# Real Estate Bulletin

### FALL 2019

### Vol. 78, No. 3

### Honoring 100 Years of Real Estate Oversight in California

by Daniel J. Sandri, Acting Real Estate Commissioner

The Department of Real Estate (DRE) is proud to announce that July 27, 2019, marked the 100th anniversary of the 1919 Realty Act, which created the State Real Estate Department. An earlier attempt at regulation in 1917 which had resulted in the licensure and then invalidation of licensure of some 8,000 persons and entities—had been deemed unconstitutional by the California Supreme Court. Facing opposition to the issuance of warrants from the Real Estate Commissioner's Fund, in 1919 the State Real Estate Department requested that a writ of mandate be issued by the California Supreme Court upholding the constitutionality of the act.

On November 29, 1919, the Supreme Court issued a decision upholding the constitutionality of the act, and the State Real Estate Department was organized and began to operate. A person who wished to operate as a broker or salesperson immediately could request that a license be issued, but the issuance of real estate licenses following this act generally began on January 1, 1920, with the cost for a broker license of \$10 annually and the cost for a salesperson at \$2 annually.<sup>1</sup>

By April 1, 1920, approximately 15,000 brokers and salespersons had been licensed. In the foreword of the April 1920 *California Real Estate Directory-Bulletin*, Real Estate Commissioner Ray L. Riley wrote the following, describing a booming California and the necessity of honorable practice:

"It is the providence of this department to educate the public to recognize the advantages of retaining licensed brokers when contemplating realty investments and it is the duty of the profession to serve in a fashion that will command the respect and confidence of clients. California presents to the world an unparalleled opportunity for investment. Productive soil, diversity of products, ideal climatic conditions, tremendous manufacturing development, combined with reasonable values, means a rapid increase in population. The future happiness



and prosperity of the prospective citizens of California depend upon the intelligent service and honorable business methods of the realty profession."

Since then, real estate regulation in California has been accomplished through different manifestations of this original State Department of Real Estate (1919–1934), including the Division of Real Estate within the California Department of Investment (1935–late 1968 or early 1969); the Department of Real Estate (late 1968 or early 1969–2013); the Bureau of Real Estate within the Department of Consumer Affairs (2013–2018); and again the Department of Real Estate (2018–present).

DRE's 100 year anniversary is a milestone in state real estate regulation. We are proud of the efforts of the many employees who preceded us in working to protect California consumers and to encourage proper business practices in the real estate industry. These efforts continue every day with the dedicated employees of DRE who strive to fulfill the mandate of the department: consumer protection.

Thank you for reading!

<sup>1</sup> For a fine discussion of the origins and early actions of the State Department of Real Estate, see the "Commissioner's Message" in the spring 2014 Real Estate Bulletin.



#### REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate *Vol. 78, No. 3 – Fall 2019* 

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### California Department of Real Estate's Annual Report

This *Real Estate Bulletin* provides the reader with a summary of the actions and accomplishments of all our programs in our effort to fulfill our mission over the most recently completed fiscal year. We hope you, the readers, find it to be of interest. We still have so much to do, as is spelled out in our newly posted Strategic Plan covering 2019-2023 available on our website at **www.dre.ca.gov** under the "About DRE" tab.



### **Audit Section**

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

DRE auditors perform two types of audits. The first type is an investigative audit, which is an audit related to a complaint or a follow-up audit to some previous disciplinary action or report. The second type of audit is a proactive routine audit. The subjects of these proactive audits are often brokers who handle a large volume of trust funds. For fiscal year 2018–19, the Audit section closed 264 investigative audits and 226 proactive audits.

Our audits were focused on brokers who handle a high volume of trust funds since we have a limited number of auditors as compared to the population of real estate licensees.

The 490 audits completed resulted in findings of more than \$8.8 million in trust fund shortages. The highest incidence of trust fund shortage was found on audits of brokers involved with property management or broker escrow activities, as follows:

Broker Activity	Number of audits closed	Number and % of audits with shortage		Dollar amount of shortage found
Property management	333	137	41%	\$6,619,061
Broker escrow	50	23	46%	\$1,844,211
Mortgage loan	52	3	6%	\$8,818
Sales/other	55	2	4%	\$417,241
Total	490	165	34%	\$8,889,331

A total of \$2.5 million of the above shortages was cured during the audit.

The table below shows information on audit results.

Minor violations	168	34.3% 23.9%
Corrective action letters	51	10.4%
Cite and fine	20	4.1%
Major violations	134	27.3%

The Audit section will continue to perform a critical role in public protection and the education of real estate licensees through the performance of investigative and proactive routine audits in 2019–20.





### Information Technology Services

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

The major projects ITS staff have been working on over the past fiscal year are:

# • Subdivisions Online Public Report Application System (SOPRAS)

Phase 1 of SOPRAS was completed in September 2018. SOPRAS allows subdividers and their authorized agents to submit preliminary renewal and amendment subdivision public filings and the supporting documentation for a public report to the California Department of Real Estate (DRE) through a web-based platform.

#### • DRE Statewide Phone System Conversion

With assistance from the California Department of Consumer Affairs, DRE converted from the existing AT&T analog phone system at its five district offices and two exam centers to a voice over internet protocol (VoIP) telephony system hosted by Verizon. The first district office was converted in April 2018 and the statewide project was completed in December 2018. Converting to the VoIP system will lower phone costs for DRE and allow greater flexibility in making changes to the phone system.

### • Interactive Voice Response (IVR) System Replacement

In addition to the statewide phone system conversion, DRE worked with NICE inContact and Verizon to convert DRE's existing interactive voice response (IVR) system to Verizon's Virtual Contact Center system. The old IVR system had been in place since 2009 and was not able to process the high volume of calls DRE receives on a daily basis. The new system provides better reporting and changes to the system can be performed by DRE staff. The new system was completed and went live in December 2018.

#### • Additional eLicensing Online Officer Renewals

In October 2018, DRE added "broker-associate" notifications to the list of licensing transactions that can be performed using DRE's eLicensing system. A licensed broker-associate is now able to affiliate his or her broker's license with one or more responsible brokers online. The eLicensing system also provides the responsible broker the ability to terminate the relationship with the broker-associate online.

• In May 2019, DRE added on-time license renewals for licensed real estate officers using the eLicensing system. Since the system went live, over 600 officers have renewed licenses online. The new transaction also allows designated officers to update some of the corporation information as part of the renewal.



### Enforcement

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

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

### Investigative process

DRE will open an investigation of an alleged violation of the Real Estate Law or Subdivided Lands Law if it receives a verified written complaint. DRE also will open an investigation on its own initiative if it learns of an alleged violation. Upon receipt of the complaint, DRE will review it to determine if it has jurisdiction, specifically assessing whether or not the complaint involves a real estate licensee, subdivider, or unlicensed person or entity who has performed acts that require a real estate license. Additionally, DRE also considers whether or not the alleged act falls within the applicable statute of limitations.

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



There are multiple levels and forms of disciplinary action. As an example, when challenging an applicant's qualifications for licensure, a statement of issues may be filed; when seeking to suspend or revoke an existing license, an accusation may be filed; to stop ongoing violations of either the Real Estate Law or the Subdivided Lands Law, a desist-and-refrain order may be filed; and to enjoin persons from working in real estate or related industries, a bar order may be filed. In addition, DRE has authority to issue citations and impose fines for any violation of the Real Estate Law and the Subdivided Lands Law. Citations issued to real estate licensees are typically for relatively minor, or de meinimis, violations of the law that do not merit higher disciplinary action. Citation authority also permits DRE to issue a citation and impose a fine on an unlicensed person engaged in an activity for which a real estate license is required.

The number of complaints DRE received, assigned for investigation, and subsequently referred to DRE's Legal section recommending disciplinary action in fiscal year 2018–19 are outlined in the chart below:

	FY 2018–19	FY 2017–18
Received	6,497	6,197
Referred for Investigation	4,088	4,181
Referred to Legal	1,081	1,093

(Continued on page 6)

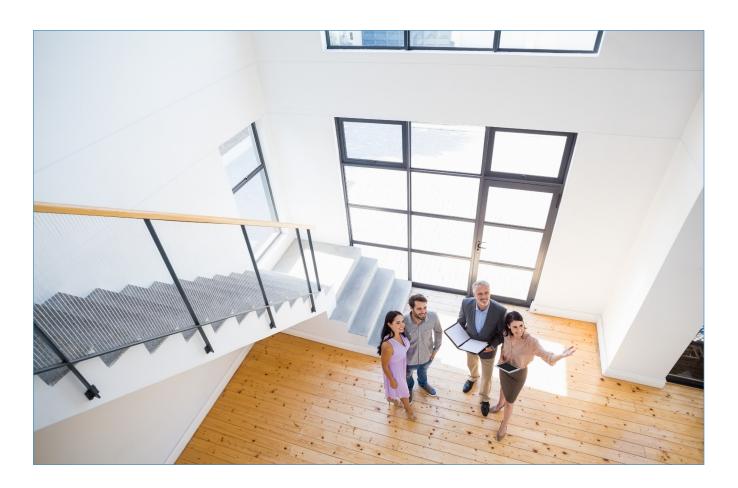


#### ENFORCEMENT (CONTINUED FROM PAGE 5)

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

In addition to its general investigative activities in 2018–19, and in an attempt to further increase visibility and interaction with the industry, the Enforcement section continued to place an emphasis on proactive

outreach initiatives. These proactive efforts consisted of conducting proactive broker office surveys and meeting and working with local licensee associations, such as real estate, mortgage loan, property management and escrow associations, throughout the state, providing both licensees and local associations with increased opportunities to interact with and provide input to Enforcement staff, discuss and learn about changes in the law, and provide comments and feedback about compliance requirements. In 2019–20, DRE will continue its proactive efforts to provide information and assist the real estate community, and to ensure licensees are aware of, and are complying with, the applicable real estate laws and regulations.



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### **Subdivisions Section**

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

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

### **Statistics**

DRE received 3,096 final subdivision public report applications in fiscal year 2018–19. This was a decrease of 8.1% compared to the previous fiscal-year total of 3,368. To put these numbers in perspective, over the last 15 years, the highest number of final applications received occurred in 2005–06 (4,538) and lowest in 2008–09 (1,262). Final applications received in 2018–19 were 14.5% above our 15-year average of 2,703 files per year.

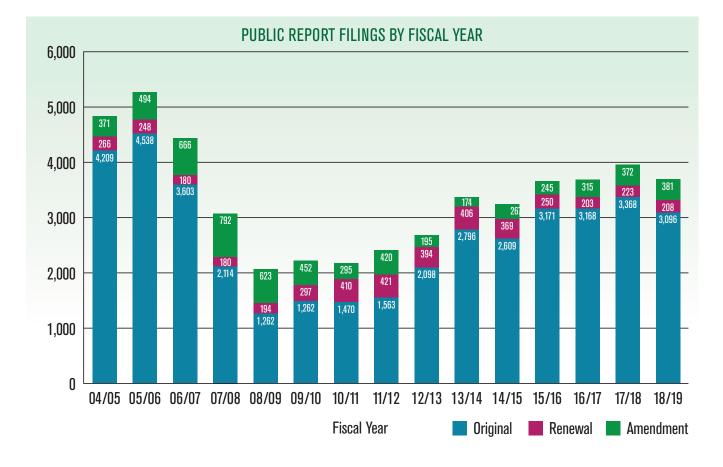
Amended subdivision public report applications increased 2.4% in 2018–19, while renewed subdivision public report applications decreased 6.7%. These numbers reflect an active yet tempered market as project changes and moderate sales increased our amendment application receipts. Typically, lower renewal numbers reflect more subdivision sale-outs were able to be made within the five-year term of the final public report.

The following chart illustrates fiscal year workload over the last 15 years:

(Continued on page 8)



SUBDIVISIONS SECTION (CONTINUED FROM PAGE 7)



### **Future Plans**

The Subdivision section will continue to partner with state and federal agencies to address issues of mutual concern aimed at improving consumer protection. We acknowledge the importance of enhancing efforts to educate consumers on the homebuying and selling processes as well as to increase their awareness of inappropriate actions and real estate fraud. We continue to explore methods to increase exposure of critical information to consumers, including the distribution of electronic and print media, as well as the expansion of consumer educational materials posted on the DRE's website. In this regard, the Subdivision section is working with our Information Technology Systems section on the second phase of our electronic application system. The Subdivision Online Public Report Application System (SOPRAS) fully automates the application process by establishing paperless submittals and instantaneous communications. It is expected that the SOPRAS will save time and resources while maintaining the highest level of public protection. When fully implemented, this process will improve productivity and service to the public.

### Legal Section

The California Department of Real Estate's (DRE) Legal section remained busy during fiscal year 2018–19, which ran from July 1, 2018, through June 30, 2019. The Legal section plays a critical role in DRE's application review and license discipline processes, including the preparation of statements of issues to deny license applications and accusations to discipline license rights. The Legal section's attorneys regularly appear before administrative law judges to argue in favor of application denials or license discipline. Through its efforts, the Legal section protected consumers during fiscal year 2018–19 by revoking 365 licenses, suspending 108 licenses, accepting the voluntary surrender of 68 licenses, and denying 217 license applications.

In addition to administrative prosecutions described above, the Legal section also manages DRE's Consumer Recovery Fund, a fund of last resort where victims of real estate fraud may recover some or all of their actual losses when a licensee lacks assets to pay for that loss. During fiscal year 2018–19, the fund received 160 new claims for payment, paid 68 claims totaling \$3,216,957, and denied 25 claims. Below are statistics for administrative prosecutions for fiscal year 2018–19:

Activity	Cases Filed	Orders Issued
Statement of issues	217	-
Accusation cases	406	-
Desist and refrain cases	-	78
Petitions for reinstatement	-	153
Petitions for removal of restrictions	-	42
License revocations (including restricted)	-	365
License suspensions	-	108
Voluntary surrenders	-	68
Dismissals (accusations or statement of issues)	-	44
Public reprovals	-	6
License denials (including restricted)	-	217
Final bar orders	-	4
Total	623	1,085





### Mortgage Loan Activities

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

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

**Background investigations**—MLA performs background investigations on salesperson, broker, and corporation licensees applying for a mortgage loan originator (MLO) license endorsement. Investigations are conducted with respect to prior criminal convictions, disciplinary actions, civil litigation, and other financial responsibility issues, to determine if issuing a license endorsement to that person or corporation would pose a risk to the public. Last fiscal year, MLA performed approximately 227 total MLO background investigations.

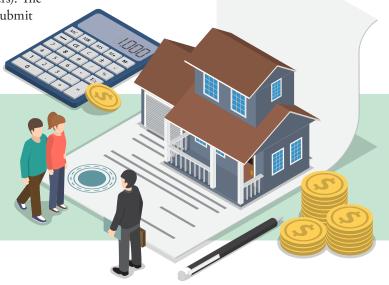
**Reports compliance**—MLA tracks and monitors the activities of brokers who meet a prescribed level of activity in private money mortgage activity (threshold brokers) and in multilender servicing activity (multilender brokers). The threshold and multilender brokers are required to submit quarterly and annual reports to DRE. Currently there are 339 reporting threshold brokers and 129 reporting multilender brokers. MLA also

monitors compliance with respect to the online submission of Business Activity Reports and Escrow Activity Reports via DRE's website, and the Mortgage Call Reports (MCRs) submitted in the National Mortgage Licensing System (NMLS).

**Voluntary mortgage loan advertising reviews**—MLA performs reviews of mortgage loan advertisements submitted voluntarily by brokers requesting to have their advertisements approved by DRE. Brokers may submit their advertisements with the "Mortgage Loan Advertising Submittal" (RE 884) form along with the required fee for the review.

**Industry and consumer resource**—Each day MLA fields a high volume of phone calls from licensees and consumers who have questions regarding various compliance issues and complaints. MLA receives and responds to written correspondence as well, and on average each fiscal year will respond to approximately 2,500 calls and letters combined. MLA is also involved in enforcement outreach through onsite visits to brokers' offices and by participating in industry and consumer events.

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

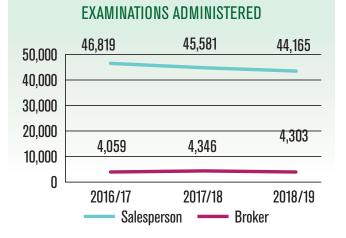


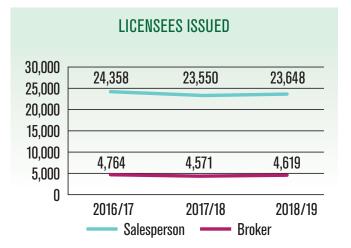
### **Licensing Section**

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

### Licensing and Examination Activity

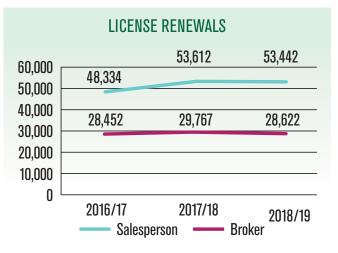
The workload statistics for fiscal year 2018–19, as well as the prior two fiscal years are outlined in the charts below. As you can see from the charts, the number of applications for salesperson examinations administered has decreased by 3% from 2018–19 when compared to 2017–18, while the number of broker examinations administered decreased by 1% during that same period. The issuance of new salesperson licenses has increased by 0.5% over the last fiscal year, while the issuance of new broker licenses increased by 1%.





### **Licensing Population**

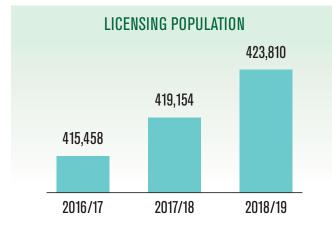
License renewals for 2018–19 among salespersons and brokers remained steady, with 80% of all salespersons and 93% of all brokers renewing their licenses. By the end of 2018–19, the licensing population was 423,810, which included 131,442 brokers and 292,368 salespersons. This reflects an increase of 1% over the number of licensees in the prior fiscal year. Furthermore, in 2018–19, 25,445 MLOs successfully renewed their license endorsement, and by the end of 2018–19, 25,475 MLOs were either in an approved or approved-inactive status.



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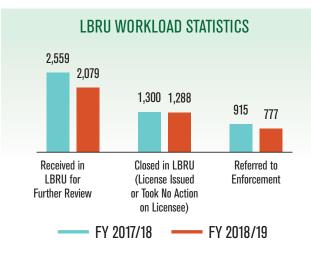


#### LICENSING SECTION (CONTINUED FROM PAGE 11)



### Licensing Background Review Unit

As part of its mission, DRE conducts a detailed background review on all license applicants, which includes mandatory fingerprinting. DRE may deny the issuance of a license to an applicant, or discipline the license of a licensee, if he or she has been convicted of a substantially related crime or has been the subject of professional license disciplinary action. As part of the background review, DRE evaluates all criminal background and professional license disciplinary action information, if applicable, to determine if the applicant or licensee has committed any substantially related crime(s) or act(s) which would serve as a basis for disciplinary action (See Commissioner Regulation Section 2910).



The Licensing Background Review Unit (LBRU) is tasked with performing background reviews of applicants and licensees and making recommendations regarding the issuance, denial, or revocation of a license. Furthermore, LBRU is also responsible for collecting information in connection with background reviews which may include certified court documents, police reports, and disciplinary action documentation associated with other professional licenses, and providing this information to the Enforcement section in situations where an interview and/or investigation appears to be warranted. The review of an application can be timeconsuming, as LBRU staff must take care to gather all pertinent documentation and certified records from other government agencies before a recommendation can be made.

The workload statistics in LBRU for 2018–19, as well as 2017–18 are outlined in the chart to the right.

### Phone Calls

The heavy workload coupled with a large licensing population means the number of calls DRE receives continues to be high. In order to adapt to the heavy workload and assist in distributing calls across DRE's program areas, the interactive voice response (IVR) telephone system was replaced with the new virtual contact center (VCC) telephone system in December of 2018. For 2018–19, of the 326,552 calls DRE received, licensing staff handled over 168,902 calls.

# Occupational Analysis and Exam Development Study

As part of its program to ensure real state exams accurately describe current industry practice, DRE's Examination Administration and Development Unit in agreement with the Office of Professional Examination Services (OPES) completed two phases of an examination validation study. The completed occupational analysis phase identified the knowledge, skills, and abilities that are a necessary part of the practice of real estate so they may be reflected in the

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#### LICENSING SECTION (CONTINUED FROM PAGE 12)

real estate licensing examinations. This task required the assistance of industry practitioners to help define the scope of the practice of real estate in California through a survey which is then used to develop a current occupational analysis. The second phase of the examination validation study consisted of written examination development. This task also involved the participation of industry subject matter experts who revised and created examination items that reflect the results of the new occupational analysis. Additional phases of the examination validation study will continue throughout 2019–20 and beyond.

### **Education and Research**

The Education and Research unit within the Licensing section is responsible for the review and approval of all real estate license continuing education course offerings, as well as pre-license/statutory qualification courses offered by private schools. In 2018–19, the section reviewed and approved 268 continuing education

course offerings, 214 pre-license/statutory courses, and 147 continuing education equivalency petitions. At the conclusion of 2018–19, there were 99 continuing education course providers offering 604 approved courses and 139 pre-license/statutory course providers offering 843 approved courses.

### Looking Forward

DRE's Licensing section continues to respond to the challenges associated with providing timely delivery of services while preserving the integrity of the results. To achieve this goal, the Licensing section continues to expand the use of technologies, such as the phone system update and improvements to our eLicensing system. In 2018–19, the eLicensing system was enhanced to allow for on-time officer license renewals and broker associate reporting, and will be further enhanced in 2019–20 to include the ability to submit online examination applications.





### Eliminating Barriers to Jobs for Loan Originators

Implementation of Section 106, S.2155 of the Economic Growth, Regulatory Relief, and Consumer Protection Act

The Economic Growth, Regulatory Relief, and Consumer Protection Act was signed into federal law on May 24, 2018. It added a section to the federal SAFE Act that grants to certain applicants for mortgage loan originator licenses a temporary authority to operate as mortgage loan originators, which will become effective November 24, 2019.

Business and Professions Code section 10166.02 requires applicants for mortgage loan originator license endorsements to hold an underlying real estate license as a prerequisite to receiving the endorsement. As such, the Department of Real Estate will issue a Notice of Intent to Deny to all mortgage loan originator license endorsement applicants who do not hold valid real estate licenses. The Department's issuance of the Notice of Intent to Deny will automatically terminate applicants' temporary authority to operate granted pursuant to section 106 of S.2155. After issuance of the Notice of Intent to Deny, the Department will take steps to formally deny those applications.

The Department will continue to post information about implementation of the act at **www.dre.ca.gov**.



### Fiscal Year 2018–19 Financial Statement

The Department of Real Estate (DRE) maintains five district offices: Sacramento, Oakland, Fresno, Los Angeles, and San Diego, and has 354 authorized fulltime positions.

DRE's budget spending authority in fiscal year 2018–19 was \$52,995,000.

Revenue for 2018–19 totaled \$51,414,835\*, and expenditures totaled \$50,697,402\*. DRE's revenues exceeded expenditures by \$717,433.

### DRE's budget: \$52,995,000

**Revenue from:** 

Examinations: \$3,928,831 Licensing and Nationwide Mortgage Licensing System (NMLS): \$37,622,096 Subdivisions: \$7,895,718 Other: \$1,968,190

Total Revenues: \$51,414,835\*

### **Expenditures from:**

Personnel: \$33,984,172 Facilities: \$4,354,488 Enforcement costs (hearings, investigations, court reporters): \$1,534,260 Recovery account: \$4,234,960 Communication, printing, postage: \$995,838 Data center, data, software: \$1,642,737 Other: \$2,450,947

### Total Expenditures: \$50,697,402\*

\*Based on estimated totals as 2018–19 has not yet closed.



# **KEY U.S. CENSUS BUREAU DATES IN 2020**

MAR 12 – 20	Invitations to complete the 2020 Census questionnaire online will be mailed	
MAR 26 – APR 3	Reminder postcard will be mailed	
APR 1	Census Day	
APR 8 – 16	Second reminder and questionnaire will be mailed	

Your 2020 Census data is safe, protected and confidential. California is committed to ensuring a complete and accurate count of all Californians.

## CALIFORNIACENSUS.ORG



Official Publication of the California Department of Real Estate

CALIFORNIA DEPARTMENT OF REAL ESTATE 1651 EXPOSITION BLVD. SACRAMENTO, CA 95815

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### VOL. 78, NO. 3

### FALL 2019

For all the latest real estate information for consumers, licensees, examinees, and developers, visit the DRE website.

### www.dre.ca.gov

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

