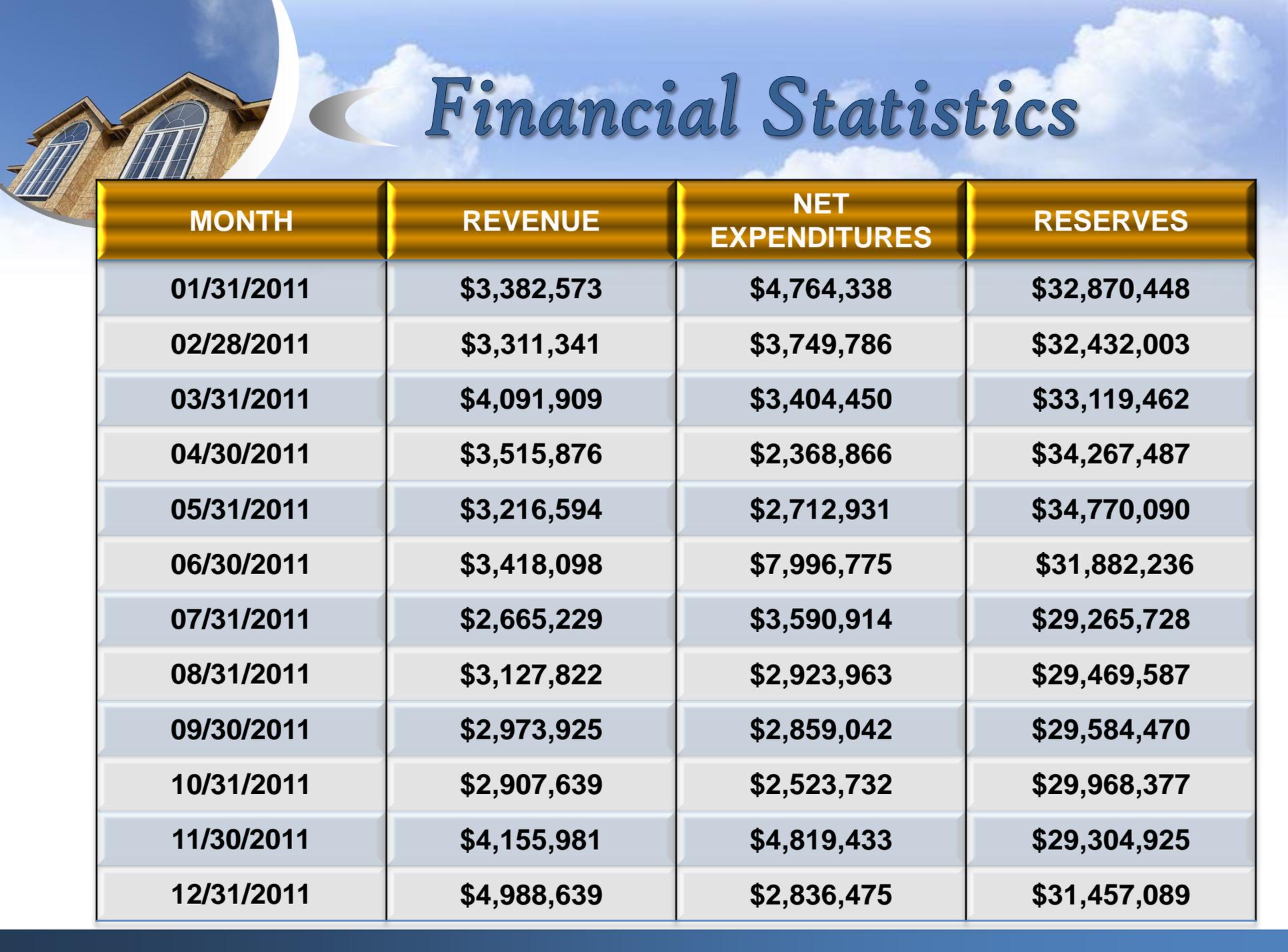
# SD Region Exam Center





# OPERATIONS REPORT



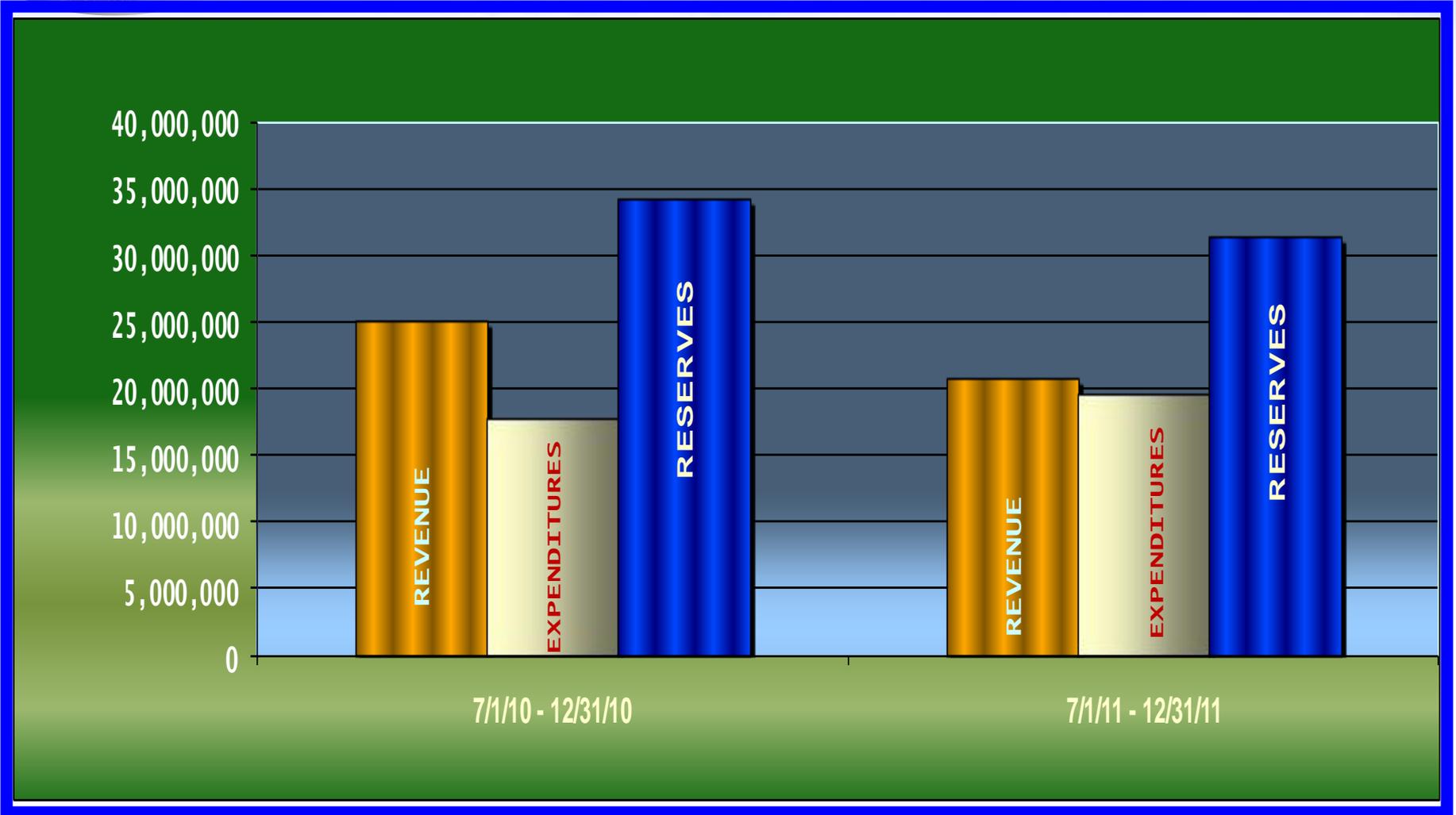


# Financial Statistics

<b>MONTH</b>	<b>REVENUE</b>	<b>NET EXPENDITURES</b>	<b>RESERVES</b>
01/31/2011	\$3,382,573	\$4,764,338	\$32,870,448
02/28/2011	\$3,311,341	\$3,749,786	\$32,432,003
03/31/2011	\$4,091,909	\$3,404,450	\$33,119,462
04/30/2011	\$3,515,876	\$2,368,866	\$34,267,487
05/31/2011	\$3,216,594	\$2,712,931	\$34,770,090
06/30/2011	\$3,418,098	\$7,996,775	\$31,882,236
07/31/2011	\$2,665,229	\$3,590,914	\$29,265,728
08/31/2011	\$3,127,822	\$2,923,963	\$29,469,587
09/30/2011	\$2,973,925	\$2,859,042	\$29,584,470
10/31/2011	\$2,907,639	\$2,523,732	\$29,968,377
11/30/2011	\$4,155,981	\$4,819,433	\$29,304,925
12/31/2011	\$4,988,639	\$2,836,475	\$31,457,089

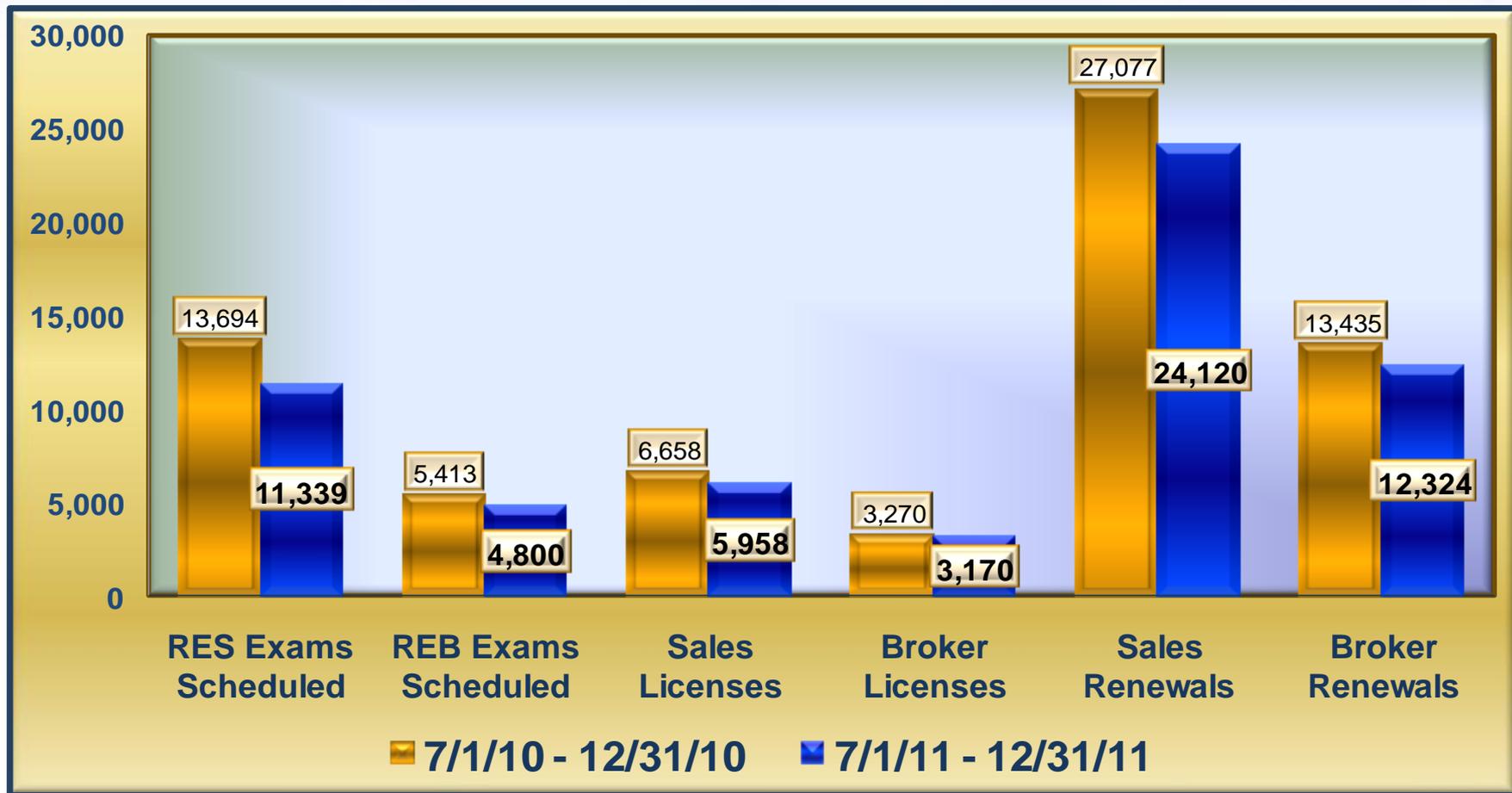


# FY Comparisons





# Licensing Workload





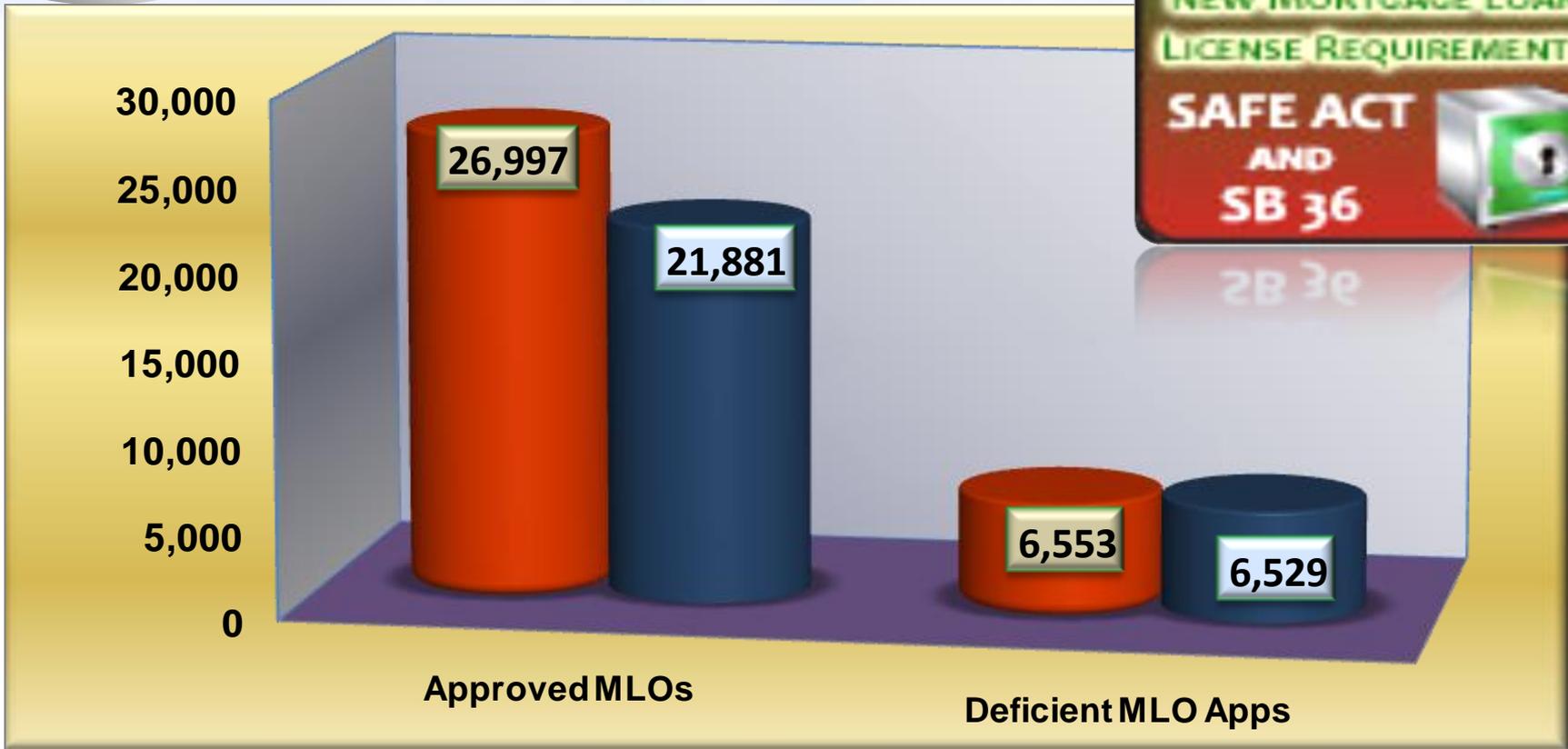
# License Population





# MLO Endorsements

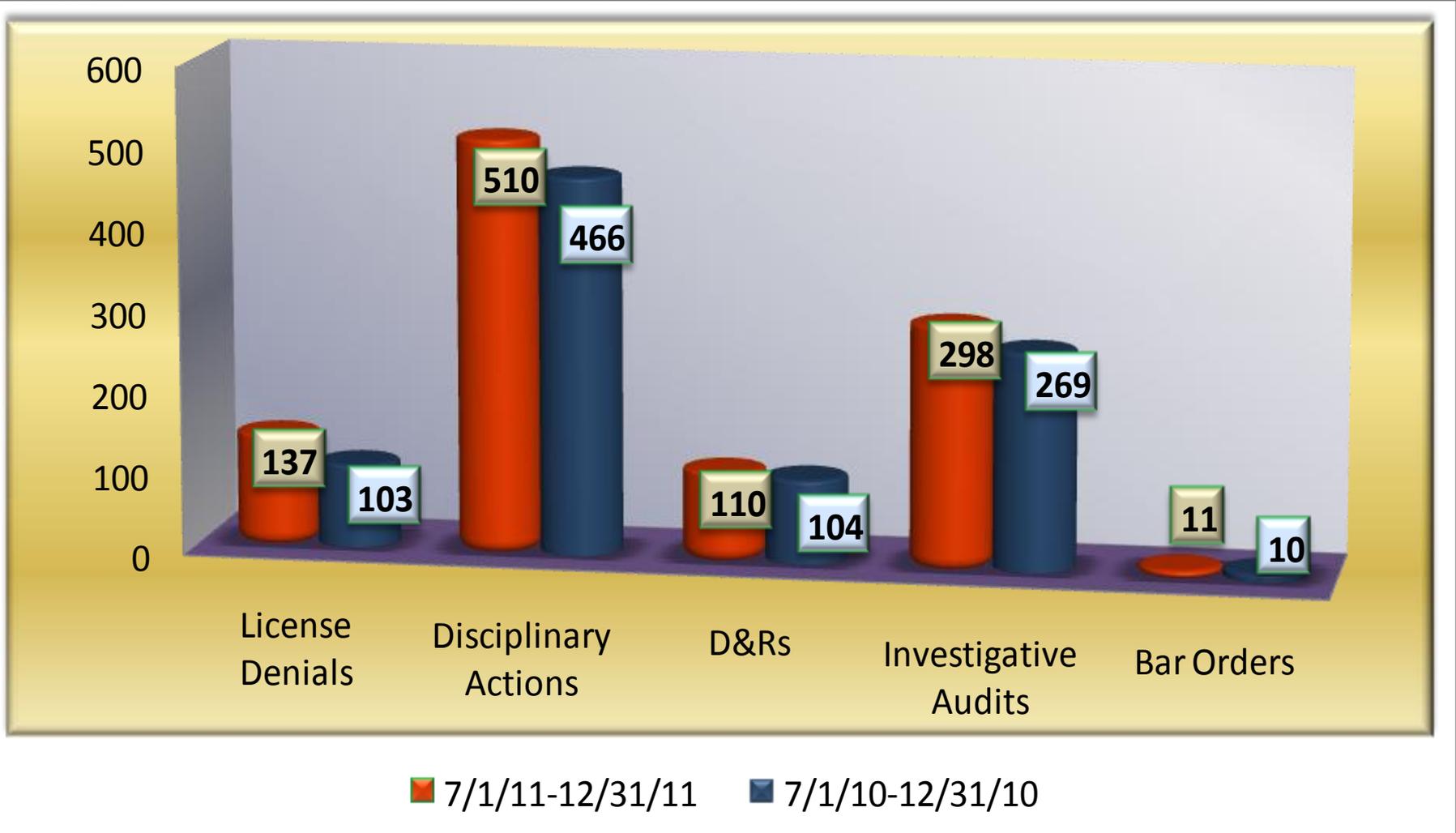
**NEW MORTGAGE LOAN  
LICENSE REQUIREMENTS**  
**SAFE ACT  
AND  
SB 36**



■ 12/31/11 ■ 1/10/12



# Enforcement Activities FYTD 11/12 vs. 10/11



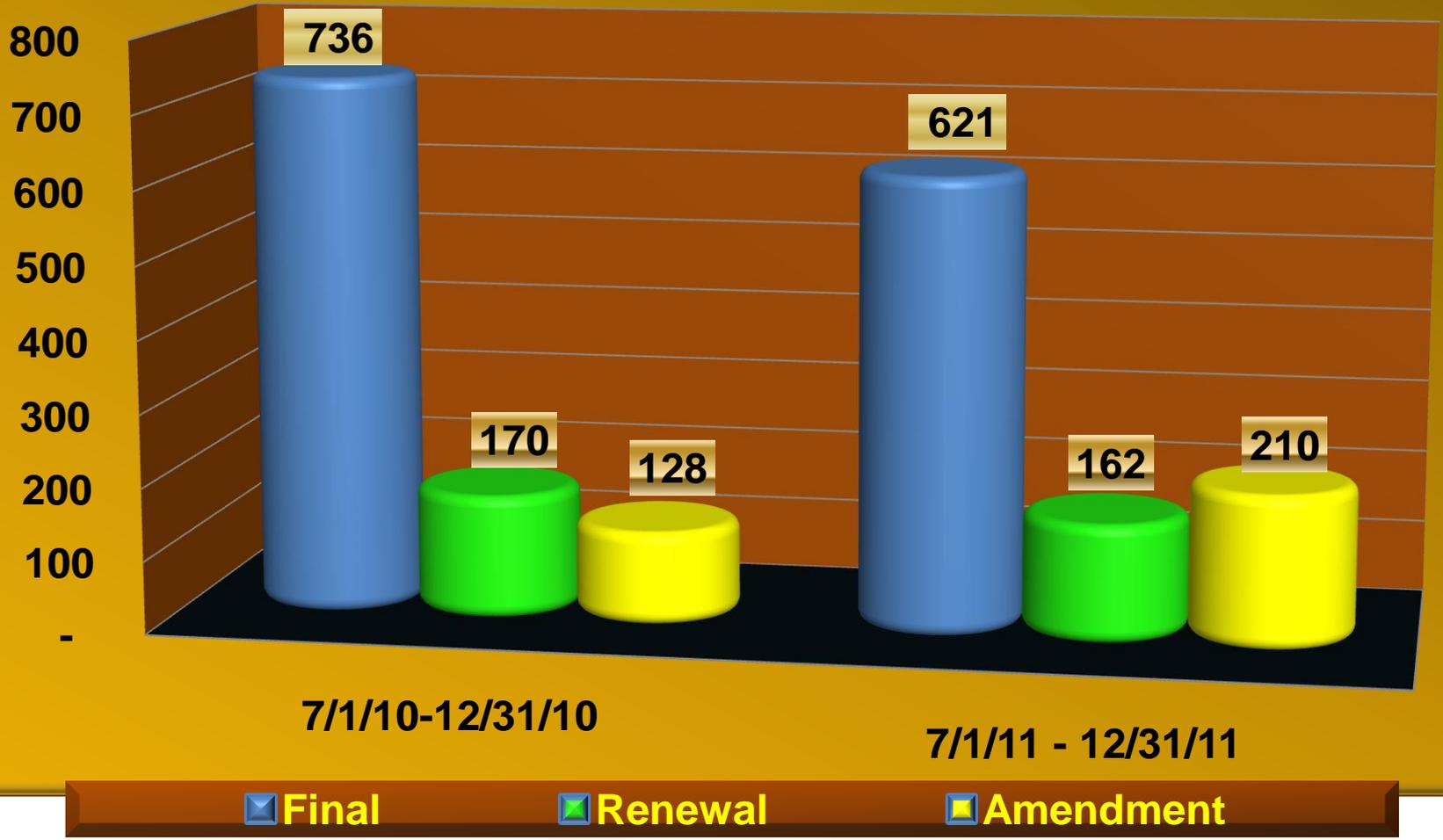


# Enforcement Results

Type of Order	FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11	FY 11/12 (12/31/11)
Revoked	227	247	375	528	484	564	<b>318</b>
Surrendered	38	46	72	106	90	115	<b>51</b>
Revoked/Restricted	168	147	122	146	149	122	<b>56</b>
Suspended	102	113	136	146	163	106	<b>80</b>
Public Repeal	23	10	4	11	20	18	<b>5</b>
Denials/Outright	536	614	650	462	224	152	<b>94</b>
Denials/Restricted	742	770	508	346	135	90	<b>43</b>
Desist & Refrain Orders	30	79	74	145	161	201	<b>110</b>
Bar Orders	N/A	N/A	N/A	N/A	N/A	24	<b>11</b>



# Subdivision Comparison



## Recent HUD Actions Focus on the Federal Real Estate Settlement Procedures Act and the Payment of Illegal Referral Fees - Real Estate Licensees at Risk

The U.S. Department of Housing and Urban Development (HUD) recently entered into a settlement agreement with Fidelity National Financial, Inc. (FNF) based on allegations that FNF

in payments for or with those provide estate licensee is of type of benefit or steer business to a

## 2011 Legislative Summary

October 9, 2011 marked the



# Real Estate Bulletin

Real Estate MATTERS!

## A Message from Acting Commissioner Barbara J. Bigby

*DRE Thanks the Exam Study Subject Matter Experts*

On December 8, 2011, I was proud to join Jeff Davi, the 22<sup>nd</sup> Real Estate Commissioner, to honor those “volunteers” from various walks of the real estate industry and education community who served as our subject matter experts in the real estate License Examination Validation Study. The License Examination Validation Study required the special assistance of a panel of industry subject matter experts, each of whom brought definitive sources of knowledge and expertise to the most crucial components of the project. As a panel participant, each person voluntarily gave his/her time and expertise to the project without compensation and with much sacrifice, both monetarily and personally. This study, which was just recently concluded, was the most comprehensive that I have witnessed in my 40+ years of experience at the DRE.

Our volunteers, who represented all real estate business specialties, traveled tens of thousands

of miles, chalked up hundreds of frequent flyer miles, clocked in months of meeting days, and poured 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. With electronic examinations launched statewide, the results of our collective efforts will soon be reflected in new examination standards.

During the long course of this project, these individuals represented the pinnacle of professional excellence and a cooperative mastery of open communications. Their enthusiastic spirit and

*So, in the not too distant future, when you meet someone newly licensed and you pause to think, “Wow, this person is a credit to our profession!” you should extend your appreciation to:*

Larry Black	RSL Financial Services, Inc.
John Cribb	San Luis Obispo Realty
Lawrence “Larry” Fargher	Realcom Associates
Vernon “Vern” Hansen	Vern Hansen Broker Risk Management Services, Inc.
Franklin “Frank” Nelson	Office Manager-Broker Associate, RE/MAX All Stars Realty-Corona
Peter Ogilvie	First Residential Mortgage Corporation
Jeannette “Jeanne” Radsick Bruce	Century 21 Hometown Realty
Southstone	Instructor, Cabrillo College
Suzanne Yost	Broker Associate, Alain Pinel Realtors
David Zigal	Prime Global Realty Corporation, Prime Pacific Global Management Corporation, and United Property Sales, Inc.
Bill McKnight	CA Certified Residential Real Estate Appraiser, Appraisal ACE
Ted Faravelli Jr.	T.E. Faravelli & Associates

Continued on page 2

## Short Sale Transactions: The “Lawfulness” of Fees Charged to Buyers

The California Department of Real Estate (DRE) has written about short sale transactions in alerts and past editions of the Real Estate Bulletin. One persistent question that the DRE receives on the subject of short sales is whether fees can be charged to a buyer in a transaction to compensate a short sale negotiator, or to provide additional compensation to a broker, for the work necessary to accomplish a short sale. California Senate Bill 458 (2011), which was signed by Governor Brown and became effective in July 2011, prohibits short sale lenders from requiring the seller(s) to pay any additional compensation (aside from the proceeds of the sale), in exchange for the written consent to the sale.

### The Requirements for Licensure, Transparency, Written Disclosure, and Actual Service(s)

The Real Estate Law does not expressly prohibit the payment of short sale negotiator fees by a buyer as long as the purported short sale negotiator is properly licensed under California law, and there is an understanding by and full written disclosure to all parties in the transaction, including the short sale and originating lenders.

To ensure that there is no confusion, mystery, or lack of transparency with respect to such fees, the compensation should be disclosed to all parties in writing, both in the purchase agreements and in the escrow instructions, and the fees must be properly documented in the appropriate line item(s) in the HUD 1 closing statement.

Also, if any of those fees will be collected in advance, special “advance fee” laws and rules apply. Those include the requirement that licensees submit an advance fee contract to the DRE and receive a “no-objection” from the department before collecting any fees in advance, and specific trust funding handling requirements for such fees.

Whenever additional transaction fees are negotiated in a transaction, licensees should be alert to possible violations of the federal Real Estate Settlement Procedures Act (RESPA), which requires that some actual services be provided. To avoid even the appearance of a violation of RESPA, the specific services that are provided in the transaction, that are over and above the services encompassed and covered in the commission agreement, should be well documented. Stated a bit differently, the fees cannot be simply “junk” or “bogus” fees, but they must be for some services performed.

Payments that would certainly be challenged as “unearned” fees would occur in such cases where a buyer paid a licensee



monies where no work was done. In any event, the answer to the question as to whether a fee was “earned” or “unearned” would be fact driven.

A more complete discussion of the RESPA rules is beyond the scope of this writing. DRE does not enforce the provisions of RESPA, and the case law focusing on the RESPA statutes continues to evolve.

The Ninth Circuit Court of Appeals, in the case of *Martinez v. Wells Fargo Home Mortgage*, 598 F.3d 549 (2010), held that the unearned fees section of RESPA prohibits only the practice of giving or accepting money where no service whatsoever is performed in exchange for that money. But that ruling differs from a more expansive interpretation by the U.S. Department of Housing and Urban Development (HUD), which enforces RESPA. Moreover, the U.S. Supreme Court has accepted for consideration two RESPA cases, and the Supreme Court may opine on this issue of unearned fees, as well as fee splitting.

In addition to familiarizing themselves with RESPA, licensees are well-advised to review relevant sections of the California Real Estate Law (see, for example, sections 10176 and 10177 of the California Business and Professions Code, which cover “dishonest dealing”, fraud, “secret or undisclosed amount[s] of compensation”, “false promises”, and misrepresentations, among other things), prior to collecting any additional fees from buyers to ensure that they do not find themselves in violation of state and/or federal law.

For a comprehensive overview of the requirements relating to short sale transactions, licensees should review the Spring 2010, Fall 2010 and the Fall 2011 editions of the DRE’s Real Estate Bulletin, as well as several industry and consumer alerts available on the DRE’s Web site located at [www.dre.ca.gov](http://www.dre.ca.gov).

# FIND DRE ON...

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Department  
of  
Real Estate

## CRIMINAL PROSECUTIONS

Presented By:

**Bill Moran**

Assistant Commissioner,  
Enforcement

# WHAT WE HAVE DONE



- OUR TRADITIONAL ROLE: PUTTING THESE OPERATIONS OUT OF BUSINESS
- WE HAVE REDOUBLED OUR EFFORTS TO ADVOCATE FOR CRIMINAL AND CIVIL PROSECUTION
- RESULTS HAVE BEEN SLOW, BUT THEY ARE STARTING TO COME IN

# PROPOSITION 115 CERTIFICATION

- Enables DRE Investigators and Auditors to Provide Summary Testimony at Criminal Preliminary Hearings





# CRIMINAL CHARGES

## STATISTICS

109 Criminally Charged

- Made Referrals
- Executed Search Warrants
- Provided Testimony



# THE RESPONDENTS

- ADJUSTABLE RATE MORTGAGES - STATED INCOME LOANS
- INFLATED PURCHASE PRICE - "CASH TO BUYER"
- LOAN MODIFICATION FRAUD
- SHORT SALE NEGOTIATOR FEES



# STATED INCOME LOANS

DEFRAUDED FEDERALLY INSURED LENDERS

FALSIFIED EMPLOYMENT AND INCOME INFORMATION

FALSIFIED INTENTIONS TO OCCUPY



# PROPERTY FLIPS

Inflated Offers to Purchase

Falsified Appraisals

Property Flips



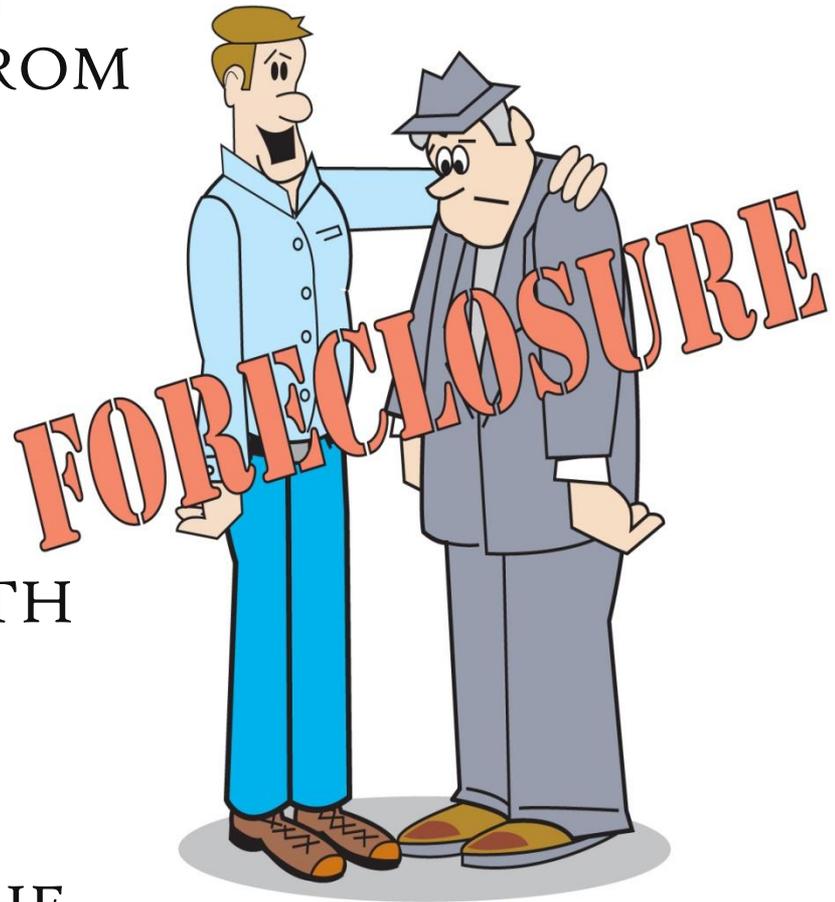
# LOAN MODIFICATION

COLLECTED ADVANCE FEES FROM  
DISTRESSED BORROWERS

PROMISED SUCCESS BUT  
PERFORMED NO SERVICE

COLLECTED HUNDREDS OF  
THOUSANDS OF DOLLARS WITH  
NO SUCCESS

HAD NO ADVANCE FEE  
AGREEMENT ON FILE WITH THE  
DRE





# SHORT SALE TRANSACTIONS

## DRE Issues:

- Unlicensed Negotiators
- Advance Fees
- Property Flips and Double Escrows
- Hidden Surcharges





# Department of Real Estate

*Serving Californians Since 1917*



# Legislative Update 2011

Presented by:

**Tom Pool**

Assistant Commissioner



# 2011 Legislative Update

October 9, 2011 marked the end of the first year of the 2011/2012 legislative session.

- 889 bills made it to the Governor
- 760 bills were signed
- 128 bills were vetoed
- 1 bill became law without the Governor's signature



# Significant Legislation

DRE tracked over 50 bills

Today we will review 3 of the most significant pieces of legislation:

- ❖ SB 53 (Calderon/Vargas)
- ❖ SB 510 (Correa)
- ❖ SB 706 (Price)



# Senate Bill 53

## Contains 8 Significant Provisions:

- ❖ Authorizes the DRE to issue Citations and Fines.
  - ✓ Maximum fine is \$2,500 per citation.
  - ✓ Will be issued to licensees for minor violations.
  - ✓ Can issue citations and fines for unlicensed activity.
  - ✓ Citations, although a public record, will not be part of the website public license record.
- ❖ Authorizes the DRE to apply to the Superior Court for an order to enforce an administrative subpoena.



# Senate Bill 53 (Continued)

- ❖ Allows the Commissioner to confirm the existence of an investigation.
  - ✓ Limited to the most egregious cases
  - ✓ Cases involving grave harm to the public
- ❖ Requires Real Estate Brokers to notify DRE of escrow activity:
  - ✓ 5 or more escrows in a calendar year
  - ✓ OR escrow activities that equal or exceed \$1 million
  - ✓ Notice requirement is effective July 1, 2012
- ❖ Allows the DRE to delay the renewal of a license for licensees who have violated specified provisions of the Real Estate Law.



# Senate Bill 53 (Continued)

- ❖ Requires licensees engaged in arranging multi-lender loans to notify the investor under what provisions of law the investment was made.
- ❖ Reinstates the DRE's authority to receive pictures from the DMV.



# Senate Bill 510

Current practice allows a real estate broker to delegate supervisory authority to branch managers. However, current law does not allow the DRE to discipline a branch manager who fails to supervise.

**SB 510:**

- ❖ Requires designated or employing brokers to notify DRE when a branch manager is appointed, terminated or changed.
- ❖ Allows the DRE to discipline a branch manager for lack of supervision.



# Senate Bill 510 (Continued)

- ❖ States branch managers:
  - ✓ Can be a licensed salesperson or broker.
  - ✓ Cannot have a restricted license.
  - ✓ Must have at least 2 years full-time real estate experience.
  - ✓ Cannot have ever been the subject of a debarment order.
- ❖ Effective date is July 1, 2012.



# Senate Bill 706

Senate Bill 706 resulted from an oversight hearing conducted by the Senate B&P Committee.

Senate Bill 706 enhances DRE enforcement authority and increases protections to consumers.

Specifically, Senate Bill 706:

- ✓ Mandates that public protection is the highest priority for the DRE in exercising its licensing, regulatory and disciplinary functions.



# Senate Bill 706 (Continued)

- ✓ Mandates website disclosure of the status of every license issued, including information on accusations, suspensions and revocations.
  - ❖ Citations are excluded.
  - ❖ Accusations and Decisions will be in PDF.
- ✓ Allows the DRE to request a licensee found in violation of the law to pay the costs associated with an enforcement action.
- ✓ Allows the DRE to recover the cost of processing a petition to remove restrictions or reinstate a license.



# Senate Bill 706 (Continued)

- ✓ Allows the DRE to recover the cost of monitoring the activities of a restricted licensee.
- ✓ Allows the DRE to suspend the license of a licensee who has been incarcerated after a felony conviction while on appeal.
- ✓ Requires a licensee to report when he or she has been:
  - ❖ indicted
  - ❖ charged with a felony
  - ❖ convicted of a crime
  - ❖ had another license disciplined



# CONCLUSION

For copies of any legislative bill, visit:

[www.leginfo.ca.gov](http://www.leginfo.ca.gov)



# Final Remarks





*Q&A*

**PANEL FORUM**

**PANEL FORUM**



*THANK YOU!*



*Next Meeting - May 4, 2012*  
*Sacramento*