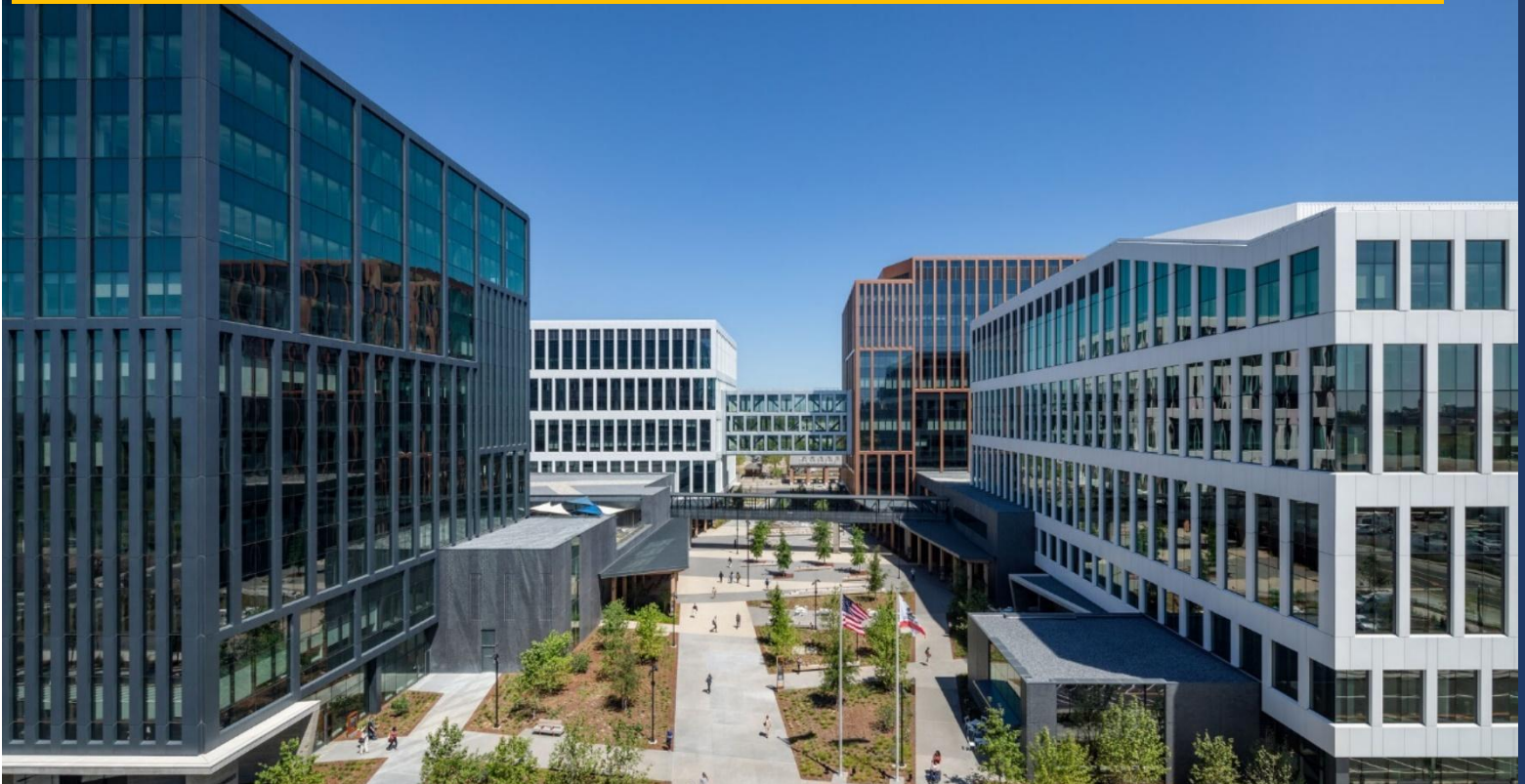


# 2024

## California Department of Real Estate Sunset Review Report



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# **Department of Real Estate**

## **BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM**

**As of [6/30/2024]**

### **Section 1 – Background and Description of the Department and Regulated Profession**

#### **Brief History and Function of the Department**

In 1917, the Legislature passed the Real Estate Law and created the California Real Estate Commission. Following a lengthy constitutional challenge in the courts, the 1919 Realty Act created the State Real Estate Department, which became operational in November of 1919. The current Department of Real Estate (DRE), the successor entity of that earlier department, is presently empowered to enforce the Real Estate Law (Business and Professions Code Section 10000 et seq.) (B&P Code), the Subdivided Lands Act (B&P Code Section 11000 et seq.), and the Vacation Ownership and Timeshare Act of 2004 (B&P Code Section 11240 et seq.). These statutes empower the Real Estate Commissioner (Commissioner) to adopt regulations. The Regulations of the Real Estate Commissioner (Commissioner's Regulations) are found in Title 10, Chapter 6 of the California Code of Regulations, Section 2705 et seq.

In short, the Real Estate Law provides for real estate licensing in this state. The Real Estate Law requires licensure of persons who 1) represent sellers and buyers of real property or business opportunities, 2) represent and tenants landlords in the rental or leasing of real property or business opportunities, 3) assist persons involved in land transactions with the federal or state government, 4) solicit for, negotiate, or service mortgage loans, and 5) represent buyers and sellers in exchanges of real property sales contracts and provides services to those who are contract holders.

The Subdivided Lands Act protects consumers who purchase or lease new homes or subdivided interests in California. This law requires the developer of subdivided interests to seek and obtain a Subdivision Public Report from DRE. This report is designed by law to protect the public from fraud and misrepresentation by documenting the developer's commitments to consumers. Correspondingly, the Vacation Ownership and Timeshare Act of 2004 provides parallel consumer protections relating to the sales of timeshare interests to consumers in California. The regulations associated with these laws are Commissioner's Regulations Sections 2790 to 2817.

DRE has five program-focused divisions in place to satisfy its statutory obligations: Enforcement, Audits, Legal, Licensing, and Subdivisions. Each of DRE's divisions contribute to its core mission of protecting and serving the interests of the public in real estate transactions and providing related services to the real estate industry.

As of June 30, 2024, DRE licenses more than 425,133 persons in California: 293,565 real estate salespersons and 131,568 real estate brokers, including corporate brokers, as well as more than 26,000 mortgage loan originators.

**1. Describe the make-up and functions of each of the board's committees**

DRE does not convene any mandated committees, nor does DRE have board members.

**2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?**

N/A

**3. Describe any major changes to the board since the last Sunset Review, including, but not limited to:**

- **Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)**

**New Commissioner in 2024**

Chika Sunquist was appointed the 25<sup>th</sup> Commissioner of DRE by Governor Gavin Newsom on November 28, 2023. She assumed office on January 3, 2024, and was confirmed by the Legislature on June 24, 2024. Ms. Sunquist began her career with DRE in 2006 as a Deputy Commissioner in the Sacramento Enforcement Office, where she investigated complaints against licensees and unlicensed persons and performed background investigations on license applicants. In 2008, Ms. Sunquist transferred to DRE's Mortgage Loan Activities Unit, where she was involved in implementation of the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act and the licensing of mortgage loan originators. In 2015, she became a Supervising Special Investigator over the Mortgage Loan Activities Unit. In 2020, Ms. Sunquist became Assistant Commissioner of Enforcement, where she was responsible for the overall management and operations of the Enforcement Division. Prior to joining DRE, Ms. Sunquist sold residential real estate as a real estate salesperson. She currently holds a broker license on government service. Ms. Sunquist holds a Bachelor of Science degree in Languages and Linguistics from Georgetown University and an Associate of Arts degree in Administration of Justice from Sacramento City College.

**Department Reorganization**

Since the last sunset review in 2020, DRE has completed a reorganization of the Administrative Services Division. This reorganization included 1) fully staffing the Human Resources Office by adding a Performance Management/Labor Relations Manager and a Special Projects Unit, tasked with bringing and keeping DRE in full compliance with administrative directives and policies; 2) forming a new Training Program that ensures DRE staff are compliant with training mandates and which provides additional training resources to staff; and 3) establishing a new division, the Information Technology Division (ITD), which was previously a program under the Administrative Services Division. The new ITD is charged with addressing needed technology upgrades, implementing a

strategic information technology vision, and maintaining responsiveness to customers and clients. Additionally, DRE's ITD aims to transform the technology landscape to better support DRE's mission and goals.

The reorganization also included transitioning 18 positions back to DRE from the Department of Consumer Affairs. Among other things, the reorganization also allowed DRE to rebuild the Accounting/Budget Unit, add staff to the Legislation and Communications Divisions, and hire both an Information Security Officer (ISO) and Equal Employment Officer (EEO).

### **Department Headquarters Relocation**

Pursuant to the Department of General Service's (DGS) 10-Year Sequencing Plan, several Business, Consumer Services and Housing Agency (BCSH) departments, including DRE, were selected to consolidate government facilities into a new state of the art DGS-owned and -managed campus called the May Lee State Office Complex (MLSOC) located in the River District of Sacramento. After five years of planning, DRE relocated its Sacramento headquarters to this new location on July 8, 2024. This new facility also includes DRE's Sacramento examination center which holds nearly 70 examinees. The new exam center features state-of-the-art technology and a modern interior designed to ensure the highest standard for exam administration.

### **Strategic Plan**

In 2022, under then-Commissioner Doug McCauley, DRE adopted a new post-pandemic three-year strategic plan that focused on what unites DRE in its shared mission. The strategic goals form a four-pronged vision to guide how DRE operates and prioritizes initiatives. The four goals of Customer-centric Service, Healthy Organization, Innovative Operations, and Resourceful Stewardship guide department decision making. This Strategic Plan represents the collective contributions of hundreds of points of input from DRE employees and key stakeholders. Opportunities for employees and stakeholders to contribute feedback were offered at all levels and through multiple channels, including a department-wide survey to all staff, multiple open forums to discuss and solicit feedback from all staff, and division-level management team discussions.

In implementing the Strategic Plan, DRE developed 37 cross-divisional projects that align with the overall goals and objectives outlined in the plan. These projects serve as the building blocks to achieve the long-term vision set in the plan. Through the completion of the strategic plan projects, DRE has completed a diversity, equity, and inclusion (DEI) initiative, created an Internal Audit Program, updated department-wide workforce and succession plans, and redesigned/enhanced the eLicensing platform for users. (eLicensing is DRE's web-based system that allows license applicants and licensees make applications, pay licensing fees, and make license changes online.)

The current 2022-2025 plan is published on DRE's website under the About section at [https://dre.ca.gov/files/pdf/DREStrategicPlan2022\\_25.pdf](https://dre.ca.gov/files/pdf/DREStrategicPlan2022_25.pdf). DRE intends to draft a strategic plan for 2026 onward during 2025 and will incorporate the requirements of the Governor's Executive Order N-16-22 related to diversity, equity, and inclusion. [cf., Section 11, Attachment E].



- **All legislation sponsored by the board and affecting the board since the last sunset review.**

The following statutory changes were signed since DRE's last sunset review. They are organized by topic for ease of review. For a complete list of legislation that has impacted DRE since the last sunset review, please refer to the attachment noted below. [cf., Section 11, Attachment F].

### **Licensure**

#### **Assembly Bill (AB) 2745 (Irwin, Chapter 162, Statutes of 2022) Experience equivalent for broker examinations.**

AB 2745 changed the experience requirements to sit for the exam to become a real estate broker. The bill required that non-licensed, general real estate experience used to qualify for the broker's exam occur within five years of the exam application date. The bill also clarified that when the Commissioner considers four-year degrees in lieu of licensed experience for broker's exam applicants, degrees completed more than five years before the application date may be considered.

#### **Senate Bill (SB) 263 (Rubio, Chapter 361, Statutes of 2021) Fair housing and implicit bias training for real estate applicants and licensees.**

Commencing January 1, 2023, SB 263 modified the composition of two courses that are required to qualify to take either the real estate salesperson or real estate broker licensing exam. The bill incorporated a component on implicit bias into the real estate practice course and incorporated a component on federal and state fair housing into the legal aspects of real estate course. In addition, commencing January 1, 2023, the bill made changes to the continuing education requirements for salespersons and brokers. The fair housing course was required to include an interactive participatory component, and a new two-hour implicit bias course was required.

#### **SB 1495 (Committee on Business, Professions and Economic Development, Chapter 511, Statutes of 2022) Pre-licensure implicit bias and fair housing education.**

SB 1495 made changes to SB 263 (Rubio, Chapter 361, Statutes of 2021) to consolidate new training requirements and correct drafting errors to improve implementation. Specifically, beginning January 1, 2024, SB 1495 modified the required course content of the real estate practice course to include a component on federal and state fair housing laws and their application to the practice of real estate. Such courses were required to include an interactive participatory component where the student role-plays as both a consumer and a real estate professional. The real estate practice course is required for all applicants for the real estate salesperson examination and broker examination. This content had previously been required for the legal aspects course which only those taking the real estate broker examination are required to take. In addition, the bill updated the name of the Nationwide Multistate Licensing System & Registry where it appears in statute and corrected cross-reference errors in statute. It also extended from 30 to 45 the number of days a licensee has to publish a statement in a local newspaper when they decide to begin using a fictitious business name.

## **Landlord Tenant**

### **AB 2559 (Ward, Chapter 288, Statutes of 2022) Reusable tenant screening reports.**

AB 2559 defined and specified the elements that must be included in a reusable tenant screening report. If a landlord accepts a reusable screening report, the bill prohibited them from charging an application screening fee or a fee to access the reusable report. The bill does not require that landlords accept a reusable tenant screening report and any local rule that provides more protection to the applicant prevails.

### **SB 1017 (Eggman, Chapter 558, Statutes of 2022) Leases: termination of tenancy: abuse or violence.**

SB 1017 clarified existing law about the tenancy protections for victims of domestic violence or abuse, their household members, and their immediate family members. This included protections that allow victims to terminate their tenancy without penalty and protection from eviction that is based solely on those acts of violence or abuse. It also expanded existing eviction protections to tenants whose family members are victims and to tenants who are victims of gun violence or other crimes causing bodily injury. Further, it expanded the evidence a court can consider as proof of abuse or violence in eviction proceedings and established new court procedures to grant a partial eviction when the perpetrator of violence resides in the same unit as the victim. Lastly, the bill made landlords liable in a civil action to the tenant for actual damages and for a fine of up to \$5,000 if they do not allow a victim, who follows proper noticing requirements, to terminate their tenancy without penalty.

### **AB 12 (Haney, Chapter 733, Statutes of 2023) Rental deposits.**

Beginning July 1, 2024, AB 12 limited the amount landlords can charge a tenant for a rental housing security deposit to one month's rent for either a furnished or unfurnished unit. Exempted from this limitation were landlords who 1) are a natural person or limited liability company in which all members are natural persons, and 2) who own no more than two residential rental properties that collectively include no more than four dwelling units. Such landlords would be allowed to charge deposits of two month's rent, provided that the tenant is not a service member.

### **AB 2493 (Pellerin, Chapter 966, Statutes of 2024) Rental application fees.**

AB 2493 prohibited a landlord from charging a prospective tenant an application screening fee if no unit is available for rent. This bill also prohibited a landlord from charging an application screening fee unless the landlord does either of the following: 1) has a screening process that considers applications in the order received, grants tenancy to the first prospective tenant who qualifies, and does not charge the fee until/unless an application is actually being considered, or 2) refunds the entire application screening fee if the applicant is not selected for tenancy for any reason. Additionally, the bill required landlords to provide applicants who paid a screening fee with a copy of the consumer credit report within seven days of receiving the report.

### **AB 2747 (Haney, Chapter 279, Statutes of 2024) Credit reporting of rent payments.**

This bill required residential landlords to offer tenants the opportunity to have positive rental payment information reported to at least one nationwide consumer reporting agency. The bill allowed tenants who elect to have rental payment information reported

to stop reports at any time. Landlords could charge tenants up to \$10 per month for this reporting service. Only landlords who own residential buildings of 16 units or more must comply with these requirements, unless the landlord owns more than one residential rental building and the landlord is a real estate investment trust, corporation, or limited liability company in which at least one member is a corporation. Assisted housing developments also were exempted from the bill's provisions.

**AB 2801 (Friedman, Chapter 280, Statutes of 2024) Security deposit deductions.**

AB 2801 clarified a landlord's ability to deduct funds from a security deposit. It clarified several existing tenant protections related to residential rental security deposits and required a landlord to photographically document conditions of a residential unit at the inception, as well as the conclusion, of a tenancy. Further, the bill prohibited landlords from charging the tenant or making a claim against a security deposit for professional carpet cleaning or other professional cleaning services unless necessary to restore the premises to the original condition at the inception of the tenancy.

**SB 267 (Eggman, Chapter 776, Statutes of 2023) Tenant protections for victims of domestic violence.**

SB 267 prohibited housing providers, in instances where a prospective tenant has a government rent subsidy, from requiring an applicant's credit history as part of the rental application if the provider does not also allow applicants to submit lawful, verifiable alternative evidence of a reasonable ability to pay the portion of rent for which the tenant will be responsible. If the applicant with a government rent subsidy elects to provide such alternative evidence, the bill required the housing provider to 1) provide the applicant reasonable time to respond with the alternative evidence and 2) consider that evidence in lieu of credit history. Violations of these provisions are a violation of the Fair Employment and Housing Act.

**SB 611 (Menjivar, Chapter 287, Statutes of 2024) Rental housing fees.**

SB 611 prohibited landlords from charging tenants a fee for paying their rent or security deposit by check or for providing to tenants a notice communicating the termination of tenancy or unlawful detainer. Beginning April 1, 2025, landlords who charge a military service member a security deposit higher than standard or advertised due to credit history, credit score, housing history, or other factors, will be required to provide the tenant with a written statement of the amount of the higher fee and an explanation as to why it is being charged. This must be provided on or before the date the lease is signed. In these scenarios, the bill also required that any additional security deposit be refunded after six months, provided that the tenant is not in arrears on any rent due at that time.

**SB 1051 (Eggman, Chapter 75, Statutes of 2024) Lock changes for victims of abuse.**

SB 1051 built upon existing law to protect tenants who are at risk of abuse or violence by allowing them to have their locks changed, free of charge, by their landlord if they provide required documentation to the landlord. The bill also expanded the types of documentation that can be provided to include documentation from a qualified third party and allows for tenants to have locks changed if a member of their immediate family or household is a victim of abuse or violence. Additionally, this bill prohibited a



landlord from taking an adverse action in the screening process against a prospective tenant that was a victim of abuse who exercised their rights to terminate a past tenancy, requested a lock change, was a victim of abuse, or previously summoned law enforcement or emergency assistance.

### **Sales**

#### **AB 948 (Holden, Chapter 352, Statutes of 2021) Discrimination in appraisals and refinancing.**

AB 948 created the Fair Appraisal Act. Among its provisions, it required every sales contract for real property that is made after July 1, 2022, to include a notice stating that the appraisal of the property is required to be unbiased, objective, and not influenced by specific factors. Those factors include race, color, religion, gender, sexual orientation, marital status, medical condition, military or veterans status, national origin, source of income, ancestry, disability, genetic information, and age. The notice must also include information on what actions a buyer or seller can take if they believe an appraisal has been affected. Those licensed by DRE, among other professions, were required by the measure to deliver this same notice when involved in the refinancing of a residential real estate property of up to four units. Lastly, it added refinancing a housing accommodation to the list of actions for which it is unlawful to discriminate against any person or group based upon these factors.

#### **AB 968 (Grayson, Chapter 95, Statutes of 2023) Disclosure of home repairs and renovations.**

AB 968 required the seller of a single-family residential property to disclose work done on the property, if the seller obtained title of the property within the previous 18 months. Specifically, the law required the seller to provide information regarding all room additions, structural modifications, alterations, or repairs made to the property since obtaining title if they were performed by a contractor. Only contracts totaling \$500 or more are required to be reported. The name of each contractor with whom the seller entered into a contract for the work and copies of permits must also be disclosed. This disclosure requirement applied on or after July 1, 2024.

#### **AB 1345 (Hart, Chapter 577, Statutes of 2023) Exclusive listing agreements.**

AB 1345 made it unlawful for an exclusive listing agreement for the sale of a single-family residential property to last longer than 24 months and for renewals to last longer than 12 months. For purposes of this measure, exclusive listing agreement also includes any agreement to enter into a future one. In addition, the bill made it unlawful to present an exclusive listing agreement for recording with a county recorder and, if done so, the agreement becomes void and unenforceable. A violation of this new law is considered a violation of a person's licensing law, thereby authorizing DRE to take action against a real estate licensee's professional license. If an agreement is made in exchange for compensation, the homeowner shall keep the compensation, however, the agreement will still be void.

### **AB 2992 (Nguyen, S., Chapter 516, Statutes of 2024) Buyer broker representation agreements.**

In response to a class action lawsuit regarding real estate commissions, AB 2992 required a buyer's agent and a buyer in a real estate transaction to execute a buyer-broker representation agreement as soon as practicable, but no later than when a buyer's offer to purchase real property is executed. This bill defined a buyer-broker representation agreement as a written contract between a buyer and a buyer's agent in which the buyer's agent has been authorized by the buyer to provide services for which a real estate license is required. The agreement must include, at a minimum, the terms related to the compensation of the real estate broker, services to be rendered, when compensation is due, and contract termination. This bill prohibited buyer-broker representation agreements from lasting longer than three months and from automatically renewing, as well as limited any renewals of such agreements to three months. This bill also created parallel consumer protections for buyers as those experienced by sellers in relation to a listing agreement.

### **Fees**

#### **SB 164 (Committee on Budget and Fiscal Review, Chapter 41, Statutes of 2024) Fee increase.**

Among other provisions, SB 164 increased the licensing, examination, subdivision, and timeshare-related fees, among others that are levied by DRE. It also established a cap for each fee that may be reached via regulation. The bill required DRE to conduct at least one stakeholder meeting prior to formally proposing a regulatory fee increase, as well as provide reports on DRE's revenues, expenditures, and reserves at its annual fee hearing.

### **Military**

#### **AB 107 (Salas, Chapter 693, Statutes of 2021) Licensure: veterans and military spouses.**

Among other provisions, AB 107 required DRE to compile information on military, veteran, and spouse licensure into an annual report for the Legislature. The report must contain the number of applications for expedited licenses for both veterans and the spouses of active-duty service members, as well as the number of expedited licenses issued and denied per calendar year. Lastly, the report must include the average length of time between application and expedited license issuance.

### **Sunset**

#### **SB 800 (Archuleta, Chapter 431, Statutes of 2021) Sunset renewal, military licensing, good standing, etc.**

SB 800 extended the sunset for DRE and the Bureau of Real Estate Appraisers. The measure also allowed DRE to use bar notices issued by sister agencies as grounds for action, codified current expedited licenses for veterans and partners of members of the Armed Forces, and clarified the definition of real estate license in good standing.

- **All regulation changes approved by the board since the last sunset review. Include the status of each regulatory change approved by the board.**

The following regulatory packages to amend various provisions of the Commissioner's Regulations were approved by DRE since the previous sunset review:

1. DRE amended its "Criteria for Substantial Relationship" (Commissioner's Regulation 2910) and defined "Financial Crime" (Commissioner's Regulation 2910.5) to implement changes to the B&P Code resulting from AB 2138 (Chiu, Chapter 995, Statutes of 2018). *Effective Date: March 26, 2021.*
2. DRE made numerous changes to complete the terminology update called for by the provisions of AB 2884 (Irwin, Chapter 285, Statutes of 2018). That bill amended the language of the Real Estate Law to match present industry terminology. This regulations package amended 14 regulation sections and repealed one section, primarily to eliminate the use of the word "employ" or its variations, as well as converted instances of "transferor" and "transferee" to "seller" and "buyer." *Effective Date: April 1, 2022.*
3. Also prompted by AB 2884 (Irwin, Chapter 285, Statutes of 2018), DRE updated its regulation on "Discriminatory Conduct as the Basis for Disciplinary Action" (Commissioner's Regulation 2780). The amendment incorporated an updated list of the "protected classes" recognized in federal and state anti-discrimination statutes. The prior list of prohibited acts or omissions, dating to the early 1980s, was updated to conform to the existing federal and state statutes. Finally, the regulation was redrafted for easier comprehension. *Effective Date: October 1, 2022.*
4. DRE amended four of its existing continuing education regulations to implement the provisions of SB 263 (Rubio, Chapter 361, Statutes of 2021). The bill added items to the scope of continuing education that are required by B&P Code Section 10170.5. The regulatory amendments pursuant to SB 263 ensured that real estate licensees are kept up to date on fair housing laws and receive implicit bias training on an ongoing basis. *Effective Date: January 1, 2023.*
5. Senator Rubio's SB 263 was followed by SB 1495 (Committee on Business, Professions and Economic Development, Chapter 511, Statutes of 2022), which corrected errors in SB 263 related to new education requirements on fair housing laws for persons applying for new real estate licenses. DRE implemented this follow-up bill with a regulation that amended Commissioner's Regulation 3002 and added a Section 3002.2, both relating to "pre-license education". *Effective Date: January 1, 2024.*

#### **4. Describe any major studies conducted by the board.**

##### California Polytechnic State University "Prop Tech" Research Project

In Spring 2023, professors from California Polytechnic State University – San Luis Obispo's College of Business (Cal Poly) began work on a study of the emerging topic of

technological platforms (Prop Tech) and its impact on the real estate profession's future, real estate education and licensing requirements, and DRE's regulatory and consumer protection efforts. The research was funded by grants from DRE's Real Estate Education and Research Account and the California State University (CSU) Real Estate and Land Use Institute (RELU). The research project was completed in January 2024, and is titled, "Agent-Next: PropTech and the Future of Real Estate Intermediation." (cf., Section 11, Attachment C)

**5. List the status of all national associations to which the board belongs.**

- **Does the board's membership include voting privileges?**
  - **List committees, workshops, working groups, task forces, etc., on which the board participates.**
  - **How many meetings did board representative(s) attend? When and where?**
- The Association of Real Estate License Law Officials (ARELLO)  
DRE has voting privileges and may participate in the election of officers of ARELLO, which is an international organization comprised of government agencies and other organizations around the world that issue real estate licenses or registrations, in addition to regulating real estate practice and enforcing real estate law.
  - American Association of Residential Mortgage Regulators (AARMR)  
DRE has voting privileges and may participate in the election of officers of AARMR, which is an organization that promotes the exchange of information and education concerning the licensing, supervision, and regulation of the residential mortgage industry. It also seeks to increase the ability of state mortgage regulators to provide effective mortgage supervision for a safe and sound industry that can meet the needs of local financial markets and protect the rights of consumers.
  - Council on Licensure and Enforcement Regulation (CLEAR)  
According to CLEAR, "CLEAR is an association of individuals, agencies and organizations that comprise the international community of professional and occupational regulation. Through conferences, services and publications, CLEAR provides the resources for ongoing and thorough communication of international licensure and regulation issues among all those interested in the field."

**Higher Education Endowment Committee Participation**

DRE/University of California Real Estate Endowment Advisory Committee

In November 2023, then-Commissioner Doug McCauley signed a renewed agreement for the DRE/University of California Real Estate Education Endowment Fund (REEF). The amended agreement focuses efforts on research and education in California real estate matters; advances DEI principles within the real estate profession and industry; and invests in improving the quality of education for students, especially those enrolled in real estate programs at the University of California, Berkeley and the University of California, Los Angeles (UCLA) who are from economically or socially disadvantaged communities. It also includes opportunities for financial assistance via scholarships and paid internships. The revised agreement also reconstituted an advisory committee, comprised of

members appointed both by the Commissioner and University President with a goal of providing input to UC Berkeley and UCLA on REEF appropriations and advising the chairpersons/professors on their real estate-related research.

The DRE/University of California Real Estate Endowment Advisory Committee meets annually. The most recent meetings occurred:

- April 30, 2024, participation via Zoom.
- November 27, 2023, participation via Zoom.

#### California State University Real Estate Education Endowment Advisory Committee

The California State University (CSU) Real Estate Education Endowment Advisory Committee meets to discuss the financial status of the endowment, review scholarship requirements, review fiscal allocations for the next academic year, and reviews and approves real estate program improvement grants.

The CSU Real Estate Education Endowment Advisory Committee meets twice each calendar year. The most recent meetings occurred:

- August 16, 2024, at the California State University Chancellor's Office, Long Beach and on Zoom.
- February 5, 2024, at California State University, Sacramento and on Zoom.

#### California Community Colleges Real Estate Education Endowment Advisory Committee

The California Community Colleges (CCC) Real Estate Education Endowment Advisory Committee meets to discuss and provide input and guidance on the financial status of the endowment, review scholarship requirements, and review fiscal allocations for the next academic year.

The CCC Real Estate Education Endowment Advisory Committee meets twice each calendar year. The most recent meetings were held on:

- June 20, 2024, Participation via Zoom.
- November 13, 2023, Participation via Zoom.

#### **Enforcement Division Task Force Participation**

DRE Enforcement Division staff regularly participates in task force meetings with district attorney offices, local real estate associations, and a number of law enforcement agencies. Discussion topics include real estate fraud, mortgage fraud, and financial/economic crimes, including wire fraud.

- **If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?**

DRE does not use a national examination.



## Section 2 – Fiscal and Staff

### Fiscal Issues

**6. Is the Department’s fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.**

No, Fund 0317 is not continuously appropriated.

**7. Using Table 2. Fund Condition, describe the Department’s current reserve level, spending, and if a statutory reserve level exists.**

As a Special Fund department, DRE receives no General Fund support and relies solely on fees set by statute and regulation related to licensed and regulated activities. The primary drivers of revenue are application, licensing, license renewal, and subdivision fees.

In Fiscal Year (FY) 2022-23, DRE projected a declining fund balance, as revenues were not keeping up with operational costs. In response, DRE conducted a fee study to assess the necessary fee amounts to support its operations and maintain current service levels, and estimate the cost of providing those services. The study showed that increased labor costs related to salaries and benefits, higher expenses for contracted services, and rising facility costs contributed to a budget imbalance. This imbalance created significant gaps between authorized expenditures and the fees required to cover operational costs.

In FY 2023-24, DRE requested an increase in its expenditure authority to address the funding shortfall and an accompanying increase in fees to meet current and projected future needs. This marked the Department’s first statutory fee increase request in 27 years. The Legislature approved this proposal and the Governor signed it into law as part of the 2024-25 budget agreement (SB 164, Committee on Budget and Fiscal Review, Chapter 41, Statutes 2024). The fee range enacted included a statutory cap under which DRE may subsequently adjust fees through regulation to maintain solvency of the Real Estate Fund, provided the adjustments do not exceed the statutory maximum.

<b>Table 2. Fund Condition</b>					
	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Beginning Balance	40,494	36,384	37,409	27,953	18,096*
Revenues and Transfers	54,261	60,085	54,054	56,678*	57,492*
<b>Total Resources</b>	94,586	97,750	92,110	84,631*	75,588*

DRE Budget Authority	52,117	57,015	60,110	62,037*	66,762*
Real Estate Fund Expenditures	51,392	55,623	60,086	66,535*	72,444*
Loans to General Fund	N/A	N/A	N/A	N/A	N/A
Accrued Interest, Loans to General Fund	N/A	N/A	N/A	N/A	N/A
Loans Repaid From General Fund	N/A	N/A	N/A	N/A	N/A
<b>Fund Balance</b>	36,384	37,409	27,953	18,096*	3,144*
<b>Months in Reserve</b>	7.24	7.00	5.04	2.96*	.05*

\*Projected amounts based on Fund Condition Statements published by the Department of Finance. FY 24/25 projected revenues do not include the July 2024 statutory fee increase.

**8. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the Department.**

Statutory fee increases took effect on July 1, 2024, to prevent the Real Estate Fund (0317) from becoming insolvent. DRE is actively monitoring the revenue generated from the recent fee increase alongside operational needs and licensing volume to determine if further fee adjustments would be necessary. DRE's objective is to operate with a prudent fund reserve and maintain a minimum reserve of three-month's worth of funds for economic uncertainties.

**9. Describe the history of general fund loans. When were the loans made? When have payments been made to the Department? Has interest been paid? What is the remaining balance?**

A loan repayment from the General Fund to the Real Estate Fund (0317) in the amount of \$10.9 million pursuant to Item 2320-011-0317, Budget Act of 2002 was repaid to DRE in the 2019-20 fiscal year along with an interest payment of \$4.6 million. All loans to the General Fund have been repaid.

**10. Using Table 3, Expenditures by Program Component, describe the amounts and percentages of expenditures by program component. Provide a breakdown of the expenditures by the Department in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.**

<b>Table 3. Expenditures by Program Component</b>								
	FY 2020/21		FY 2021/22		FY 2022/23		FY 2023/24	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	9,003	1,193	9,992	1,209	10,933	1,364	11,388	971
Licensing	6,722	2,467	7,066	1,536	7,395	2,160	6,763	2,344
Administration	7,255	4,612	9,784	6,018	5,368	1,864	5,096	1,365
Audits	4,385	478	4,965	461	5,151	608	4,883	430
Legal	5,197	1,563	6,572	1,192	6,849	1,676	6,916	2,030
Subdivisions	5,208	694	6,052	656	6,508	711	6,485	671
Executive	N/A	N/A	N/A	N/A	1,059	27	884	34
Information Technology*	N/A	N/A	N/A	N/A	4,190	3,167	4,863	2,921
Communications and Publications *	N/A	N/A	N/A	N/A	492	24	505	41
Legislation and Regulation*	N/A	N/A	N/A	N/A	280	9	360	18
<b>TOTALS</b>	37,770	11,007	44,43	11,007	48,525	11,610	48,143	10,825

\*Prior to FY 22-23, the Executive, Administration, Communications, Information Technology, and Legislative Division expenditures were all captured under the Administration Division. Therefore, those expenditures cannot be separated out.

**11. Describe the amount the Department has spent on business modernization, including contributions to the BreEZe program, which should be described separately.**

Prior to FY 22-23, the Executive, Admin, Comms, IT, and Legislative program expenditures were all captured under the Administrative Services Division fiscal code for budget purposes. Therefore, specific expenditures related to business modernization cannot be separated out.

On October 1, 2021, DRE launched the Online Exam License Application (OELA) providing for electronic submission of salesperson or broker real estate exam or exam/license applications through eLicensing. Users can also upload any necessary documents and pay the required fees online.

In FY 23-24, DRE launched the Portal Modernization Project (PMP). This initiative aims to streamline the eLicensing program, making it more user-friendly and efficient. The PMP will integrate multiple functionalities into a single online portal, where users can view their application progress status in real-time, modify licensee information in a dashboard, upload and modify documents, and remedy identified deficiencies within the portal.

The PMP will result in reduced call times and increased application transparency as applicants can access real-time application information online.

The PMP will enhance the enforcement program by allowing complete electronic case management. Finally, DRE is developing a data warehouse which will incorporate all DRE specific historic data to allow for enhanced reporting, data visualization, and analytics.

**12. Describe license renewal cycles and the history of fee changes over the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citations) for each fee charged by the Department.**

Real estate licenses are issued and renewed for a period of four years. In addition to the four-year term, licensees may renew their licenses, but not practice, for up to two years past the license expiration date. DRE's most recent fee change occurred in 2024, where DRE requested statutory changes to the fee schedule to address the structural fund imbalance of the Real Estate Fund. Prior to this most recent fee change, the Department had not raised fees regulatorily since reaching the previous statutory maximum in 2009. The previous statutory increase occurred in 1997.

Mortgage Loan Originator (MLO) license endorsements are issued for a period of one year and all such endorsements expire each year on December 31st. Endorseees can renew their endorsement during November and December of each year or reinstate a recently lapsed endorsement during the following January and February. There have been no fee changes to the MLO endorsement since DRE began MLO licensing in March 2010.

For the fee authority for each fee charged by DRE, please see (cf., Section 11, Attachment G).

<b>Table 4. Fee Schedule and Revenue</b> (list revenue dollars in thousands)							
Fee	Current Fee Amount	Statutory Limit	FY 2020/21 Revenue	FY 2021/22 Revenue	FY 2022/23 Revenue	FY 2023/24 Revenue	% of Total Revenue
<b>Exam Fees</b>							
Salesperson Exam Fee	\$100	\$130	\$3,065	\$3,961	\$3,212	\$2,844	6.40%
Broker Exam Fee	\$150	\$195	\$459	\$493	\$451	\$395	0.88%
<b>Original License Fees</b>							
Salesperson	\$350	\$455	\$7,439	\$8,217	\$6,750	\$5,957	13.88%
Broker or Broker /Officer	\$450	\$585	\$817	\$824	\$778	\$683	1.52%
Corporation	\$450	\$585	\$535	\$547	\$493	\$433	0.98%

<b>Renewal Fees</b>							
Salesperson On Time	\$350	\$455	\$10,557	\$11,924	\$10,837	\$9,638	21.03%
Salesperson Late	\$525	\$683	\$1,665	\$4,393	\$3,879	\$3,968	6.81%
Broker On Time	\$450	\$585	\$6,064	\$6,516	\$5,817	\$5,480	11.69%
Broker Late	\$675	\$878	\$480	\$1,268	\$1,199	\$1,218	2.04%
Corporation On Time	\$450	\$585	\$1,303	\$1,393	\$1,266	\$1,269	2.56%
Corporation Late	Var	Var	\$90	\$242	\$296	\$314	0.46%
<b>MLO Endorsement Fees*</b>							
Salesperson, Broker, and Real Estate Corporation	\$300	Set in Regulation	\$8,167	\$8,959	\$8,474	\$8,375	16.63%
<b>Subdivision Filing Fees</b>	Var	Var	\$8,216	\$9,080	\$6,485	\$7,087	15.11%

**13. Describe Budget Change Proposals (BCPs) submitted by the Department in the past four fiscal years.**

Table 5. Budget Change Proposals (BCPs)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	# Staff Requested (include classification)	# Staff Approved (include classification)	Personnel Services		OE&E	
					\$ Requested	\$ Approved	\$ Requested	\$ Approved
2320-008-BCP-2021-GB	2021-22	Accounting Workload Resources	1.0- Senior Accounting Officer 1.0- Accounting Officer (Specialist) (LT)	1.0- Senior Accounting Officer 1.0- Accounting Officer (Specialist) (LT)	107,000	107,000	18,000	18,000



2320-006-BCP-2021-GB	2021-22	Licensing Information Section – Call Workload	5.0-Program Technicians (LT)	5.0-Program Technicians (LT)	324,000	324,000	90,000	90,000
2320-005-BCP-2022-GB	2022-23	Real estate applicants and licensees: education requirements: fair housing and implicit bias training (SB 263)	1.0-Associate Governmental Program Analyst 1.0-Office Technician (General)	1.0-Associate Governmental Program Analyst 1.0-Office Technician (General)	180,000	180,000	36,000	36,000
2320-002-BCP-2022-GB	2022-23	Internal Audit Workload	1.0-Senior Management Auditor	1.0-Senior Management Auditor	158,000	158,000	18,000	18,000
2320-001-BCP-2022-GB	2022-23	Information Technology Security	2.0-Information Technology Specialist II	2.0-Information Technology Specialist II	334,000	334,000	36,000	36,000
2320-009-BCP-2024-GB	2024-25	Rent Increase – New May Lee State Office Complex			0	0	849,000	849,000
2320-010-BCP-2024-GB	2024-25	Chartered Legislation Resources	1.0-Associate Governmental Program Analyst (LT) 1.0-Attorney III 1.0-Information	1.0-Associate Governmental Program Analyst (LT) 1.0-Attorney III 1.0-Information	598,000	598,000	102,000	102,000

			Technolog y Specialist II (LT)	Technolog y Specialist II (LT)				
2320- 001- BCP- 2024- GB	2024-25	Addressing Workload Costs and Fund Solvency			695,000	695,000	2,536,000	2,536,000

## Staffing Issues

### 14. Describe any Department staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.

DRE has difficulty retaining staff in the Information Section within the Licensing Division, which operates as a call center to the public. DRE sought a pay differential for this unit during bargaining, which was accepted as a concept to move forward by CalHR, however ultimately was not included in the negotiations. DRE plans to re-submit the pay differential proposal with additional data in the next bargaining cycle. In addition, DRE is working on corrective action plans regarding reclassifying misallocated positions with its Subdivisions Division. Finally, while divisions have their own procedures manuals, our Special Projects Section within Human Resources is developing formal processes for creation and maintenance of procedures manuals for succession planning purposes. DRE also provides regular trainings to managers and supervisors on leadership topics, and the DRE Training Program continues to develop intra- and inter-divisional trainings to DRE staff.

### 15. Describe the Department's staff development efforts and total spent annually on staff development.

One of the strategic goals of DRE is to cultivate a healthy organization by deliberately investing in an inclusive, collaborative, and engaging work environment. In 2022, this strategic goal was aided by the acquisition of a product called Cornerstone which became DRE's digital Learning Management System (LMS). This system provides staff with access to over 4,300 courses for training and self-development purposes. Also, the LMS allows DRE to import materials such as internal meeting/training videos, PDF documents, PowerPoint trainings, etc. as trackable/assignable learning tasks, thus creating a centralized storage location for all unique DRE related training materials.

DRE created a supervisor and managers training series where department leadership is required to attend monthly training sessions on various topics such as navigating the recruitment process, successful progressive discipline, emotional intelligence and the benefits of kindness and recognition. These efforts aim to foster a departmental culture that strongly invests in leadership and provides the

necessary tools to effectively lead. This leadership series is mandatory and counts towards the annual 20 hours of leadership training and development required pursuant to Government Code Section 19995.4 (cf., Section 12, Attachment D).

**Total Spent on Staff Development**

FY 21/22	FY 22/23	FY 23/24
\$51,809	\$44,724	\$5,520*

\*Lower amount spent over time due to budget restrictions and the new availability of free courses through new LMS procured in prior FY 2022/23.

**Section 3 –  
Licensing Program**

**16. What are the board’s performance targets/expectations for its licensing program? Is the board meeting those expectations? If not, what is the board doing to improve performance?**

DRE's performance targets/expectations for the Licensing Program include processing “complete” or “non-deficient” exam, license, and renewal applications in under 30 days. The target goal for completion of other licensing transactions is 20 business days. Given the cyclical nature of the workflow throughout the year, historically DRE on average meets these targets. (See Table 7a.) Applications deemed “incomplete”, or those containing one or more deficiencies, require additional information from the applicant/licensee, and therefore, take much longer to process because the timeline for receipt of the required information is determined by the applicant.

Additionally, from January 2023 through July 2024, several Licensing Division positions were held open to achieve the necessary savings to remain within DRE's approved budget expenditure authority. This impacted the Licensing Division's ability to process applications for examinations, licensure, and renewals, leading to a backlog and delay over DRE's normal processing timeframes for some application categories. See Table 7a in Question 18.

In July 2024, DRE moved forward with approving overtime and continued to redirect processing staff from other Licensing sections to assist with this workload. As a result, by August 1, 2024, pending exam and exam/license applications had been reduced by 50%, and processing timeframes returned to 4-5 weeks. To address its longer-term application processing needs, DRE was approved for increased budget expenditure authority beginning FY 2024-25, and prioritized filling 14 Licensing Division vacancies, all of which were filled by August 2024.

**17. Describe any increase or decrease in the Department's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the Department to address them? What are the performance barriers and what improvement plans are in place? What has the Department done and what is the Department going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?**

Over the course of the last three fiscal years, there has been a slight increase in the average time to process exam and license applications. DRE has a robust online exam scheduling system that allows examinees to schedule themselves into any available examination date, including exams the next day, if space permits.

The performance barriers experienced by DRE are: 1) the volume of transactions, 2) incomplete applications and deficient documentation received from applicants, and 3) the need to redirect staff from application processing to answering phone calls when the call wait time is excessive. DRE has made improvements to mitigate increases in application processing timeframes by, among other things, advising applicants upfront on how to minimize their own processing delays. This includes informative website content, frequently asked questions, enhanced applications with required fields, and additional functionality added to the DRE eLicensing system.

On October 1, 2021, DRE officially launched its Online Exam License Application (OELA) which allows the electronic submission of salesperson or broker real estate exam or exam/license combination applications through eLicensing. Users can also upload any necessary documents and pay the required fees online.

Since OELA's official launch, the volume of paper applications received by DRE has sharply decreased along with the number of applications with deficiencies or missing information. Now, over 90% of all exam and exam/license applications are submitted electronically through OELA. This new streamlined process allows DRE staff to focus on processing applications, thus reducing both processing timeframes and the time an eligible applicant must wait to schedule and take their real estate exam.

Additionally, in 2021, DRE submitted a BCP requesting three-year limited term funding and 5.0 Program Technician IIs in the Contact Center to ensure DRE had the staffing necessary to help manage high call volumes and associated wait times. The BCP was approved beginning FY 2021-22, and the limited term funding for these positions was extended for an additional two years in a subsequent BCP through the end of FY 2025-26. The addition of these Contact Center positions provides DRE with the appropriate staffing and resources to respond to phone and other public inquiries in timely manner, while allowing Licensing's application processing staff, who often would be called upon to assist with answering phone calls, to solely direct their attention to processing applications.

**18. How many licenses or registrations has the Department denied over the past four years based on criminal history that is determined to be substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC § 480? Please provide a breakdown of each instance of denial and the acts the Department determined were substantially related.**

Over the past three fiscal years, DRE has denied 191 applications where the applicant has had a criminal history (34 in FY 2020-21, 34 in FY 2021-22, 57 in FY 2022-23, and 66 in FY 2023-24).

As each application denial is unique, a detailed breakdown as requested would be voluminous.

DRE reviews and considers each application on an individual basis, reviewing all criminal convictions for substantial relationship and any aggravating circumstances such as prior DRE regulatory action or regulatory action by another agency. As required by B&P Code Section 481, Commissioner's Regulation Section 2910 identifies for DRE the criteria for substantial relationship, which is used to determine if a crime is substantially related to the qualifications, functions, or duties of a real estate licensee. A crime is considered substantially related if it involves any of the following characteristics:

- 1) The fraudulent taking, obtaining, appropriating or retaining of funds or property belonging to another person.
- 2) Counterfeiting, forging or altering of an instrument or the uttering of a false statement.
- 3) Willfully attempting to derive a personal financial benefit through the nonpayment or underpayment of taxes, assessments or levies duly imposed upon the licensee or applicant by federal, state, or local government.
- 4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end.
- 5) Sexually related conduct affecting a person who is an observer or non-consenting participant in the conduct or convictions which require registration pursuant to the provisions of Section 290 of the Penal Code.
- 6) Willfully violating or failing to comply with a provision of Division 4 of the B&P Code of the State of California.
- 7) Willfully violating or failing to comply with a statutory requirement that a license, permit, or other entitlement be obtained from a duly constituted public authority before engaging in a business or course of conduct.
- 8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.
- 9) Contempt of court or willful failure to comply with a court order.
- 10) Conduct which demonstrates a pattern of repeated and willful disregard of law.



11) Two or more convictions involving the consumption or use of alcohol or drugs when at least one of the convictions involve driving and the use or consumption of alcohol or drugs.

12) The conviction of a crime constituting an attempt, solicitation, or conspiracy to commit any of the above acts.

The nature and gravity of the offense, the number of years that have elapsed since the date of the offense, and the nature and duties of a real estate licensee are also considered.

It is also important to note that each individual applicant with a criminal history is evaluated for rehabilitation for purposes of issuance of a license. Even if an applicant has a criminal history that is substantially related to the qualifications, functions, or duties of a real estate licensee, if the individual has provided sufficient evidence of rehabilitation, as identified in Commissioner’s Regulation 2911, then the application is approved and a license is issued.

If DRE has not made such a determination of rehabilitation and files a Statement of Issues to notice the applicant of an intent to deny an application, the applicant still has due process rights to an administrative hearing. If the Commissioner upholds a denial, the applicant still may pursue an appeal of the decision.

<b>Table 6. Licensee Population</b>					
		FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24
Salespersons	Active*	205,596	223,197	223,339	221,424
	Out of State	6,109	7,012	7,578	7,796
	Out of Country	13	11	14	19
	Delinquent/Expired	13,402	14,365	17,998	16,068
	Retired Status <i>if applicable</i>	N/A	N/A	N/A	N/A
	Inactive	85,854	83,941	84,882	88,208
	Other**	N/A	N/A	N/A	N/A
Brokers/Officers	Active	117,315	115,687	114,672	113,428
	Out of State	3,690	4,422	4,551	4,556
	Out of Country	11	12	12	18
	Delinquent/Expired	2,404	1,813	2,522	2,400
	Retired Status <i>if applicable</i>	N/A	N/A	N/A	N/A
	Inactive	10,963	10,686	9,803	8,870
	Other	N/A	N/A	N/A	N/A

Note: 'Out of State' and 'Out of Country' are two mutually exclusive categories. A licensee is not counted in both.

\*Active status is defined as able to practice. This includes licensees that are renewed, current, and active.

\*\* Other is defined as a status type that does not allow practice in California, other than retired or inactive.

**Table 7a. Licensing Data by Type**

Application Type		Received	Approved	Closed	Issued	Pending Applications			Cycle Times	
						Total (Close of FY)	Outside Dept control	Within Dept control	Complete Apps	Incomplete Apps
FY 2021/22	Sales Exam/License Combo	40,452	38,793	N/A	N/A	N/A	N/A	N/A	32	121
	Sales License	30,310	30,670	N/A	30,670*	3,360	N/A	N/A	8	63
	Sales Renewal	57,364	58,248	N/A	58,248	1,444	N/A	N/A	4	77
	Broker Exam/License Combo	3,153	2,724	N/A	N/A	N/A	N/A	N/A	37	161
	Broker/Officer License	4,448	4,580	N/A	4,580*	1,284	N/A	N/A	37	82
	Broker/Officer Renewal	28,866	29,373	N/A	29,373	1,388	N/A	N/A	8	58
FY 2022/23	Sales Exam/License Combo	33,033	30,565	N/A	N/A	N/A	N/A	N/A	40	101
	Sales License	22,133	22,972	N/A	22,972*	1,975	N/A	N/A	9	50
	Sales Renewal	54,943	54,727	N/A	54,727	1,197	N/A	N/A	3	83
	Broker Exam/License Combo	3,126	2,627	N/A	N/A	N/A	N/A	N/A	45	142
	Broker/Officer License	3,790	3,726	N/A	3,726*	1,038	N/A	N/A	31	69
	Broker/Officer Renewal	27,177	27,040	N/A	27,040	1,016	N/A	N/A	6	75
FY 2023/24	Sales Exam/License Combo	28,479	27,192	N/A	N/A	N/A	N/A	N/A	47	104
	Sales License	21,933	21,604	N/A	21,604*	1,808	N/A	N/A	11	41
	Sales Renewal	50,527	50,021	N/A	50,021	1,090	N/A	N/A	3	75
	Broker Exam/License Combo	2,511	1,626	N/A	N/A	N/A	N/A	N/A	51	134

	Broker/Officer License	3,720	3,645	N/A	3,465*	909	N/A	N/A	40	65
	Broker/Officer License Renewal	26,087	25,570	N/A	25,570	1,184	N/A	N/A	7	72

\*The count of licenses issued for combination applications is included in the count of licenses issued.

<b>Table 7b. License Denial</b>			
	FY 2021/22	FY 2022/23	FY 2023/24
License Applications Denied	40	66	103
Statement of Issues (SOI) Filed	117	135	171
Average Days to File SOI (from request for hearing to SOI filed)	N/A	N/A	N/A
SOIs Declined	N/A	N/A	N/A
SOIs Withdrawn	3	1	0
SOIs Dismissed (license granted)	2	0	1
License Issued with Probation / Probationary License Issued	45	60	55
Average Days to Complete (from SOI filing to outcome)	150	150	125

## 19. How does the Department verify information provided by the applicant?

Applicants are required to submit copies of transcripts to show completion of required education. To verify statutorily required experience, broker license applicants must submit experience verification forms, which provide a description and details of the applicant's experience. Where the applicant claims experience as a salesperson, the applicant's previous broker of record must sign the verification form. Where the applicant claims equivalent experience rather than licensed experience, the applicant must submit an employment verification form that provides a description and details of the applicant's experience as it relates to real estate. Two individuals who can attest to the applicant's claims of experience must sign this form.

- **What process does the Department use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant? Has the Department denied any licenses over the last four years based on the applicant's failure to disclose information on the application, including failure to self-disclose criminal history? If so, how many times and for what types of crimes (please be specific)?**

All applicants are fingerprinted using Live Scan. Pursuant to AB 2138 (Chiu and Low, Chapter 995, Statutes of 2018) effective July 1, 2020, DRE no longer requires applicants to disclose criminal history information on license applications, and therefore, cannot use non-disclosure of this information as a basis for license denial.

- **Does the Department fingerprint all applicants?**

Yes, all applicants for a real estate license must submit one set of fingerprints acceptable to the California Department of Justice (DOJ).

- **Have all current licensees been fingerprinted? If not, explain.**

DRE does not have fingerprints of those persons it licensed prior to 1971, when DRE began fingerprinting applicants for licensure. All those who have received their license from 1971 onward have been fingerprinted.

- **Is there a national databank relating to disciplinary actions? Does the Department check the national databank prior to issuing a license? Renewing a license?**

The only national database related to this professional field is for Mortgage Loan Originators (MLOs), created by the federal SAFE Act. Under the SAFE Act, MLOs 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 Multistate Licensing System (NMLS). California implemented MLO licensing through SB 36 (Calderon, Chapter Number 160, Statutes of 2009), which empowered DRE and the Department of Financial Protection and Innovation (DFPI) to license MLOs consistent with both departments' existing law. DRE began issuing MLO license endorsements in March 2010. As of FY 2023-24, DRE had approximately 31,600 MLOs eligible for endorsement renewal. Further, in March of 2012, DRE began uploading public documents associated with disciplinary actions taken against licensed MLOs into the NMLS databank. As of FY 2023-24, DRE has posted 712 regulatory actions in the NMLS databank.

- **Does the Department require primary source documentation?**

Yes. With respect to arrest and conviction information, DRE obtains certified copies of court documents and police reports for use in cases that may lead to DRE's formal denial of an application or disciplinary action against an existing license. Moreover, applicants are required to submit copies of education transcripts to show completion of required education.

- 20. Describe the Department's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.**

The examination and licensing process for out-of-state and out-of-county applicants is the same as that for applicants within the state. Each applicant for licensure must qualify for and pass the appropriate written examination in California and meet all other statutory requirements. DRE has no reciprocity with any other state or country to allow a waiver of any of the requirements to obtain a license. All exam centers are located in California.

- 21. Describe the Department's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.**

Pursuant to B&P Code Section 10150.6, it is possible that some military experience could qualify as the equivalent to two years of salesperson license

experience necessary to qualify to sit for the broker examination, but that information is reviewed on a case-by-case basis.

- **Does the Department identify or track applicants who are veterans? If not, when does the Department expect to be compliant with BPC § 114.5?**

B&P Code Section 114.5 does not apply to DRE. However, DRE is in compliance with B&P Code Section 10151.2 which requires DRE to inquire in every application if the individual is or previously was a member of the Armed Forces of the United States. For FYs 2021-22, 2022-23, and 2023-24 DRE received 562, 926, and 869 applications, respectively, from former honorably discharged military veterans or current military service members.

- **How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the Department?**

DRE does not track this subcategory of information as its governing statute includes a general allowance for the consideration of all types of "general" real estate experience, which could include military experience, rather than a military-specific provision.

- **What regulatory changes has the Department made to bring it into conformance with BPC § 35?**

B&P Code Section 35 does not apply to DRE. However, B&P Code Section 10150.6 allows a real estate broker exam applicant to petition the Commissioner, setting forth the applicant's general real estate experience as an alternative to experience as a licensed real estate salesperson. Under this existing law, current and former military personnel whose jobs entail real estate-related activity, such as negotiating leases on real property, may petition to have the requirements of licensure waived.

- **How many licensees has the Department waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on Department revenues?**

B&P Code Section 114.3 does not apply to DRE, and the Real Estate Law does not include a similar statute.

- **How many applications has the Department expedited pursuant to BPC § 115.5?**

For FYs 2021-22, 2022-23, and 2023-24, DRE received 40, 108, and 99 applications, respectively, from military spouses/domestic partners of active-duty military service members, who hold a current real estate license in another state. Section 10151.2 of the B&P Code requires DRE to expedite applications from such persons.



**22. Does the Department send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.**

DRE sends No Longer Interested Notifications to DOJ electronically on a regular and ongoing basis. At present time, there is no backlog in this notification process.

**Examinations**

**23. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?**

All salesperson and broker license applicants must pass a written examination to be issued the respective license. To pass the salesperson examination, a minimum score of 70% is required. To pass the broker examination, a minimum score of 75% is required. DRE uses a California-specific examination instead of a national exam. The exam is not offered in a language other than English. To qualify for the real estate license examinations, all applicants must complete specific three-semester unit, or four-quarter unit, college level courses from an accredited college or university or from a private sponsor approved by the Commissioner. The course requirements for each license type are as follows:

Real estate salesperson – Real Estate Principles, Real Estate Practice, and one additional course from the following:

Real Estate Appraisal, Property Management, Real Estate Finance, Real Estate Economics, Legal Aspects of Real Estate, Real Estate Office Administration, General Accounting, Business Law, Escrow, Mortgage Loan Brokering and Lending, Advanced Legal Aspects of Real Estate, Advanced Real Estate Finance, Advanced Real Estate Appraisal, Computer Applications in Real Estate, and Common Interest Developments.

Real estate broker – Real Estate Practice, Legal Aspects of Real Estate, Real Estate Finance, Real Estate Appraisal, Real Estate Economics or Accounting, and three additional courses\* from among the following:

Real Estate Principles, Business Law, Property Management, Escrow, Real Estate Office Administration, Mortgage Loan Brokering and Lending, Advanced Legal Aspects of Real Estate, Advanced Real Estate Finance, Advanced Real Estate Appraisal, Computer Applications in Real Estate, and Common Interest Developments.

Broker license applicants must also provide evidence of two years, full-time, licensed real estate experience, completed within five years prior to the date of application, or an equivalent type of real estate-related experience. Salesperson license applicants do not have an experience requirement.

Prepaid Rental Listing Service applicants are not required to take an examination or submit evidence of experience or education to become licensed.

\* If both Real Estate Economics and Accounting are taken, only two additional courses are required.

**24. What are pass rates for first time vs. retakes in the past 4 fiscal years? Are pass rates collected for examinations offered in a language other than English?**

The average pass rate for first time salesperson applicants for the past four fiscal years is 63.1%, and a 19.6% pass rate for applicants who retake the exam. The average pass rate for first time broker applicants for the past four fiscal years is 39.6%, and 15.2% for retakes. These overall rates are consistent with historical averages.

<b>Table 8. Examination Data</b>			
<b>California Examination (include multiple language) if any:</b>			
License Type		Salesperson	Broker
Exam Title		Salesperson	Broker
FY 2020/21	# of 1st Time Candidates	27,894	2,628
	Pass %	65%	44%
FY 2021/22	# of 1st time Candidates	27,852	2,368
	Pass %	61%	44%
FY 2022/23	# of 1st time Candidates	22,437	2,373
	Pass %	63%	42%
FY 2023/24	# of 1st time Candidates	14,713	1,978
	Pass %	64%	26%
Date of Last Occupational Analysis		2023	
Name of OA Developer		PSI Services LLC	

<b>Table 8(b). National Examination. Include multiple languages, if any. NOT APPLICABLE</b>				
License Type		N/A	N/A	N/A
Exam Title		N/A	N/A	N/A
FY 2020/21	Number of Candidates	N/A	N/A	N/A
	Overall Pass %	N/A	N/A	N/A
	Overall Fail %	N/A	N/A	N/A
FY 2021/22	Number of Candidates	N/A	N/A	N/A
	Overall Pass %	N/A	N/A	N/A
	Overall Fail %	N/A	N/A	N/A
FY 2022/23	Number of Candidates	N/A	N/A	N/A
	Overall Pass %	N/A	N/A	N/A
	Overall Fail %	N/A	N/A	N/A
FY 2023/24	Number of Candidates	N/A	N/A	N/A
	Overall Pass %	N/A	N/A	N/A
	Overall Fail %	N/A	N/A	N/A
Date of Last OA		N/A	N/A	N/A
Name of OA Developer		N/A	N/A	N/A
Target OA Date		N/A	N/A	N/A

**25. Is the Department using computer-based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?**

DRE uses in-person computer-based testing for the real estate salesperson and broker examinations. The computer-based system allows examinees to take examinations electronically and receive their results immediately following completion of the test. In addition, qualified candidates who have submitted a combination examination and license application with no deficiencies, and who pass their exam, can be issued their license immediately upon passage. These successful examinees receive their license identification number as part of this notification, and DRE's website public license information is immediately updated.

The electronic examination system is in an easy-to-use format, where examination workstations contain only a computer monitor and mouse; keyboards are not used. The activation of the workstation occurs with the assignment of a mouse to an examinee.

Examinees are able to navigate back and forth through the questions and choose answers by pointing and clicking with the mouse. Other benefits include testing tools such as a clock, which counts down the individual's exam time and a counter that shows the total number of questions, the number of questions answered, and the number of questions remaining.

Computer-based testing is available at all five DRE examination centers: Fresno, La Palma, Oakland, Sacramento, and San Diego. Examinations are administered Monday through Friday, and at some locations on Saturdays and evenings, based on demand.

**26. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.**

None at this time.

**27. When did the Department last conduct an occupational analysis that validated the requirement for a California-specific examination? When does the Department plan to revisit this issue? Has the Department identified any reason to update, revise, or eliminate its current California-specific examination?**

Every five to seven years, the DRE embarks on a multi-year effort to update the state's real estate salesperson and broker exams to ensure they accurately reflect current industry practices and continue to be legally defensible.

DRE most recently began this process, also known as the Exam Development Process (EDP), in June 2023.

Salespersons and brokers throughout California, along with DRE Exam Administration and Development staff and a third-party test developer, began working together to assess and identify evolving real estate job standards, exam specifications, and the level of knowledge needed to be a responsible real estate salesperson or broker who can effectively support consumers throughout real estate transactions.

From start to finish, the EDP consists of four phases and is expected to take approximately 18-24 months to complete.

- Phase 1: Occupational Analysis
- Phase 2: Item Review
- Phase 3: Gap Analysis and Item Writing
- Phase 4: Implementation of New Exams

The first phase of the process began in the summer of 2023 and consisted of nearly 30 subject-matter experts from across the real estate industry gathering in Sacramento to develop a job analysis survey. Many of the in-the-field experts participating in the EDP are active members of various professional real estate organizations, including

the Multicultural Real Estate Alliance for Urban Change, the Association of Black Real Estate Professionals, and the Asian Real Estate Association of America.

The group reviewed and updated essential tasks and knowledge required to perform the duties of a licensed real estate professional in the State of California. The information gathered was also used to prepare a large-scale survey sent out to California real estate licensees in September 2023.

In December 2023, DRE and its third-party test developer conducted a job analysis and exam specification meeting in Sacramento. Approximately 20 subject matter experts from the real estate industry again gathered in Sacramento to review the results of the job analysis survey and to use those findings as the basis to update the test specifications for California's real estate broker and salespersons examinations.

Between February and June 2024, selected subject matter experts, along with DRE and the third-party test developer staff, reviewed thousands of exam questions from DRE's item bank to determine the accuracy and relevancy to today's industry practices.

The Gap Analysis and Item Writing components, or Phase 3 of the EDP, kicked-off in July 2024, and the Implementation of New Exams, or the 4<sup>th</sup> and final phase, is expected to occur in early 2025.

DRE is committed to ensuring that subject matter experts participating in each phase of the EDP represent different parts of the real estate industry and the diverse regions of the state to ensure future real estate exams reflect the state's diverse marketplace.

## **School Approvals**

### **28. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the Department work with BPPE in the school approval process?**

The legal requirements regarding Statutory/Pre-Licensure course approval can be found in B&P Code Section 10153.5 and Commissioner's Regulations Sections 3000 to 3004. DRE approves courses, administered by private vocational schools, that meet the statutory requirements. Schools that request course approval from DRE are required to provide evidence of approval with the Bureau for Private Postsecondary Education (BPPE) or provide evidence that the school is exempt from the requirement of approval or registration. DRE does not work with the BPPE in the course approval process as DRE approves courses, not schools.

**29. How many schools are approved by the Department? How often are approved schools reviewed? Can the Department remove its approval of a school?**

DRE does not approve schools, only courses. As of the end of FY 2023-24, DRE had approved statutory/pre-licensure courses at 164 schools.

**30. What are the Department's legal requirements regarding approval of international schools?**

DRE has no separate legal requirements regarding approvals of international schools. All course approvals are governed by B&P Code Section 10153.5 and Commissioner's Regulations Sections 3000 to 3004.

**Continuing Education (CE)/Competency Requirements**

**31. Describe the Department's continuing education/competency requirements, if any. Describe any changes made by the Department since the last review.**

As part of the renewal process, both real estate broker and salesperson licensees must complete a total of 45 clock-hours of DRE-approved continuing education coursework. B&P Code Section 10170.4 sets forth the criteria under which continuing education courses are approved. These criteria are further defined in Section 3006 to 3010 of the Commissioner's Regulations. Continuing education requirements are intended to ensure that licensees remain current on applicable laws and recent developments in the profession. All continuing education courses must be completed within the four-year license period. Licensees may renew on a late basis by meeting all renewal requirements, including continuing education. The regulations state that all continuing education courses must meet the required classroom "clock" hours, contain the appropriate number of exam questions based on clock hours, and must contain incremental assessments as well as a final examination.

Commencing January 1, 2023, real estate licensees renewing for the first time are now required to complete a new two-hour DRE-approved course in implicit bias and a revised three-hour course in fair housing, which includes an interactive component. This is part of the mandated 45 hours of continuing education.

For all subsequent renewals, licensees must complete either the new two-hour DRE-approved implicit bias training course and the revised three-hour course in fair housing, or a survey course which increased from 8-hour to 9-hours as part of their 45 hours of continuing education. The survey course will have elements of implicit bias and fair housing, as required by statute.

Continuing Education			
Type	Frequency of Renewal	Number of CE Hours Required Each Cycle	Percentage of Licensees Audited
Salesperson	4-years	45-hours	1460 combined per year at random
Broker	4-years	45-hours	

- **How does the Department verify CE or other competency requirements? Has the Board worked with the Department to receive primary source verification of CE completion through the Department's cloud?**

Along with the renewal application and fee, a licensee is required to complete, sign, and submit form RE 251 titled, "Continuing Education Course Verification," with their renewal application. If renewing using eLicensing, the licensee must enter course certificate numbers into DRE's eLicensing system for verification. DRE does not work with the Department of Consumer Affairs (DCA) on the verification process.

- **Does the Department conduct CE audits of licensees? Describe the Department's policy on CE audits.**

Continuing education audits are conducted by DRE's Enforcement Investigators or by Education and Research staff. Audits are conducted to determine if all of the Commissioner's Regulations are being followed and to determine if the licensee has completed the required continuing education courses.

Licensees are randomly selected daily to submit their continuing education course completion certificates for the courses claimed on their most recent renewal (Commissioner's Regulation 3013). A licensee who fails to provide DRE with course completion certificates, as required, may be subject to a fine or possible disciplinary action.

- **What are the consequences for failing a CE audit?**

A licensee who fails to provide DRE with course completion certificates, as required, may be subject to a citation with fine or possible disciplinary action against their license. The fine is typically \$250, and the licensee would have to comply with the audit by submitting approved CE in order to clear the citation or the licensee will not be able to renew their license at the time of their next renewal. To date, no one has lost their license due to a CE audit.

- **How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?**

DRE conducts routine sampling of the CE course verifications submitted by licensees. Over the past four fiscal years, DRE completed 4,282 audits of licensee CE records for those licensees who renewed using the eLicensing system during the previous



four years. This audit resulted in 160 licensees failing to submit requested documents or 3.7% of the total audit population. The remaining 96.3% had no errors.

- **What is the Department's course approval policy?**

Criteria for course approvals are set forth in Commissioner's Regulation Section 3006, and include, but are not limited to, the following:

- The offering shall have at least one successive clock hour of instruction which is based on 50-minute increments of actual instruction.
- For non-correspondence courses, participants must be physically present at least 90% of the offering time.
- For all continuing education offerings, a sponsor shall provide each participant at least a written course outline that is a narrative outline consisting of not less than three (3) pages per credit-hour. Each page shall contain an average of 200 words.
- A continuing education offering must have an appropriate final exam as defined.
- Instructors, conference leaders, lecturers, and others who present a continuing education offering shall meet at least one of the qualifications defined in Commissioner's Regulation Section 3006(e) and may be disqualified per the criteria in Commissioner's Regulation Section 3006(f).
- A correspondence course shall consist of adequate study materials to assure that the course cannot be completed in less time than the number of hours for which it is approved.
- Every sponsor shall maintain on file with the Commissioner a current address.
- The sponsor shall notify each participant that an evaluation form is available on DRE's internet website for on-line evaluation of courses and instructors.
- The sponsor shall comply with the provisions of the Americans with Disabilities Act in the offering of approved courses.
- A sponsor that is a corporation, company, or partnership shall maintain good legal standing with the State of California Office of the Secretary of State during any term of course approval.
- Prior to the start of the course, the sponsor shall provide participants with a disclaimer statement that DRE does not necessarily endorse the views or opinions expressed.
- All offerings shall require completion within one year from the date of registration.
- Every participant who successfully completes the course shall be provided with a course completion certificate within 15 days from date of completion.
- A correspondence course offered via the internet in one or more aspects of the course offering must have a method of control in place to protect the integrity of the exam, ensure by written statement signed under penalty of perjury that the participant enrolled is the person completing the course, and ensure the course cannot be completed in less time than the approved credit hours.
- Incremental assessments shall be required that are designed to properly measure a participant's mastery of the course content after each logical unit of instruction or chapter within a correspondence course. Remediation to the participant shall be provided after each assessment has been completed.

- A sponsor or course instructor is prohibited from marketing, selling, or displaying any product or service during a continuing education offering including during breaks between instructional periods.

An application for approval of a continuing education course must be made on DRE form RE 315 no less than 90 days before the proposed commencement date of the course and must include supporting documents as specified in Commissioner's Regulation Section 3007. Commissioner's Regulation 3008 outlines course offerings not to be approved, including offerings that do not address required course content for licensee education.

Per Commissioner's Regulation 3009, approval of a continuing education offering shall be for a term of two years from the date of approval or from a date specified in granting the approval.

- **Who approves CE providers? Who approves CE courses? If the Department approves them, what is the Department application review process?**

DRE's Education and Research Section staff monitor courses for education compliance to ensure that course content has not materially changed from when the course was approved. Course providers found to be in violation of the regulations may face formal withdrawal of course approvals. In addition, the Education and Research Section conducts CE audits of course providers by contacting licensees and confirming with the course provider that the licensee actually took the courses. Audits may also stem from complaints received or may arise through investigations of individual licensees.

Additionally, course providers consent to inspection and monitoring by authorized representatives of DRE when they apply for course approval. In the event of a DRE audit of a CE course, a DRE investigator will attend the course undercover, posing as a licensee.

- **How many applications for CE providers and CE courses were received? How many were approved?**

In FY 2023-24, 237 continuing education course applications were reviewed and approved. At the conclusion of FY 2023-24, there were 68 continuing education course providers offering 556 approved courses.

- **Does the Department audit CE providers? If so, describe the Department's policy and process.**

Currently, DRE does not directly audit CE providers. However, if continuing education course audits are conducted by DRE's Education and Research personnel or Enforcement Investigators and course providers are found to be in violation of the Commissioner's Regulations, a course provider's approval may be withdrawn.

- **Describe the Department's effort, if any, to review its CE policy for purposes of moving toward performance-based assessments of the licensee's continuing competence.**

DRE is not currently planning to implement performance-based assessments, as DRE does not have the staff resources to implement such assessments. Based on overall compliance and enforcement data provided, DRE does not believe a change in policy to assess licensees' continuing competency is necessary.

DRE continuously considers other alternatives to ensure that professional competence is maintained. Significant testing alternatives have been included to enhance continuing education such as required amount of examination questions, required time frames, a limit to the number of true/false questions, and the disallowance of more than one re-test after a failed exam. Retesting and recertification can be required as part of an administrative action taken against a licensee.

## **Section 4 – Enforcement Program**

### **32. What are the Department's performance targets/expectations for its enforcement program? Is the Department meeting those expectations? If not, what is the Department doing to improve performance?**

Although DRE has no statutory mandate as to the length of time in which to complete a complaint investigation, processing performance goals have been adopted to ensure timely and thorough complaint investigations. Moreover, DRE does work within the confines of B&P Code Section 10101 statute of limitations on all cases that are assigned for investigation. This section requires that an action be filed no later than three years from the occurrence of the alleged grounds for disciplinary action, unless the acts or omissions with which the licensee is charged involve fraud, misrepresentation, or a false promise. In cases of dishonesty, the accusation must be filed within one year after the date of discovery by the aggrieved party of the fraud, misrepresentation, or false promise or within three years after the occurrence, whichever is later. In no case shall an accusation be filed later than 10 years from the occurrence of the alleged grounds for disciplinary action.

DRE's internal procedures sets the processing timeframe goal for complaint investigations at 180 days from receipt of the complaint to the completion of the investigation. Currently, DRE completes approximately 69% of investigations within the 180-day timeframe goal. For complaints involving complex and multifaceted issues associated with fraud or large numbers of targeted victims, DRE's goal is to complete the investigation within one year. By monitoring caseloads and investigative efforts, DRE consistently manages to complete approximately 83% of all complaint investigations in under a year.

Each DRE district office manages their investigations to ensure investigations are performed expeditiously. Supervising Special Investigators assist and work closely with investigators to ensure complaint investigations are completed in a timely and thorough manner. District Office managers are tasked with establishing and maintaining appropriate case management strategies to ensure maximum public protection goals are achieved.

**33. Explain trends in enforcement data and the Department's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the Department done and what is the Department going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?**

DRE will always be impacted by cyclical fluctuations of the real estate market because market cycles of "boom" and "bust" place alternating demands on DRE's Enforcement Division. A hot real estate market, as in the mid-2000s, may generate a large influx of license applicants requiring background reviews. Market downturns, exemplified by the 2008 mortgage "meltdown," increase the number of unlicensed persons conducting mortgage loan originations, mortgage fraud, and subsequently foreclosure rescue and loan modification services fraud. Currently, some of the more common alleged violations include acting without a license/unlicensed property management, improper trust fund handling, misrepresentation by a licensee, fraud or dishonest dealing, false advertising, negligence, and improper broker supervision.

Over the past three fiscal years, there has been a decrease in enforcement complaints, largely due to broader economic conditions, including, but not limited to, inflation, high interest rates, low housing inventory, new building constraints, and housing affordability issues. Additionally, the number of license applications received following the COVID-19 pandemic has fluctuated. Fluctuations continue presently due to other outside factors including the changes in real estate sales practices resulting from the National Association of Realtors' lawsuits and settlements. These outside influences could continue to affect the licensee population going forward. There has been an increase in landlord-tenant complaints, as more individuals are entering the rental market due to the challenges of affordable homeownership compounded by high mortgage interest rates.

DRE's Enforcement Division continues to implement internal organizational improvements aimed at enhancing the handling of complaints. One such initiative is DRE's Complaint Resolution Program (CRP), which has been instrumental in addressing simple disputes or minor issues between consumers and licensees or subdividers as a potential alternative to formal investigations. The program's mission is to respond quickly and informally to concerns brought by consumers and members of the real estate industry, acting as a facilitator to resolve conflicts and to mitigate or prevent Real Estate Law violations. For the past three fiscal years, CRP has handled over 155 cases, demonstrating its success in alleviating the volume of formal investigations and enabling the Enforcement Division to allocate resources more

efficiently. By reducing the need for formal investigative processes, the CRP has contributed to improvements in overall enforcement timeframes, and it continues to be a key component in the Enforcement Division's strategy to streamline processes, manage case backlogs, and improve overall performance.

To further aid with efficiencies, the Enforcement Division is moving toward a more streamlined approach with 100% electronic investigations. Historically, investigations have been a paper-based process as evidence gathered in real estate and related transactions was in paper form. As the industry has moved toward electronic processes and record-keeping, DRE has been doing the same with investigative work. Within the past two fiscal years, the Mortgage Loan Activities Section successfully piloted 100% electronic case submissions to the Legal Division. These measures are designed to bolster the Enforcement Division's capacity to manage the caseloads effectively, improve processing timeframes, and enhance overall enforcement efforts.

DRE will continue to monitor enforcement trends and adjust resources and strategies as needed to address any shifts in complaint volume or other emerging challenges. As part of these efforts, the Enforcement Division plans to further enhance the program, explore additional regulatory and process improvements, and evaluate potential legislative solutions to maintain or expand the program's impact. The focus remains on increasing process efficiencies and ensuring that the Enforcement Division is well-equipped to manage the evolving enforcement landscape in the coming years.

<b>Table 9. Enforcement Statistics</b>			
	FY 2021/22	FY 2022/23	FY 2023/24
<b>COMPLAINTS</b>			
Intake			
Received	6052	5003	5342
Closed without Referral for Investigation	2316	1918	2191
Referred to INV	3801	2862	2914
Pending (close of FY)	62	68	148
Conviction / Arrest			
CONV Received	1653	1587	1613
CONV Closed Without Referral for Investigation	977	1017	1095
CONV Referred to INV	616	537	510
CONV Pending (close of FY)	60	33	8
Source of Complaint			
Public	1554	1494	1564
Licensee/Professional Groups	206	169	142
Governmental Agencies	1660	1172	1166

Internal	936	488	488
Other	4	6	3
Anonymous	57	70	61
Average Time to Refer for Investigation (from receipt of complaint / conviction to referral for investigation)	54.7	48.4	38.3
Average Time to Closure (from receipt of complaint / conviction to closure at intake)	55.1	29.1	33.6
Average Time at Intake (from receipt of complaint / conviction to closure or referral for investigation)	54.8	42.3	37

<b>INVESTIGATION</b>			
<b>Desk Investigations*</b>			
Opened	N/A	N/A	N/A
Closed	N/A	N/A	N/A
Average days to close (from assignment to investigation closure)	N/A	N/A	N/A
Pending (close of FY)	N/A	N/A	N/A
<b>Non-Sworn Investigation</b>			
Opened	4417	3399	3424
Closed	2917	2915	2587
Average days to close (from assignment to investigation closure)	224	246	247
Pending (close of FY)	2208	2078	2185
<b>Sworn Investigation*</b>			
Opened	N/A	N/A	N/A
Closed	N/A	N/A	N/A
Average days to close (from assignment to investigation closure)	N/A	N/A	N/A
Pending (close of FY)	N/A	N/A	N/A
<b>All investigations</b>			
Opened	4417	3399	3424
Closed	2917	2915	2587
Average days for all investigation outcomes (from start investigation to investigation closure or referral for prosecution)	224	246	247
Average days for investigation closures (from start investigation to investigation closure)	N/A	N/A	N/A
Average days from receipt of complaint to investigation closure	N/A	N/A	N/A
Pending (close of FY)	2208	2078	2185
<b>CITATION AND FINE</b>			
Citations Issued	408	772	350
Average Days to Complete (from complaint receipt / inspection conducted to citation issued)	N/A	N/A	N/A
Amount of Fines Assessed	\$697,750	\$989,725	\$656,00
Amount of Fines Reduced, Withdrawn, Dismissed	\$91,600	\$126,399	\$101,875

Amount Collected	\$445,875	\$707,576	\$431,750
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution	N/A	N/A	N/A
<b>ACCUSATION**</b>			
Accusations Filed	416	367	306
Accusations Declined	N/A	N/A	N/A
Accusations Withdrawn	N/A	N/A	N/A
Accusations Dismissed	51	73	52
Average Days from Referral to Accusations Filed (from AG referral to Accusation filed)	N/A	N/A	N/A
<b>INTERIM ACTION</b>			
ISO & TRO Issued	N/A	N/A	N/A
PC 23 Orders Issued	N/A	N/A	N/A
Other Suspension/Restriction Orders Issued	N/A	N/A	N/A
Referred for Diversion	N/A	N/A	N/A
Petition to Compel Examination Ordered	N/A	N/A	N/A
<b>DISCIPLINE***</b>			
AG Cases Initiated (cases referred to the AG in that year)	N/A	N/A	N/A
AG Cases Pending Pre-Accusation (close of FY)	N/A	N/A	N/A
AG Cases Pending Post-Accusation (close of FY)	N/A	N/A	N/A
<b>DISCIPLINARY OUTCOMES</b>			
Revocation	163	140	268
Surrender	52	60	37
Suspension only	428	151	139
Probation with Suspension	N/A	N/A	N/A
Probation only	N/A	N/A	N/A
Public Reprimand / Public Reproval / Public Letter of Reprimand	9	17	4
Other (D&R)	24	23	31
<b>DISCIPLINARY ACTIONS****</b>			
Proposed Decision	N/A	N/A	N/A
Default Decision	N/A	N/A	N/A
Stipulations	126	132	114
Average Days to Complete After Accusation (from Accusation filed to imposing formal discipline)	297	259	201
Average Days from Closure of Investigation to Imposing Formal Discipline	N/A	N/A	N/A
Average Days to Impose Discipline (from complaint receipt to imposing formal discipline)	N/A	N/A	N/A
<b>PROBATION*****</b>			
Probations Completed	N/A	N/A	N/A
Probationers Pending (close of FY)	N/A	N/A	N/A
Probationers Tolded	N/A	N/A	N/A



Petitions to Revoke Probation / Accusation and Petition to Revoke Probation Filed	N/A	N/A	N/A
<b>SUBSEQUENT DISCIPLINE</b>			
Probations Revoked	N/A	N/A	N/A
Probationers License Surrendered	N/A	N/A	N/A
Additional Probation Only	N/A	N/A	N/A
Suspension Only Added	N/A	N/A	N/A
Other Conditions Added Only	N/A	N/A	N/A
Other Probation Outcome	N/A	N/A	N/A
<b>SUBSTANCE ABUSING LICENSEES</b>			
Probationers Subject to Drug Testing	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A
<b>PETITIONS</b>			
Petition for Termination or Modification Granted	N/A	N/A	N/A
Petition for Termination or Modification Denied	N/A	N/A	N/A
Petition for Reinstatement Granted	85	98	91
Petition for Reinstatement Denied	25	18	18
<b>DIVERSION *****</b>			
New Participants	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A
Participants (close of FY)	N/A	N/A	N/A
Terminations	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A

\*DRE considers all investigations non-sworn investigations as DRE does not utilize sworn peace officers to conduct investigations.

\*\*DRE does not separate conviction/arrest pending cases from other accusation pending cases. Therefore, the count of pending cases listed under accusation includes all cases currently pending with DRE.

\*\*\*DRE does not use the Attorney General to prosecute cases, as DRE has its own Legal Division to prosecute cases.

\*\*\*\*DRE does not track proposed/default decisions, nor does it separate timeframes for stipulations. These timeframes are included among the timeframes posted under accusations.

\*\*\*\*\*DRE does not use probationary licenses, but issues restricted licenses to licensees who are subject to certain terms and conditions as set forth in orders. The counts for restricted licenses have been provided under the discipline heading.

\*\*\*\*\*DRE does not participate in diversion programs.

<b>Table 10. Enforcement Aging*</b>						
	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	Cases Closed	Average %
<b>Investigations (Average %)</b>						
Closed Within:						
90 Days	706	558	495	459	2218	26.7%
91 - 180 Days	480	377	381	343	1581	19.0%
181 - 1 Year	745	501	686	644	2576	31.0%
1 - 2 Years	400	426	501	442	1769	21.3%
2 - 3 Years	26	37	59	37	159	1.9%
Over 3 Years	1	4	2	10	17	.2%
Total Investigation Cases Closed	2358	1903	2124	1935	8320	
<b>Legal Division Cases (Average %)***</b>						
Closed Within:						
0 - 1 Year	336	368	366	186	1256	83.4%
1 - 2 Years	90	73	52	7	222	14.7%
2 - 3 Years	16	5	0	2	23	1.5%
3 - 4 Years	2	0	0	1	3	.2%
Over 4 Years	0	1	0	2	3	.2%
Total Attorney General Cases Closed	444	447	418	198	1507	

\*This chart reflects all Enforcement division casework including, but not limited to, complaint investigations, proactive investigations, and applicant and licensee background investigations.

\*\*\*DRE does not refer administrative investigations to the AG's Office for handling, so this chart was amended to provide timeframes reflected by its internal Legal Division.

### **34. What do overall statistics show as to increases or decreases in disciplinary action since last review?**

The statistics show an overall decrease in disciplinary action since last sunset review, primarily due to a decline in consumer complaints, which is closely tied to market conditions. The process established by AB 1807 (Bonta, Chapter 558, Statutes of 2016), which began in March 2019, allows licensees to request the removal of old license discipline information from DRE's website. Since its implementation, there has been a notable rise in petitions granted and denied for reinstatement during these past three fiscal years. This increase is largely due to many licensees qualifying and taking advantage of this relatively new petition process.

### **35. How are cases prioritized? What is the Department's complaint prioritization policy?**

Based on market conditions, DRE's Enforcement Division continuously reexamines its priorities, workload, and productivity objectives in order to ensure it is meeting its statutory mandate for consumer protection.

Staff operating in each of the five district offices have systems in place to prioritize complaints as they are received and initially reviewed. The cases involving the greatest potential or actual harm to the public receive the highest priority. DRE uses the following categories when prioritizing cases:

- **Urgent** – Predatory criminal actions/lending issues, elder abuse, and “high profile” cases.
- **Priority** – Unlicensed activity, fraud and misrepresentation, trust fund handling and recordkeeping.
- **Routine** – License compliance, standards of practice, and advertising violations.

DRE prioritizes cases with protection of the public as the highest priority. For real estate activities, this includes giving highest priority to cases where a practitioner poses a physical or financial threat to the public.

### **36. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the Department actions taken against a licensee. Are there problems with the Department receiving the required reports? If so, what could be done to correct the problems?**

DRE, Department of Insurance, and Department of Financial Protection and Innovation are required to notify one another of enforcement or disciplinary actions taken against a licensee related to escrow services, per B&P Code Section 10176.1. The purpose of the notifications is to alert the departments of the action in case the licensee seeks licensure through the other departments.

Additionally, subsequent arrest records are provided to DRE from the Department of Justice.

Licensees are bound by mandatory self-reporting requirements regarding violations of the Real Estate Law, appearing in B&P Code Sections 10186.2 and 10178. B&P Code Section 10186.2 requires a real estate licensee to notify DRE, within 30 days of an indictment, felony charge, conviction, or any disciplinary action taken by another licensing entity or authority in California, in another state, or by a federal agency. B&P Code Section 10178 requires a responsible broker to report to DRE whenever a real estate salesperson is terminated by the broker for any violation of the Real Estate Law. Real estate brokers failing to notify DRE of such terminations may be subject to disciplinary action.

Pursuant to B&P Code Sections 10232, 10232.2, and 10238, brokers who provide private money loan services are required to notify DRE if their private money business levels meet specified volumes. These brokers are also required to submit quarterly and annual reports to DRE detailing loan and trust fund handling activity. Brokers who fail to submit required reports pursuant to these sections are subject to audit by the DRE Audit Division, may be charged for preparation of delinquent reports, and may be subject to citation and fine or disciplinary action for report delinquency. The Enforcement and Audit Divisions coordinate actions to keep report delinquencies to a minimum.

Per B&P Code Section 10166.02, real estate brokers, or salespersons working for such brokers, who make, arrange, or service loans secured by residential 1 - 4-unit properties must submit an online Mortgage Loan Activity Notification to DRE within 30 days of commencing the activity. Licensees who fail to submit the required notification are subject to penalty fees. Real estate brokers who act pursuant to B&P Code Sections 10131(d), 10131(e), or 10131.1 and who make, arrange, or service loans secured by residential 1–4-unit properties must also file a Business Activity Report for their fiscal year.

Brokers who are exempt from the Escrow Law (California Financial Code Section 17006) and who engage in broker-controlled escrow activities for five or more transactions in a calendar year or whose escrow activities equal or exceed \$1,000,000 in a calendar year must submit an Escrow Activity Report to DRE. Licensees who fail to submit the required notification are subject to penalty fees and may be subject to audit by the Audit Division.

- **What is the dollar threshold for settlement reports received by the Department?**  
N/A

- **What is the average dollar amount of settlements reported to the Department?**  
N/A

**37. Describe settlements the Department, and Office of the Attorney General on behalf of the Department, enter into with licensees.**

DRE may enter into a settlement or stipulation with a licensee after DRE has filed an Accusation against a licensee notifying of intent to pursue disciplinary action. Settlements allow for efficient resolution of investigations with an agreed-upon discipline that meets the consumer protection mission of DRE. Terms vary in accordance with the circumstances surrounding the case,

- **What is the number of cases, pre-accusation, that the Department settled for the past four years, compared to the number that resulted in a hearing?**

DRE does not maintain data regarding pre-accusation settlements as DRE does not settle cases pre-accusation.

- **What is the number of cases, post-accusation, that the Department settled for the past four years, compared to the number that resulted in a hearing?**

DRE does not track this information, only final disposition results. Please refer to Table 9: Enforcement Statistics in question 28 which provides data on enforcement outcomes.

- **What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?**

DRE does not track this information, only final disposition results. Please refer to Table 9: Enforcement Statistics in question 28 which provides data on enforcement outcomes.

**38. Does the Department operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the Department's policy on statute of limitations?**

B&P Code Section 10101 details the statute of limitations for filing disciplinary actions against real estate licensees. Pursuant to this section, an action shall be filed no later than three years from the occurrence of the alleged grounds for disciplinary action, unless the acts or omissions with which the licensee is charged involve fraud, misrepresentation or a false promise. In such cases, the accusation must be filed within one year after the date of discovery by the aggrieved party of the fraud, misrepresentation, or false promise or within three years after the occurrence, whichever is later. In no case may an accusation be filed later than 10 years from the occurrence of the alleged grounds for disciplinary action.

DRE does not have statistical information on the number of cases that have been lost due to the statute of limitations. However, the Enforcement Division strives to complete cases within a one-year period, thereby reducing this type of risk.

**39. Describe the Department efforts to address unlicensed activity and the underground economy.**

DRE employs a multi-step approach to address the challenge associated with unlicensed activity. First, these violations are prioritized for investigation, often conducted jointly with local law enforcement and other state agencies. DRE special investigators proactively identify unlicensed activity by monitoring the industry through field investigations and by analyzing online activity. Outreach efforts encourage real estate licensees to report unlicensed activity. DRE also initiates cases based on its own findings, not solely from consumer and industry complaints. Once completed investigations confirm violations, DRE issues Desist and Refrain Orders and may also issue Bar Orders that prohibit unlicensed persons from working in real estate or related industries. All Desist and Refrain Orders filed against unlicensed persons are posted on DRE's website in order to disseminate the information as widely as possible for consumer awareness and protection.

On January 1, 2012, DRE was given citation and fine authority through the passage of SB 53 (Calderon, Chapter 717, Statutes of 2011). These changes in law provide DRE the authority 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 issuance of citations serves as a deterrent to penalize individuals or entities operating without the necessary license to practice real estate.

DRE's citation authority further allows the DRE to issue a citation and impose a fine on an unlicensed entity engaged in an activity for which a real estate license is required. DRE may issue a citation and fine for each unlicensed activity performed. These fines are typically set at the statutory maximum of \$2,500 (B&P Code Section 10080.9). For unlicensed persons and entities, multiple fines can be issued as a result of violations identified in a single investigation. In egregious cases of unlicensed activity, DRE has adopted a vertical prosecution model, where a DRE counsel, special investigator and, when appropriate, an auditor work together, from case set up to final prosecution. Overall, this multifaceted approach ensures that unlicensed activities are addressed both reactively and proactively, safeguarding the industry and the public.

Historically, DRE has received a large volume of complaints alleging individuals are engaged in the unlicensed practice of real estate. Since 2021, DRE has averaged about 387 actions per year against unlicensed individuals engaged in the unlicensed practice of real estate.

Effective August 2024, DRE executed a contract with a collections agency to increase DRE's cost recovery efforts in this area. Specifically, the contractor will recover outstanding citation and fines owed to DRE while ensuring compliance with the law.

## **Cite and Fine**

### **40. Discuss the extent to which the Department has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the Department increased its maximum fines to the \$5,000 statutory limit?**

On January 1, 2012, DRE was given citation and fine authority through the passage of SB 53 (Calderon, Chapter 717, Statutes of 2011). The regulations implementing DRE's citation authority were adopted on July 1, 2014. There have been no changes to the citation and fine statutes or regulations since then.

From July 1, 2020 through June 30, 2024, DRE has issued 1,960 citations and assessed \$3,283,975 in administrative fines. Over the previous sunset review period, DRE issued 3,074 citations and assessed \$2,573,550 in administrative fines. The decrease in citations issued can be attributed to fewer complaints being received by DRE and therefore resulting in fewer actions. The increase in fine amounts is due to DRE

emphasizing the importance of addressing unlicensed activity by issuing citations with maximum fines for each unlicensed act identified.

DRE continues to utilize and explore ways to maximize its citation and fine authority as an essential tool in promoting compliance.

Prior to the enactment of SB 53, DRE pursued the following levels of administrative/disciplinary action:

**Corrective Action Letter**, a warning from DRE that a licensee's actions violate the Real Estate Law and to affect compliance. This letter is issued when violations do not warrant formal discipline.

**Order to Desist and Refrain**, ordering the cessation of non-compliance, when the violation is more serious or where an unlicensed person conducts licensed real estate activities.

**Statement of Issues or Accusation**, a formal action when DRE seeks to deny a license application or impose formal discipline on an existing licensee.

**Order of Debarment**, a formal action when DREs seeks to separate a respondent from the real estate industry.

While DRE continues to pursue action in the four manners above, the statutory authority for cite and fine provided DRE with an additional means to address all violations of the Real Estate Law by real estate licensees, as well as unlicensed individuals. The range of DRE assessed fines, as set forth in B&P Code Section 10080.9, remains \$0 to \$2,500 per fine, with a maximum fine of \$2,500 per licensee per case.

#### **41. How is cite and fine used? What types of violations are the basis for citation and fine?**

DRE considers the issuance of citations an opportunity to educate both licensees and non-licensees alike and to encourage and reinforce compliance with the Real Estate Law. While citation authority empowers DRE to issue a citation and impose a fine for any violation of the Real Estate Law, citations issued to real estate licensees are typically for relatively minor violations of the law that do not warrant 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.

#### **42. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?**

From July 2020 through June 2024, there have been 299 requests for DRE's informal Citation Review Conference (CRC). Of the 299 requests, 275 were conducted with 47



citations affirmed, 112 modified, 116 withdrawn, and 3 pending (as of June 30, 2024). Of the remaining 21 requests where a review conference was not held, two notified DRE of an intent to appeal the citation through an administrative hearing and 19 were either cancelled, denied, or otherwise paid. Since the last sunset review, there has been only one formal request for an administrative hearing. This case involved a desist and refrain order and resulted in a stipulation and agreement for the Desist and Refrain Order and a dismissal of the citations.

**43. What are the five most common violations for which citations are issued?**

- Trust account handling and recordkeeping: Violations include failure to conduct monthly reconciliation of trust accounts, allowing unlicensed and/or unbonded signatories on the broker trust accounts, using bank accounts that are not specifically designated as trust accounts in the name of the broker as trustees, and shortages in the trust accounts.
- Unlicensed activity: Violations of the law by unlicensed individuals involving mortgage loan origination, property management, and real estate sales-related transactions.
- Failure to comply with order to report arrest or conviction: FBI Rap Back notifications on licensees who violate orders of B&P Code Section 10186.2. Licensees fail to timely notify DRE of their arrest or conviction.
- Lack of broker supervision: Violations that a broker has failed in their responsibility to supervise their agents and ensure compliance with laws and regulations.
- Other license compliance issues: Violations involving license ID disclosure requirements, advertising, and team name requirements.

**44. What is average fine pre- and post- appeal?**

Of those citations/fines contested:

- Average pre-appeal fine amount: \$1,675
- Average post-appeal fine amount: \$567
- Average reduction of fine amount resulting from DRE's Informal Citation Review Conference: 34%.

<b>Fiscal Year</b>	<b>2020-2021</b>	<b>2021-2022</b>	<b>2022-2023</b>	<b>2023-2024</b>
Fine Amount (Pre/Post)	\$1580/305	\$1836/528	\$1731/687	\$1553/747

**45. Describe the Department's use of Franchise Tax Board intercepts to collect outstanding fines.**

For DRE licensees, DRE began referring uncollected fines to the Franchise Tax Board in July 2019. Considering the high rate of compliance with citations issued to licensees and relatively few informal and formal appeals, the number of unpaid fines has been extremely small (i.e., approximately 35 of 3,074 citations remain unsatisfied, for a delinquency rate of 1% of citations issued). While DRE refers unsatisfied citations and unpaid fines to the Franchise Tax Board, DRE is empowered to deny the renewal or issuance of a new license to a person who has an unpaid fine. DRE has found that the denial of a renewal or a new license is a more effective means of compliance.

**Cost Recovery and Restitution**

**46. Describe the Department's efforts to obtain cost recovery. Discuss any changes from the last review.**

B&P Code Section 10106 was added to the Real Estate Law in 2011 and gave the Commissioner the authority to obtain investigative costs for a licensee found to have violated the Real Estate Law. DRE asks for costs recovery in almost all settlements/stipulations and cases that go to an administrative hearing. If a licensee does not pay investigative costs, the licensee's license can be suspended and will not be reinstated or renewed until the costs are paid.

**47. How many and how much is ordered by the Department for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.**

The tracking of cost recovery is conducted on an individual basis. The amount ordered for revocations, surrenders, and probation through a settlement/stipulation varies widely and depends on many factors. Most licensees will pay cost recovery given that nonpayment of costs will result in license suspension, revocation, or non-renewal. As demonstrated in Table 11 below, the amount collected for cost recovery has increased every year since FY 2020-21 and the trend is expected to continue as DRE refines its cost recovery process.

**48. Are there cases for which the board does not seek cost recovery? Why?**

DRE's authority only allows for cost recovery to be imposed against licensees, not applicants for licensure. DRE does not seek cost recovery for Statement of Issues cases, wherein license applications are denied licensure for cause, such as the denial of a license for prior criminal convictions. DRE refers unpaid debts, which includes unpaid investigative, audit, and legal costs, to the Franchise Tax Board for collection.

**49. Describe the Department’s use of Franchise Tax Board intercepts to collect outstanding fines.**

For DRE licensees, DRE began referring uncollected fines to the Franchise Tax Board in July 2019. Considering the high rate of compliance with citations issued to licensees and relatively few informal and formal appeals, the number of unpaid fines has been extremely small (i.e., approximately 35 of 3,074 citations remain unsatisfied, for a delinquency rate of 1% of citations issued). While DRE refers unsatisfied citations and unpaid fines to the Franchise Tax Board, DRE is empowered to deny the renewal or issuance of a new license to a person who has an unpaid fine. DRE has found that the denial of a renewal or a new license is a more effective means of compliance.

<b>Table 11. Cost Recovery<sup>1</sup></b>			
	FY 2021/22	FY 2022/23	FY 2023/24
Total Enforcement Expenditures	N/A	N/A	N/A
Potential Cases for Recovery *	N/A	N/A	N/A
Cases Recovery Ordered	N/A	N/A	N/A
Amount of Cost Recovery Ordered	N/A	N/A	N/A
Amount Collected	\$127,478	\$128,009	\$90,477

\* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.

**50. Describe the Department’s efforts to obtain restitution for individual consumers, any formal or informal Department restitution policy, and the types of restitution that the Department attempts to collect, i.e., monetary, services, etc. Describe the situation in which the Department may seek restitution from the licensee to a harmed consumer.**

There are several circumstances under which restitution may be made to the consumer:

- **Complaint Resolution Program (CRP):** Through facilitation by a DRE investigative staff member, a licensee may agree to refund a deposit or reimburse fees collected. In some transactions involving property defects which may not have been properly or fully disclosed, a licensee may agree to fix the defect.
- **Citation:** If a citation is issued, it may be accompanied with an order of correction requiring the licensee to make restitution to the victim.
- **Accusation:** If an accusation is filed, DRE may recover restitution for consumers by entering into settlements with licensees, or by asking the administrative law judge to order reimbursement, refund, or payment of damages to the victim(s).
- **Consumer Recovery Account:** Funded from a portion of fees paid by licensees and administrative fine assessments, the Consumer Recovery Account enables a

<sup>1</sup> Cost recovery may include information from prior fiscal years.

person who has been defrauded by a licensee or had consumer trust funds converted to a licensee's personal use to recover at least some of their actual loss when the licensee has insufficient assets to pay for that loss. Since the account's inception in 1964, DRE has paid over \$65,000,000 to members of the public from the Consumer Recovery Account.

<b>Table 12. Restitution*</b>				(list dollars in thousands)
	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24
Amount Ordered	N/A	N/A	N/A	N/A
Amount Collected	N/A	N/A	N/A	N/A

\*DRE does not track restitution data.

## Section 5 – Public Information Policies

### 51. How does the Department use the internet to keep the public informed of Department activities? Does the Department post Department meeting materials online? When are they posted? How long do they remain on the Department's website? When are draft meeting minutes posted online? When does the Department post final meeting minutes? How long do meeting minutes remain available online?

DRE regularly uses the internet, via a variety of channels, to inform the public of Department updates.

- On a quarterly basis, DRE publishes an external newsletter (*Real Estate Bulletin*) with Department updates and articles that help inform and educate licensees, real estate consumers, and the public.
- Weekly, DRE shares multiple Department updates and consumer and licensee education via its social media channels.
- DRE publishes podcast episodes that highlight consumer awareness tips and educational information around the homebuying process.
- DRE publishes consumer alerts, licensee advisories, and press releases to help inform the public and its constituents on important Department updates and matters impacting consumers and licensees in the real estate industry.
- DRE recently launched a blog-style webpage, *DRE Updates*, where DRE news and general updates are shared.
- DRE regularly publishes several online publications, brochures, Frequently Asked Questions, and factsheets to help inform and educate the public and its constituents on important Department updates and matters impacting consumers and licensees in the real estate industry.
- DRE posts all of its required reports on its website for public access.
- DRE publishes a Real Estate Law Book and Landlord Tenant Guide on its website to serve as aids for licensees and consumers.
- Various PowerPoint presentations given at stakeholder meetings are published on the DRE website for future reference.

**52. Does the Department webcast its meetings? What is the Department's plan to webcast future Department and committee meetings? How long to webcast meetings remain available online?**

DRE does not have a board or committee; therefore, DRE does not webcast any meetings.

**53. Does the Department establish an annual meeting calendar, and post it on the Department's web site?**

DRE does not have a board or committee; therefore, there is no meeting schedule to place on DRE's website.

**54. Is the Department's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the Department post accusations and disciplinary actions consistent with BPC § 27 if applicable?**

Pursuant to B&P Code Section 10083.2, the Commissioner is required to maintain on DRE's website enforcement or disciplinary actions. On a monthly basis, the Department posts disciplinary actions taken against both licensees and unlicensed individuals on its website. Specifically, actions taken against licensed or unlicensed individuals, course providers, subdivision developers, and notices of intention to issue bar orders and bar orders are posted.

**55. What information does the Department provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?**

DRE has an online tool where the public can verify a DRE license and find public license information. The public can look up a licensee by name, company name, or license identification number. They can also search for a real estate broker or corporation by the main office or branch. A list of active duty servicemembers or their spouses currently registered to work in California with an out-of-state license is also available.

Using DRE's license look up tool, the public can find the licensee's mailing address, license identification number, license expiration date, issuance date, former names, license status, main office location, licensed officers, DBA (doing business as) information, branches, salesperson, and any formal discipline taken against their license.

**56. What methods are used by the Department to provide consumer outreach and education?**

DRE provides consumer outreach and education through various channels of communication:

- Quarterly Online Newsletter (*Real Estate Bulletin*)
- Social media
- Press releases, Consumer Alerts, Licensee Advisories
- Publications (Brochures, Real Estate Law Book, Landlord Tenant Guide, etc.)
- DRE Podcast
- DRE Updates webpage
- Speaking requests and presentations at industry and consumer associations meetings and conferences
- Videos
- Email Blasts
- Daily News clips
- Posting on its website PowerPoint presentations provided at public events

## Section 6 – Online Practice Issues

**57. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the Department regulate online practice? Does the Department have any plans to regulate internet business practices or believe there is a need to do so?**

As the use of technology in the real estate industry continues to increase, DRE is seeing more “virtual brokerage” type businesses. Virtual brokerages describe themselves as online, discount brokerages that offer low cost, flat fee commissions as well as innovative technologies.

DRE's Enforcement Division reviews social media sites, websites, and other internet sites for compliance with real estate laws and advertising disclosures. Since a real estate broker is required to maintain a definite place of business that serves as their office for the transaction of business per B&P Code Section 10162, this business requirement means that a brokerage cannot be fully virtual in California. In order to run a real estate operation that is largely an online practice, a broker must institute a broker supervision program that is capable of remote supervision and examination of transactions conducted by salespersons and broker associates. They must also demonstrate, upon investigation, that such oversight and supervision is being conducted. DRE has seen some successes and failures in the supervision of online brokerages. DRE will continue to monitor the activities of online brokerages as well as the more traditional brokerage operations.

## Section 7 – Workforce Development and Job Creation

### **58. What actions has the Department taken in terms of workforce development?**

The real estate industry is not immune to the statewide and nationwide trend of an aging workforce: 56.3% of individuals licensed by DRE are age 50 and older and 76.6% are age 40 and older. DRE works closely with California Community Colleges, California State Universities, and University of California campuses to ensure students who may take real estate and related courses are informed about real estate licensure and are offered access to financial assistance, many through DRE-funded endowment scholarships.

DRE and UCLA have partnered to identify which of their courses would qualify a student to take the real estate exam. Previously, license applicants had to submit UCLA courses on an individual basis for DRE to determine if the course met requirements to take the exam. The partnership streamlines the exam application process and encourages students to pursue a license where they may not have previously.

In addition, during and following the COVID-19 pandemic, DRE increased access to the real estate exam by offering exams on weeknights and weekends; through this, DRE was able to offer more exams during the pandemic than before.

### **59. Describe any assessment the Department has conducted on the impact of licensing delays.**

DRE continuously assesses licensing application workload, as well as processing timeframes, and when numbers exceed acceptable department standards, action is taken to reduce these backlogs. This may include the redirection of staff, redirecting vacant positions from other divisions, overtime, and continuing to identify licensing processes that can be automated through DRE's Online Exam License Application (OELA) and eLicensing system.

In June 2024, there were approximately 5,000 pending exam and exam/license applications. Processing timeframes for these applications exceeded eight weeks, twice the acceptable department standards. The high volume was, in a large part, due to an influx of applications submitted at the end of the year stemming from statutory changes to license requirements that went into effect January 1, 2024, as well as several vacancies in the Licensing Division.

In response, DRE moved forward with approving overtime to address the backlog, as well as redirecting processing staff from other Licensing sections to assist with this workload. As a result, by August 1, 2024, the pending applications had been reduced by 50% to approximately 2,500, and processing timeframes returned to 4-5 weeks. To address its longer-term application processing needs, DRE has prioritized



filling 14 Licensing Division vacancies, of which all were filled by August 2024.

**60. Describe the Department's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.**

DRE is committed to working with private course providers, as well as California Universities and Community Colleges, to ensure students are aware of the most current real estate examination requirements, license requirements, and associated licensing processes.

DRE actively participates on three Real Estate Education Endowment Advisory Committees providing DRE representatives a forum to present DRE updates to real estate program administrators, as well as opportunities to collaborate with these institutions when legislative changes are made to examination and licensing requirements.

For example, in September 2022, Governor Newsom signed SB 1495 (Committee on Business, Professions and Economic Development, Chapter 511, Statutes of 2022), requiring all applicants for the real estate salesperson and broker examination, beginning January 1, 2024, to complete a revised statutory/pre-licensure course in Real Estate Practice that includes a component on federal and state fair housing laws. The bill also delayed the enactment date to January 1, 2024, for the portion of SB 263 (Rubio, Chapter 361, Statutes of 2021) which added an implicit bias component to the Real Estate Practice course.

Due to DRE's large licensee population of approximately 430,000 licensees, as well as the length of time in which it takes to complete a statutory/pre-licensure real estate course, it was necessary that SB 1495 compliant courses were made available for applicants to complete well before the bill's effective date. DRE worked diligently to communicate with private course providers upon passage of these measures about the need to update their courses and prioritized approving updated courses so they would be available for applicants as early as possible. These outreach efforts included DRE informational town halls, participating at speaking events hosted by real estate industry trade groups and associations, as well as publishing information in Industry Advisories, quarterly Real Estate Bulletins, and DRE's website.

Furthermore, it was critical that DRE staff work not only with the private providers, but with the California Community Colleges, California State Universities (CSUs), and University of California (UC) campuses to ensure they too were aware of the SB 1495 course requirements, as many of the students who enroll in Real Estate Practice courses offered by the California Community Colleges, CSUs, and UCs use these courses when qualifying to take either a real estate salesperson or broker license exam. For this reason, DRE staff worked in collaboration with both the California Community Colleges Real Estate Education Center (CCREEC), as well as the CSU Real Estate & Land Use Institute (RELUI).

As a result of these efforts, by April 2023, DRE had approved the first updated SB 1495 compliant Real Estate Practice course, more than nine months prior to the January 1, 2024, statutory deadline. Currently, there are 59 statutory/pre-licensure Real Estate Practice courses offered by private course providers deemed to be SB 1495 compliant, as well as 79 Real Estate Practice courses being offered by California Community Colleges, CSUs, and UCs.

**61. Describe any barriers to licensure and/or employment the Department believes exist.**

Historically, the real estate industry has provided great professional accessibility to a wide range of individuals, including those without higher education or specialized technical skills, providing opportunities for career growth and financial independence. Relative to other similar professions, there are little to no barriers to licensure. To become a real estate salesperson in California minimally requires successful completion of three college-level courses and passage of a licensing exam. Further, there are CSUs and California Community Colleges that provide financial aid to cover the cost of education for those that would like to enter the profession, some of which is funded by endowment-funded scholarships.

DRE has streamlined the process to obtain a license by making it faster and more efficient to submit an application for licensure online, and schedule and take the licensing exam.

**62. Provide any workforce development data collected by the Department, such as:**

DRE requests voluntary information from individual applicants for licenses issued by DRE related to race and gender. As this information is voluntary, DRE has been able to capture the following data of statistical significance related to gender:

Gender	Brokers	Salespersons	Officers
Male	34,226	118,890	11,473
Female	19,976	148,552	4,714
Non-binary	2	15	1
Choose Not to Identify	368	2,439	75
Unknown	14	180	3

DRE also has information on the age ranges of licensees:

Age Range	Number of Licensees	Percentage
18 - 29	30,708	8%
30 - 39	66,120	16%
40 - 49	84,042	20%
50 - 59	88,375	21%
60 - 69	84,166	20%
70+	60,202	15%

**63. What efforts or initiatives has the Department undertaken that would help reduce or eliminate inequities experienced by licensees or applicants from vulnerable communities, including low- and moderate-income communities, communities of color, and other marginalized communities, or that would seek to protect those communities from harm by licensees?**

Reducing and eliminating inequalities experienced by licensees and applicants from California's most vulnerable communities has been a priority for DRE. These efforts include:

- Successfully implementing statutory education requirements that are designed to ensure that applicants for licensure, as well as licensees, have the requisite knowledge to increase their awareness of implicit/explicit bias and to abide by fair housing laws.
- Recruiting subject matter experts, participating in each phase of the Exam Development Process, who represent different parts of the real estate industry and the diverse regions of our state. This helps to ensure future real estate licensing exams reflect our state's diverse marketplace.
- Executing a renewed agreement for the DRE/University of California Real Estate Education Fund, that among other things, focuses efforts on research and education in California real estate matters; advances DEI principles within the real estate profession and industry; and invests in improving the quality of education for students, especially those enrolled in real estate programs at UC Berkeley or UCLA who are from economically or socially disadvantaged communities to include opportunities for student financial assistance through scholarships.
- DRE prioritizes complaints alleging discriminatory conduct by licensees and works closely with the California Civil Rights Department to ensure those complaints are thoroughly investigated and all applicable actions are taken to address violations. DRE also works with the Civil Rights Department to provide educational webinars for property managers, landlords, and tenants on fair housing requirements and best practices.

## **Section 8 – Current Issues**

- 64. Describe how the Department is participating in development of online application and payment capability and any other secondary IT issues affecting the Department.** On October 1, 2021, DRE launched the Online Exam License Application (OELA) providing for electronic submission of salesperson and broker real estate exam and exam/license applications through eLicensing. Users can also upload any necessary documents and pay the required fees online.

OELA is fast, efficient, and eliminates the need to print and mail a paper application and supporting documents. It also provides step-by-step instructions to guide users through the application process and requires that an application be fully complete before it can be submitted. If a deficiency in the application is identified during processing, DRE will email applicants with information about how to resolve the issue electronically, significantly reducing mail and processing time.

DRE's helpful video, "Materials to Gather Before You Apply for Your California Real Estate License", reviews the information and documents needed to apply through OELA to either take the real estate exam or submit an application for both the real estate exam and license.

Users can also check the status of their application online from the time they begin the electronic application through when DRE has processed and approved it. Once DRE approves an application, the applicant will receive an email message that they can use eLicensing to schedule their real estate exam.

Since OELA's official launch, the volume of paper applications received by DRE has decreased by over 90%. In addition, the number of applications with deficiencies or missing information has sharply decreased. This new streamlined process allows DRE staff to focus on processing applications, thus reducing both processing timeframes and the time an otherwise eligible applicant must wait to schedule and take their real estate exam.

OELA has become a valuable addition to DRE's many online licensing services and underscores DRE's commitment to improving its processes through innovative strategies and the continued use of technology.

- **Is the Department utilizing BreEZe? What Release was the Department included in? What is the status of the Department's change requests?**

DRE is not a member of the Department of Consumer Affairs and therefore does not utilize the BreEZe platform.

- **If the Department is not utilizing BreEZe, what is the Department's plan for future IT needs? What discussions has the Department had with DCA about IT needs and options? What is the Department's understanding of Release 3 Departments? Is the Department currently using a bridge or workaround system?**

Since the last sunset review, DRE has launched the Portal Modernization Project (PMP). This initiative aims to streamline the eLicensing program, making it more user-friendly and efficient. Currently, applicants must navigate through two separate web applications to complete their application process. Users have no access to real-time application status updates and must call DRE for license status information. The PMP will integrate these functionalities into a single online portal, allowing users to log in using social accounts like Apple or Google and view their application progress status

in real-time. Work on this project began post-sunset review, and DRE is actively working to bring the portal into production.

Building on the foundation laid by the Portal Modernization Project (PMP), DRE plans to further enhance the eLicensing program. By creating a unified platform for all interactions with DRE, the PMP will significantly reduce the need for phone inquiries and improve transparency in the application process. The new portal will allow users to see the same application status information that DRE call agents can access, thereby streamlining communication and reducing wait times. The integration of social media logins will simplify authentication, making the process more convenient for users. These changes are part of an ongoing effort to improve the efficiency and user experience of the eLicensing program.

## Section 9 – Department Action and Response to Prior Sunset Issues

DRE was last reviewed by the Legislature through sunset review in 2021. During the previous sunset review, 18 issues were raised. In this report, DRE describes actions it has taken since its prior review to address the recommendations made. Issues which were not addressed and which may still be of concern to the Committees are more fully discussed under “Current Issues” (Section 8).

### **Issue #1: (STAFFING) What steps is DRE taking to secure permanent leadership and fill vacant staffing positions?**

**Background:** DRE experienced high vacancy rates during the first year of the return to department status in 2018. DRE requested and was approved for 18 positions to transition back to department status. The struggle to fill positions was due to the fact that the Department needed to first staff its Human Resources Section in order to be able to fill vacancies.

DRE experienced retention and recruitment difficulties with the request to reclassify employees in its Subdivision Program. Initially started in 2015, the reclassification process was necessary because DRE had employees in the Special Investigator series performing Subdivisions processing work, which was determined to be a misclassification. This resulted in a recruitment and wage disparity/misallocation issue within the Subdivisions Program, with Special Investigators, Associate Governmental Program Analysts, and Deputy Commissioners (DC) all doing the same work for different pay. DRE has been working closely with CalHR to correct the issue.

**Committee Recommendation:** DRE should continue to inform Committees of its plan to secure permanent leadership and fill vacant staff positions. How can DRE recruit top quality candidates? Where is DRE in the hiring process? Does DRE have the adequate resources and support to fill those vacancies? If not, what does DRE suggest to best meet its departmental needs? What efficiency measures has DRE taken since the last sunset review process to ensure strong justification for each of its staff members? What does the succession-planning model look like for the future of the Department, as well as

current and future staff? Do current DRE staff have the support they need for their current responsibilities?

**2020 Response:** DRE is firmly committed to maintaining a strong leadership team. As the Committee notes, over the last two years DRE's primary focus has been building its operational capacity to that of a department. In that time, DRE has been able to fill all of its leadership positions and has commenced professional and organizational development efforts to maximize its talent and enhance governance systems. DRE resolved its issues within the Subdivision Unit regarding employee classification.

DRE has also been working on the next phase of its operational development - succession planning. DRE is onboarding two human resources executives as retired annuitants to lead this effort. DRE has the resources to support and fill any vacant staff positions. DRE's current vacancy rate is at 10 percent, which is reasonable for a department of this size and below the statewide average.

DRE will continue to follow standard CalHR hiring processes to fill its vacancies. Should there be key positions that require additional recruitment efforts, DRE will leverage sites such as LinkedIn, as well as expanded recruitment via entities such as CPS HR Consulting (a non-profit organization and formerly a component of the Department of Personnel Administration [which became CalHR]).

**Current Response:** Since the last sunset review report, DRE has successfully secured permanent leadership and filled staff vacancies. In 2023, with the pending retirement of then-Commissioner Douglas McCauley, Chika Sunquist was appointed the 25<sup>th</sup> Commissioner of DRE by Governor Gavin Newsom on November 28, 2023. She assumed office on January 3, 2024, and was confirmed by the Legislature on June 24, 2024. During the last four years, DRE has completed a reorganization of the Administrative Services Division which included: 1) fully staffing the Human Resources Office by adding a Performance Management/Labor Relations Manager and a Special Projects Unit, tasked with bringing and keeping DRE in full compliance with administrative directives and policies; 2) forming a new Training Program that ensures DRE staff are compliant with training mandates and provides additional training resources to staff; and 3) establishing a new division, the Information Technology Division, which was previously a program under the Administrative Services Division. Part of establishing this new division was the recruitment of executive-level leadership in the technology space to further department-technology initiatives.

The reorganization also included transitioning 18 positions back to DRE from the Department of Consumer Affairs. Among other benefits, the reorganization also allowed DRE to rebuild the Accounting/Budget Unit, add staff to the Communications Division, and hire an Equal Employment Officer (EEO).

When a vacancy occurs, DRE performs a comprehensive review to evaluate the position and duties. Several efficiency factors are used including workload statistics, appropriate classification, and best use for the department overall.



DRE's current succession-planning model prepares staff to assume leadership roles through training, professional development, and mentorship activities. DRE also provides regular trainings to all managers and supervisors on leadership topics, and the DRE Training Program continues to develop intra- and inter-divisional trainings. DRE also provides resources to staff looking to advance their careers through the Upward Mobility Program.

In 2024, DRE successfully sought an adjustment to its budget expenditure authority to right size the authority with current costs, including those related to staff. This proposal allowed DRE to fill several vacant positions to improve service to licensees, applicants, and the public.

DRE has been successful in recruiting and will continue to recruit quality candidates for vacant positions from within DRE as promotional opportunities, other state agencies, and private industry via traditional recruitment efforts, social media postings, word-of-mouth referrals, and advertising.

DRE continues to address the misallocation issue within the Subdivisions Program and to follow the corrective action plan previously approved by CalHR in 2016. Unfortunately, progress on this matter has been slower than anticipated and recently compounded. In July of 2023, DRE's Special Investigators (SI) received a Special Salary Adjustment as part of the most recent memorandums of understanding which increased the salary range of SI's by 5%, thereby creating a 5% difference in the maximum pay range between the SI and Deputy Commissioner (DC) classifications. This caused the California Statewide Law Enforcement Association (CSLEA) to file an Out of Class grievance on behalf of all of the DC's in the Subdivisions Unit. As advised by CalHR, DRE conducted an analysis of the duty statements and acknowledges the duty statements for both the SI and DC classifications in the Subdivisions and Budget Review units are identical. Having identical duty statements was purposeful and part of the plan to address the misallocations previously identified. The duty statements for both the DC's and SI's appropriately articulate that the work being done is allocated at the DC level. In light of these facts, DRE is submitting an updated corrected action plan to CalHR to address the lack of progress.

**Issue #2: (RELATIONSHIPS WITH BCSH AND ENFORCEMENT ENTITIES) What is the status of the working relationship between DRE and the California Business, Consumer Services and Housing Agency (BCSH)? How is the relationship between DRE and enforcement agencies like local District Attorneys it works with to support consumer protection?**

**Background:** On July 1, 2018, DRE transitioned back from a bureau within DCA to a stand-alone department under the authority of the California Business, Consumer Services and Housing Agency (BCSH). DRE does not engage in programming and services with DCA.

As part of its enforcement program, DRE regularly participates in task force meetings with various district attorney offices, local real estate associations, and a number of law enforcement agencies. DRE Executive, Audit, and Enforcement staff participate in



proactive outreach efforts consisting of contacting and working with local licensee organizations, such as real estate, mortgage loan, property management, and escrow associations throughout the state.

**Committee Recommendation:** DRE should inform the Committees of its working relationship with BCSH. How does the new Department engage with BCSH? Does the Department have enough independence to achieve its goals and carry out its statutorily mandated duties? DRE should also inform the Committees of its working relationship with district attorneys (DAs) and other external enforcement parties. How has DRE engaged with these groups? How is enforcement now different than it was under

BRE structure? What, if anything, can or should be changed to ensure enforcement needs are met?

**2020 Response:** DRE has a strong and collaborative working relationship with BCSH. DRE provides a regular monthly briefing to BCSH that covers administrative and programmatic issues. In addition, BCSH holds a monthly "directors call" that provides DRE with an opportunity to identify opportunities to collaborate with other agency departments, and to discuss best practices. These calls also include briefings on key Administration initiatives and strategies departments can implement to advance those objectives.

DRE's executive team has frequent communication with relevant BCSH deputy secretaries. Commissioner McCauley has regular calls with the deputy secretary for housing and consumer relations, the primary policy contact for DRE issues. DRE's collaborative relationship with BCSH increases our effectiveness, but DRE has sufficient independence to achieve its goals and carry out its statutorily mandated duties.

With regard to law enforcement, DRE actively maintains its long-established working relationships with law enforcement partners at the local, state and federal levels. In addition, DRE has working relationships with many state agencies responsible for regulating related industries, such as the Department of Financial Protection and Innovation and various programs within the Department of Consumer Affairs.

DRE regularly engages with these groups through participation in law enforcement task forces and round table meetings. Additionally, DRE staff work with law enforcement and regulatory agency partners to refer complaints and/or cases where there is jurisdictional overlap to ensure the highest level of consumer protection.

DRE's transition back to a department has not changed its Enforcement program. At this time, DRE believes enforcement needs are met. DRE performs outreach and education to inform industry and consumers of regulatory requirements in order to prevent Real Estate Law violations and consumer harm. Additionally, as the economy, industry practices, and the housing market changes, DRE is able to shift its resources to address new priorities while still performing timely investigations and audits.

1. Conflict of Interest Code – Section 3200 amended by Government Code Section 81000, et seq. This amendment revised provisions that set out the department's Conflict of Interest Code as required by the Political Reform Act (Government Code Section 81000, et seq.). The package amended the existing code to address changes in statutory requirements and in the department's staffing structure occurring since the prior amendment of the section. (Rulemaking commenced on August 16, 2018 and was codified on March 7, 2019.)

At the present time, DRE has one outstanding regulation package. Commenced on February 22, 2019, DRE is preparing to submit to the Office of Administrative Law (OAL) a regulations package to amend section 2910, which sets out DRE's Criteria for Substantial Relationship, and to adopt section 2910.5, in order to define "financial crime." The package implements changes in the B&P Code resulting from AB 2138 (Chiu, Chapter 995, Statutes of 2018). This regulation package was delayed due to factors associated with the pandemic and DRE's undertaking of new responsibilities involving landlords and tenants.

**Current Response:** DRE continues to maintain a strong and collaborative working relationship with BCSH. DRE's Commissioner provides a regular monthly briefing to BCSH that covers administrative and programmatic issues. Commissioner Sunquist has regular calls with the Deputy Secretary for Housing and Consumer Relations to discuss DRE-specific policy issues. Also, BCSH holds a monthly directors' meeting to communicate administration/agency directives to its subordinate Departments and provide an opportunity to identify opportunities for cross-departmental collaboration on important issues. Further, the BCSH Undersecretary convenes departments' Chief Deputy Directors to discuss agency initiatives and operational concerns. Finally, DRE's executive team has frequent communication with relevant BCSH deputy secretaries on a variety of issues. The collaborative relationship with BCSH has improved DRE effectiveness and efficiency, as well as fostered needed innovation, problem-solving, and responsiveness to interested parties.

DRE's enforcement staff regularly participate in local task force meetings with various district attorney offices, local real estate associations, and a number of law enforcement agencies. DRE actively maintains its long-established working relationships with law enforcement partners at the local and state level. In addition, DRE has working relationships with many state agencies responsible for regulating related industries, such as the Department of Financial Protection and Innovation and various programs within the Department of Consumer Affairs. DRE staff actively work with agency partners to refer complaints and/or cases where there is jurisdictional overlap to ensure the highest level of consumer protection.

**Issue #3: (RULEMAKING) Is DRE moving forward with regulatory packages and undertaking rulemaking? How is this process different than it was for the former bureau?**

**Background:** On July 1, 2018, BRE changed from a bureau within DCA to its own department under the authority of the BCSH. Rulemaking used to take place under DCA's guidance and direction, but now DRE is directing its rulemaking processes. It

would be helpful for the Committees to better understand the process, timeframes, and status of regulation efforts.

**Committee Recommendation:** DRE should inform the Committees of its progress on rulemaking. Does DRE have a rulemaking backlog? Please discuss the rulemakings initiated by DRE during each of the last five fiscal years, including a summary of the time from initial development to final approval by the Office of Administrative Law. Does DRE have any rulemakings currently outstanding?

**2020 Response:** As a bureau under the Department of Consumer Affairs (DCA), DRE was required to submit regulation packages for sequential review and approval through a number of internal offices including DCA's Executive Office, Legal Affairs Office, Legislative/Regulations Office, and Fiscal/Budget Office. Only after all the DCA approvals had been obtained was DRE allowed to submit its regulation packages to BCSH for review and approval. The process was time consuming and often extended DRE's regulation adoption process by many months.

Since July 1, 2018, DRE now submits its regulations directly to BCSH for review and approval.

DRE has completed five regulation packages (adoptions or amendments) since the beginning of 2016. Please note that all citations below are to sections within the Regulations of the Real Estate Commissioner, Chapter 6 of Title 10 of the California Code of Regulations.

1. Criteria for rehabilitation – Sections 2911 and 2912. A long-standing pair of regulations, these sections address how applicants and current licensees who are disciplined for criminal convictions or other wrongdoing may show rehabilitation following their crime/wrongdoing. DRE amended the regulations following the decision in *Singh v. Davi* (2012) 211 Cal.App.4th 141, in order to update the existing criteria to permit the Commissioner's consideration of the nature and severity of the applicant's or licensee's conviction(s) or act(s), as well as other issues. These amendments met the requirements subsequently adopted under AB 2138 (Chiu, Chapter 995, Statutes of 2018). (Rulemaking commenced in April 2013 and was codified on July 1, 2017.)
2. Broker associates – Sections 2715, 2728.5 and 2752 amended by AB 2330 (Ridley-Thomas, Chapter 614, Statutes of 2016). These provisions relate to the relationship between a real estate broker and the salespersons or broker associates that conduct licensed activity under the supervision of the broker. The regulations were amended to implement AB 2330, which required brokers to report entering and ending contractual relationships with broker associates (brokers who work for another broker as a salesperson would) to the department, and required the department to track those broker-to-broker relationships. (*AB 1807 (Bonta, Chapter 558, Statutes of 2016)* also included the requirement, but AB 2330 was the originating bill for this concept and was implemented due to chaptering

*language within the bills.*) (Rulemaking commenced on November 30, 2016 and was codified on May 31, 2018.)

3. License ID number – Section 2773 amended by AB 1650 (Frazier, Chapter 142, Statutes of 2016). This regulation establishes what is required from licensees engaging in their first point of contact for solicitation. A rulemaking package was submitted to implement changes to the underlying statute under AB 1650. (Rulemaking commenced on November 30, 2016 and was codified on March 7, 2019.)
4. Petition for removal of 10-year-old discipline – Section 2915 was amended by AB 2330 (Ridley-Thomas, Chapter 614, Statutes of 2016). This new section implements the process and standards for licensees to remove disciplinary information from the department's website. The new petition process arises from AB 2330. *(AB 1807 (Bonta, Chapter 558, Statutes of 2016) originated the requirement, but AB 2330 was implemented due to chaptering language within the bills.)* (Rulemaking commenced on November 29, 2016 and was codified on March 28, 2019.)
5. Conflict of Interest Code – Section 3200 amended by Government Code Section 81000, et seq. This amendment revised provisions that set out the department's Conflict of Interest Code as required by the Political Reform Act (Government Code Section 81000, et seq.). The package amended the existing code to address changes in statutory requirements and in the department's staffing structure occurring since the prior amendment of the section. (Rulemaking commenced on August 16, 2018 and was codified on March 7, 2019.)

At the present time, DRE has one outstanding regulation package. Commenced on February 22, 2019, DRE is preparing to submit to the Office of Administrative Law (OAL) a regulations package to amend section 2910, which sets out DRE's Criteria for Substantial Relationship, and to adopt section 2910.5, in order to define "financial crime."

The package implements changes in the Business and Professions Code resulting from AB 2138 (Chiu, Chapter 995, Statutes of 2018). This regulation package was delayed due to factors associated with the pandemic and DRE's undertaking of new responsibilities involving landlords and tenants.

**Current Response:** In determining the priority order for regulation development, DRE annually solicits input from its program areas about the need to adopt, amend, and/or delete regulations to assist it with implementing and enforcing the Real Estate Law. Based on responses received, DRE leadership prioritizes these responses and identifies available resources to promulgate regulations each year. DRE has had resource issues that limited the number of regulations promulgated. These resource constraints have also contributed to the outstanding list of issues that require regulatory changes.

In 2024, DRE successfully received a position in the budget for an attorney to focus on regulation updates. The workload includes new and updated regulations stemming from legislation signed into law in 2023 as well as helping to reduce the backlog of

regulations. The attorney for this position has been hired. DRE is prioritizing regulations packages for legislation that was chaptered in 2023. DRE has advanced one regulation package which allows DRE to register military service members and their spouses who conduct licensed activities utilizing their out-of-state license in California (SB 143, Committee on Budget and Fiscal Review, Chapter 196, Statutes of 2023). This package is currently under review with the Office of Administrative Law and approval is expected at the end of 2024.

The following regulatory packages were approved by DRE since the previous sunset review:

1. DRE amended its "Criteria for Substantial Relationship" (Commissioner's Regulation 2910) and defined "Financial Crime" (Commissioner's Regulation 2910.5) to implement changes to the B&P Code resulting from AB 2138 (Chiu, Chapter 995, Statutes of 2018). (*Rulemaking commenced on July 3, 2020, and was codified on March 26, 2021.*)
2. DRE made numerous changes to complete the terminology update called for by the provisions of AB 2884 (Irwin, Chapter 285, Statutes of 2018). That bill amended the language of the Real Estate Law to match present industry terminology. This regulations package amended 14 regulation sections and repealed one section, primarily to eliminate the use of the word "employ" or its variations, as well as converted instances of "transferor" and "transferee" to "seller" and "buyer." (*Rulemaking commenced on July 23, 2021, and was codified on April 1, 2022.*)
3. Also prompted by AB 2884 (Irwin, Chapter 285, Statutes of 2018), DRE updated its regulation on "Discriminatory Conduct as the Basis for Disciplinary Action" (Commissioner's Regulation 2780). The amendment incorporated an updated list of the "protected classes" recognized in federal and state anti-discrimination statutes. The prior list of prohibited acts or omissions, dating to the early 1980s, was updated to conform to the existing federal and state statutes. Finally, the regulation was redrafted for easier comprehension. (*Rulemaking commenced on January 21, 2022, and was codified on October 1, 2022.*)
4. DRE amended four of its existing continuing education regulations to implement the provisions of SB 263 (Rubio, Chapter 361, Statutes of 2021). The bill added items to the scope of continuing education that are required by B&P Code Section 10170.5. The regulatory amendments pursuant to SB 263 ensured that real estate licensees are kept up to date on fair housing laws and receive implicit bias training on an ongoing basis. (*Rulemaking commenced on July 22, 2022, and was codified on January 1, 2023.*)
5. Senator Rubio's SB 263 was followed by SB 1495 (Committee on Business, Professions and Economic Development, Chapter 511, Statutes of 2022), which corrected errors in SB 263 related to new education requirements on fair housing laws for persons applying for new real estate licenses. DRE implemented this follow-up bill with a regulation that amended Commissioner's Regulation 3002

and added a Section 3002.2, both relating to “pre-license education”. (Rulemaking commenced on August 4, 2023, and was codified on January 1, 2024.)

The following regulatory package is currently under review at the Office of Administrative Law for final approval.

1. SB 143 (Committee on Budget and Fiscal Review, Chapter 196, Statutes of 2023) directs DRE and the boards and bureaus within the Department of Consumer Affairs to register and treat as California licensees any active-duty military servicemember or legal spouse of such a servicemember where those individuals 1) hold a similar license in good standing from another United States jurisdiction and 2) are subject to a permanent order transferring the servicemember to California. DRE’s extensive rulemaking proposal on this subject ensures consumer protection while recognizing the spirit of the legislation to ensure that registrants retain options for continuing their careers in California upon the termination of their registration. (Rulemaking commenced on July 26, 2024, and DRE anticipates approval by 12/27/2024.)

**Issue #4: (RECENT HOUSING LEGISLATION) How has DRE responded to AB 1482? What kind of changes is DRE anticipating after the recently-enacted 2020 legislative housing efforts?**

**Background:** Last year, AB 1482 (Chiu, Chapter 597, Statutes of 2019) became law. As a result, rent increases are limited to no more than 5% plus local inflation and landlords must have “just cause” to terminate a tenancy, among other things. This year, Assemblymembers Grayson, Chiu, Bonta, and Gabriel announced an eight-bill, housing legislation package, mostly aimed at reforming impact fee formulas, assessment of fees, and establishing a ceiling for development fees. Governor Newsom also focused almost his entire State of the State address on homelessness and housing, signaling that it would be a priority for him this year.

After Governor Newsom issued the stay-at-home order in March, priorities for most legislators changed. However, landlord and tenant protections remained an important issue in the 2020 legislative year. The Governor recently signed AB 3088 (Chiu, Chapter 37, Statutes of 2020), a bill that provides targeted protections for tenants to shield them from evictions due to COVID-19-related back rent through February 1, 2021 and extends anti-foreclosure protections in the Homeowner Bill of Rights to small landlords.

**Committee Recommendation:** DRE should inform the Committees of how it has responded to AB 1482 from 2019, AB 3088 from 2020, and how it is planning to respond to more housing legislation, such as the legislative ideas proposed this year. What efforts has the Department taken to prepare for and educate licensees on the changes that may come via impact fees in the future? What other changes does DRE need to be ready for and how is it preparing for them?



**2020 Response:** California faced many housing challenges before the onset of COVID-19, including shortages of housing inventory and increasing rental rates. During the 2019-20 legislative session, the Legislature passed and the Governor signed AB 1482 (Chiu, Chapter 597, Statutes of 2019), known as the Tenant Protection Act of 2019. The Act placed caps on rent increases and required landlords to provide just cause before terminating certain tenancies.

Recognizing the current significance of landlord/tenant issues, DRE updated and substantially revised the 140-page landlord/tenant guide entitled *California Tenants – A Guide to Residential Tenants' and Landlords' Rights and Responsibilities*, which the Department of Consumer Affairs last updated and published in 2012.

In response to COVID-19 and the resulting shelter-in-place orders, many Californians saw their incomes substantially reduced or eliminated. Many Californians suffered financial distress and were unable to pay some or all of their mortgage or rent. Accordingly, during the 2019-20 legislative session, the Legislature passed and the Governor signed AB 3088 (Chiu, Chapter 37, Statutes of 2020), known as the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020, which includes the COVID-19 Tenant Relief Act of 2020.

Among its protections, AB 3088 precludes landlords from evicting tenants for the tenant's failure to pay rent between March 1, 2020 and January 31, 2021 due to financial distress associated with COVID-19 provided the tenant returns to the landlord within 15 days of receipt a signed declaration of financial distress and, for rent due between September 1, 2020 and January 31, 2021, pays at least 25% of the unpaid rent by January 31, 2021. DRE has undertaken substantial efforts to inform consumers, tenants and landlords about the protections provided by AB 1482, AB 3088, and other statutes.

- DRE has updated its existing resources and created new resources to assist tenants and landlords.
- DRE has provided educational guidance to its 430,000 licensees.
- Governor Gavin Newsom's education and outreach campaign on landlord/tenant protections is called "Housing is Key." To house important resources related to AB 3088, DRE created [housingiskey.com](https://housingiskey.com), which includes guidance documents, required notices and declarations, lists of local resources, and responses to frequently asked questions. As required by the statute, DRE translated the required declarations, as well as some additional materials, into Chinese, Korean, Spanish, Tagalog and Vietnamese.
- Recognizing the challenges of imparting critical time-sensitive legislative information to the grass-roots level, DRE collaborated with the Department of Fair Employment and Housing, UC Irving School of Law, and NeotaLogic to create an information app. The app walks users through the facets of the law based upon their fact pattern. This invaluable tool allows landlord and tenants to understand



their specific rights and responsibilities under the law. It is available in Spanish and English and can be found on the [housingiskey.com](http://housingiskey.com) website.

- DRE also worked the Department of Public Health to leverage the statewide 2-1-1 system to answer callers' questions and/or direct them to appropriate local and state resources.
- In addition, to ensure that critical information about the protections are disseminated at the local level, a training webinar was created so key community intermediaries, such as food banks, libraries, churches, etc., can be equipped with basic information to share with landlords and tenants.

DRE's focus has been on landlord/tenant issues, specifically eviction protections for tenants. Other housing issues, such as impact fees, assessment, and development fees, are outside the scope of DRE's authority. (The Department of Housing and Community Development is the lead agency for housing policy.)

Although DRE has not been involved with these issues, the Department of Housing and Community Development did commission a study on Residential Impact Fees in California. The report by UC Berkeley's Turner Center for Housing Innovation is available at: <https://turnercenter.berkeley.edu/blog/residential-impact-fees-in-california>.

**Current Response:** DRE remains focused on landlord/tenant and foreclosure issues, specifically ensuring property managers and loan servicers regulated by DRE are compliant with tenant and homeowner protection laws.

DRE Executive, Audit, and Enforcement staff participate in proactive outreach efforts consisting of contacting and working with local licensee organizations, such as mortgage loan and property management associations throughout the state to discuss changes in business practices. Department staff also proactively identify areas that may lead to consumer harm, update the landlord tenant guidebook, and educate the real estate profession on fair housing, compliance standards, and fiduciary duties.

Other housing issues, such as impact fees, assessment, and development fees, are outside the scope of DRE's authority.

#### **Issue #5: (EXCLUSIVITY) How is DRE responding to bills and ideas that promote exclusivity in the housing market through technical language?**

**Background:** In recent years, brokers and realtors have not listed homes on certain online services.<sup>1</sup> These homes are referred to as "coming soon" or "off market" destinations. By allowing a "who you know" market, brokers and realtors have fed the idea that buyers will have access to the best properties through certain people "in the know." However, for low-income and minority homebuyers, this practice of saving homes for those with access to certain information invokes discriminatory history in housing.

**Committee Recommendation:** DRE should inform the Committees of how it interacts with ventures to promote exclusivity in the housing market. What steps, if any, is it taking to promote housing equity? Does DRE have discussions about this topic with industry members in its meetings and at its attended events throughout the year?

**2020 Response:** Decisions by licensees and their clients to utilize a “pocket listing” or other ventures to promote exclusive listing opportunities typically fall outside of the DRE’s regulatory scope. Although “pocket listings” generally deprive the seller of an opportunity to show their property to the widest group of potential buyers and potentially miss out on attracting the highest price, “pocket listings” are permissible if the licensee ensures the integrity of the fiduciary relationship by informing the client of the possible consequences and receives the client’s informed written consent to utilize a “pocket listing.” Separate and apart from the limited marketing opportunities for sellers, “pocket listings” potentially exclude certain segments of the buyer population from participating in the purchase opportunity. This could be an unintended consequence, but ultimately pocket listings vastly reduce the exposure a property receives.

Whether or not the inequity originates from “pocket listings” or other industry practices, DRE takes complaints of discriminatory behavior seriously. Specifically, the DRE enforces section 2780 of the California Code of Regulations, which prohibits discriminatory conduct by real estate licensees, including but not limited to acts such as refusing or failing to show, rent, sell, or finance the purchase of real property. DRE refers cases to and partners with the Department of Fair Employment and Housing (DFEH) to address acts where an individual is believed to have engaged in discriminatory behavior.

In addition to disciplinary actions, DRE also requires licensees to complete continuing education courses that reinforce the importance of ethics and fair housing. For first-time renewals, licensees must take a three-hour course in Ethics and a three-hour course in Fair Housing. For subsequent renewals, licensees must take an eight-hour course that includes Fair Housing. Fair Housing is also covered in the broker and salesperson licensing exam.

DRE engages in a variety of conversations with the industry on various topics, including housing equity and housing discrimination. In addition, the National Association of Realtors has taken proactive steps to ban pocket listings by requiring properties to be listed on the Multiple Listing Service (MLS) within one business day of being marketed to the public. These proactive steps taken by the National Association of Realtors provides an additional check on these potentially discriminatory actions taking place in the market.

**Current Response:** DRE is committed to proactively promoting the principle of equity in the practice and profession of real estate. The Department implemented SB 1495 (Committee on Business, Professions and Economic Development, Chapter 511, Statutes of 2022) and SB 263 (Rubio, Chapter 361, Statutes of 2021), which sought to promote equity and reduce discrimination by increasing the education that applicants and licensees receive on implicit bias and fair housing. These bills did so by requiring implicit bias and fair housing be included in pre-licensure courses that applicants for real estate exams must take. They also required an implicit bias continuing education course for

licensees renewing a license for the first time and required the fair housing course to include an interactive participatory component, during which the student role plays as both a consumer and real estate professional. For subsequent license renewals, the bills required that the general survey course used for continuing education include content on implicit bias.

To implement these measures and ensure that course providers updated their course content with implicit bias and fair housing information, DRE staff executed a multifaceted outreach plan. The plan included informational town halls, participating at speaking events hosted by real estate industry trade groups and associations, as well as publishing information in Industry Advisories, quarterly Real Estate Bulletins, and DRE's website. Additionally, DRE staff worked diligently to communicate with both private and public course providers upon passage of these measures about the need to update their courses, and DRE prioritized approving updated courses so they would be available for both applicants and licensees.

In order to promote equity in the profession and practice of real estate, DRE works closely with the Civil Rights Department (formerly, Department of Fair Employment and Housing) to investigate violations of fair housing law and provides webinars to consumers and industry members on fair housing matters. DRE and Civil Rights Department webinars typically reach more than 500 attendees.

DRE also engages with industry members at meetings and presentations to discuss changes in business practices. DRE regularly emphasizes fair housing practices and licensees' fiduciary duties to their clients as major considerations on whether a business practice may be a consumer protection risk.

**Issue #6: (GENERAL FUND LOANS) What are potential impacts to DRE's fund stability if language is removed from the Law requiring fees to be reduced if a General Fund loan occurs?**

**Background:** During the recent budget process, the Administration proposed repealing language in the Real Estate Law that authorizes the Department to reduce certain fees when a General Fund loan is made from the Real Estate Fund. Specifically, Business and Professions Code Section 10226.5 (a) states that "If at any time funds are transferred or loaned from the Real Estate Fund to the General Fund by the Budget Act, then 30 days from and after the date of the transfer or loan, fees shall be reduced as indicated in subdivision (b), irrespective of any provisions of the Budget Act precluding that reduction. The fees include, but are not limited to real estate broker examinations, first reschedules of broker examinations, real estate broker licenses, real estate salesperson examinations, real estate salesperson licenses, applications for an original, renewal, or amended registration, among other things.

Originally, this provision, along with Business and Professions Code Section 10226, was "poison pill" meant to cap the size of the Real Estate Fund's surplus and discourage transfers or loans from the Real Estate Fund to the General Fund. The present "poison pill" arose in the aftermath of the budgetary crises of the early 1990s, given that in three

budget years from 1990-91 to 1992-93, Deukmejian and Wilson Administration budget actions transferred a total of \$14 million from the Real Estate Fund to the General Fund. Over the next decade, the current “poison pill” language developed through four bills to reflect fee structures prior to those in the early 1990s: SB 1002 SB 1002 (Craven, Chapter 416, Statutes of 1993); AB 2536 (Miller, Chapter 342, Statutes of 1996); AB 447 (Kuykendall, Chapter 447, Statutes of 1997); AB 2007 (Committee on Business and Professions, Chapter 676, Statutes of 2004). AB 2536 in 1996 was responsible for raising the license fee ceiling to its present amounts and eliminated a sunset date. Notably, the current “poison pill” language speaks to both transfers and loans thanks to AB 2007.

Since raising the license fee ceiling in 1996, it is unclear when fees were last adjusted pursuant to this authority or if the section is obsolete. It would be helpful for the Committees to understand the impact of striking this provision, including information DRE should provide about any potential negative impacts stemming from fee and funding instability that could stem from adjustments 30-days after a loan is made.

**Committee Recommendation:** DRE should provide information about how frequently this code section has resulted in fee adjustments, the impact to DRE operations if the language remains intact, and any operational efficiencies gained if language is repealed.

**2020 Response:** [DRE does not have a response to this Issue from 2020.]

**Current Response:** DRE has not experienced a loan to the General Fund from the Real Estate Fund in the past four years; therefore, there has been no adjustment in fees pursuant to B&P Code Section 10226.5. Should the language remain intact, and funds were transferred from the Real Estate Fund to the General Fund, DRE fees would have to be decreased per B&P Code Section 10226.5. This would threaten the Real Estate Fund's solvency. DRE does not foresee operational efficiencies gained if the language is repealed.

**ISSUE #7: (DUAL AGENCY) Are the current disclosure requirements surrounding dual agency adequate to protect consumers from salespeople who may not be acting in the consumers' best interest?**

**Background:** Current law does not always require brokers who are engaging in transactions with property owners or landlords on one side, and lessees on the other, to disclose that conflict of interest.

In 2017, Assemblymember Gonzalez introduced AB 1059, which would have prohibited an agent, a broker, brokerage firm, or any licensee of the broker or brokerage firm acting as a dual agent for both the buyer and seller in the same real estate transaction. It also would have prevented a broker, a brokerage firm, or any licensee of the broker or brokerage firm from acting as a dual agent in connection with its representation of any principal. Additionally, in 2017 Assemblymember Jacqui Irwin introduced AB 1626 to more clearly define when a dual agency condition exists and specify the fiduciary duties of licensees engaged in such transactions under existing state law. AB 1626 hoped to

provide clarification on this issue that was discussed in current law in *Easton v. Strassburger*, a court case decided in 1984 by the California Court of Appeal for the Third District. Both legislative efforts failed, but the issue persists.

**Committee Recommendation:** DRE should inform the Committees of its opinion of dual agency. Does DRE believe consumers are adequately protected? What, if any, changes would DRE like to see to ensure consumers have adequate protection while also balancing the need for a fair market environment for all parties?

**2020 Response:** Civil Code section 2079.14 permits dual agency provided the licensee notifies the client of the dual agency representation and obtains their informed, written consent. When the responsibility for dual agency arises, DRE strongly encourages its licensees to strive for greater transparency in disclosing dual agency representation to their clients. Except as stated herein, DRE has no position at this time on potential legislation to prohibit dual agency.

Assembly Bills 1289 (Arambula, Chapter 907, Statutes of 2018) and 2884 (Irwin, Chapter 285, Statutes of 2018) provided that a dual agent may not reveal to either party facts relating to the financial position, motivations, bargaining position or other personal information that may impact price, in addition to the restrictions already mentioned.

**Current Response:** Dual agency is a practice that is permitted under the Real Estate Law and Civil Code. DRE's role is enforcing the provisions of the Real Estate Law in dual agency transactions, such as 1) ensuring clients are aware of and consent to the dual agency, 2) ensuring that real estate brokers uphold their fiduciary duties to both clients, and 3) ensuring that real estate licensees' compensation is disclosed.

DRE meets regularly with members of the real estate industry from all practices, including real estate sales, mortgage loan origination, business brokering, and property management. Business practices are often discussed. As with any change in practice, DRE will be alerted to changes in practice in dual agency that may cause risk to consumers, make industry members aware of those risks, and investigate any complaints that may arise.

#### **Issue #8: (E-LICENSING) How has the eLicensing program changed since the change from BRE to DRE?**

**Background:** DRE conducts routine sampling of the CE course verifications submitted by licensees. Over the past four FYs, DRE completed 1,460 audits of licensee CE records for those licensees who renewed using the eLicensing system during the previous four years. This audit resulted in 44 licensees failing to submit requested documents or 3% of the total audit population. The remaining 97% had no errors. Additionally, DRE has used the eLicensing system to attempt to lower wait times when consumers call DRE.

**Committee Recommendation:** DRE should inform the Committees of the status of its eLicensing program. What changes have been made since the last sunset review? In

what ways is the department hoping to incorporate additional changes into the eLicensing program?

**2020 Response:** DRE's eLicensing is especially important during the current public health crisis. The system offers an online platform that, among other things, allows for applicant/license change transactions, license renewals, and the printing of real estate license certificates, all easily completed on DRE's website.

User-friendly features include a customized selection menu of eLicensing options specific to the conditions of each license, automated fee payment and processing options, status tracking of online transactions, and email confirmations. After the successful completion of an eLicensing transaction, the license record is updated in real-time and available for viewing on DRE's website immediately.

Since DRE's last sunset review, eLicensing has been enhanced to include broker-associate affiliation processing, as well as officer renewals, and it is anticipated that online exam/license applications will be available in 2021.

**Current Response:** In 2021, DRE has launched the Online Exam License Application (OELA) which allows for the electronic submission of salesperson and broker real estate exam and exam/license applications through the eLicensing system. Users can also upload documents and pay required fees online.

OELA eliminates the need to print and mail a paper application and supporting documents. It also provides step-by-step instructions to guide users through the application process and requires that an application be fully complete before it can be submitted. If a deficiency in the application is identified during processing, DRE will email applicants with information about how to resolve the issue electronically, significantly reducing mail and processing time.

Users can also check the status of their application online from the time they begin the electronic application through when DRE has processed and approved it. Once DRE approves an application, the applicant will receive an email message that they can use eLicensing to schedule their real estate exam.

Since OELA's official launch, the volume of paper applications received by DRE has decreased by over 90%. In addition, the number of applications with deficiencies or missing information has sharply decreased. This new streamlined process allows DRE staff to focus on processing applications, thus reducing both processing timeframes and the time an otherwise eligible applicant must wait to schedule and take their real estate exam.

In order to further DRE's business modernization efforts, recently DRE launched the Portal Modernization Project (PMP). This initiative aims to streamline the eLicensing program, making it more user-friendly and efficient. The PMP will integrate multiple functionalities into a single online portal, where users can view their application progress status in real-



time, modify licensee information in a dashboard, upload and modify documents, and remedy identified deficiencies within the portal.

The PMP will result in reduced call times and increased application transparency as applicants can access real-time application information online. The integration of social media logins will simplify authentication, making the process more convenient for users.

The PMP will enhance the enforcement program by allowing complete electronic case management. Finally, DRE is developing a data warehouse which will incorporate all DRE specific historic data to allow for enhanced reporting, data visualization, and analytics.

**Issue #9: (TRACKING MILITARY APPLICANTS) Should DRE track applicants offered military education, training, or experience toward meeting licensing or credentialing requirements?**

**Background:** DRE does not track applicants offered military education, training, or experience toward meeting licensing or credentialing requirements. It is possible that some military experience will qualify as equivalent to the two years of salesperson experience necessary for the broker examination, but that information is reviewed on a case-by-case basis.

**Committee Recommendation:** DRE should inform the Committees of why it does not track applicants offered military education, training, or experience toward meeting licensing or credentialing requirements. What benefits, if any, would come from this oversight? What resource would DRE need to accomplish this goal?

**2020 Response:** DRE has not received any broker exam applications where the applicant specifically requested to receive credit for military education, training, or experience as equivalent experience in lieu of the statutorily required two years' experience as a licensed salesperson.

Should DRE receive such a request, it would be reviewed in accordance with the applicable statutes and regulations, and if deemed acceptable, the education and/or experience would be applied towards licensing requirements, and this information would be tracked in our database.

**Current Response:** DRE has not received any exam applications where the applicant specifically requested to receive credit for military education, training, or experience as equivalent experience for either statutory/pre-license courses for salesperson/broker license requirements or in lieu of the statutorily required two years' experience as a licensed salesperson for the broker license requirements.

Should DRE receive such a request, it would be reviewed in accordance with the applicable statutes and regulations, and if deemed acceptable, the education and/or experience would be applied towards licensing requirements, and this information would be tracked in DRE's database. No additional resources would be required to



track military education and experience. There would be no specific benefit to this oversight given the review is case-by-case.

**Issue #10: (CONSUMER RECOVERY) What is the status of efforts to ensure consumers are compensated?**

**Background:** Since 1964, DRE has administered the Consumer Recovery Account (CRA) that compensates consumers for some or all of their monetary losses resulting from a real estate licensee's fraud, misrepresentation, or deceit made with the intent to defraud or convert trust funds. Prior to receiving compensation and pursuant to Bus. & Prof. Code section 10470 et seq., a consumer must submit an application for payment that includes a civil judgment or criminal restitution order; the judgment or order must be based on a finding of intentional fraud or conversion of trust funds; the underlying fraud or conversion was conducted in connection with a transaction requiring a real estate license; and the consumer must have undertaken reasonable efforts to enforce the judgment or order and collect from all other parties involved in the underlying transaction. DRE will pay the consumer's actual and direct loss, up to a statutory maximum of \$50,000 per transaction, with a possible total aggregate maximum of \$250,000 per licensee. For claims paid out of the Recovery Account, DRE automatically suspends the license of the licensee associated with that claim. The suspension remains in effect until such time as the licensee reimburses the Recovery Account the amount paid out in full.

Since FY 2015/2016, DRE has received 372 claims (or an average of 93 claims per fiscal year), paid out \$10,060,411 (or an average of \$2,515,102 per fiscal year), and denied 229 claims (or an average of 57 claims per fiscal year).

While the CRA continues to meet its statutory purpose of serving as a fund of last resort for victims of real estate fraud, the CRA remains out of reach for some consumers. One prerequisite to receiving payment from the account is that the consumer must obtain a civil judgment or criminal restitution order that includes a finding of intentional fraud or conversion of trust funds. With respect to civil judgments, some consumers may not wish to expend additional money to retain an attorney to file a lawsuit, prosecute the action, and obtain a judgment if the consumer's monetary loss is substantially equal to or less than the anticipated legal fees for that attorney. For instance, a consumer may not wish to spend \$20,000 or more to retain an attorney when they sustained a \$20,000 loss due to the licensee's fraudulent activities. While the consumer can proceed in propria persona (i.e., representing themselves), the consumer may face procedural or substantive obstacles to obtaining a judgment due to their lack of familiarity with the legal process. A consumer also may proceed via Small Claims Court but the monetary damages that they can recover are capped at \$10,000, which can be less than satisfactory for the consumer if their losses exceed the statutory limit.

**Committee Recommendation:** DRE should provide an update on the CRA, including suggestions for enhancing opportunities for consumers to access monies when appropriate.

**2020 Response:** The Consumer Recovery Account (CRA) was established by the Legislature in 1964 as a fund of last resort for victims of real estate fraud perpetrated by real estate licensees. The fund continues to be a valuable resource for victims of real estate fraud. Provided consumers satisfy the statutory prerequisites to recovery, consumers may recover up to \$50,000 per transaction or \$250,000 for multiple transactions against a single licensee.

Despite these limits, some consumers are not made whole because their actual and direct losses are more than the statutory limits. For instance, consumers who are victims of real estate fraud arising from or related to real estate purchase transactions often experience larger losses (especially given California's real estate prices) than victims of real estate fraud arising from or related to property management activities.

The requirements for eligibility to recover from the fund are set by statute. While the Legislature may choose to amend these requirements to improve access, any change may adversely affect the recovery fund by allowing unvetted claims, which would open the door to abuses. The statutory requirements were intended to assure: a) proof of actual harm to the victim, b) that the act was perpetrated by a licensee, and c) the type of act constitutes actual fraud. Any changes to the statutory requirements for eligibility should require robust stakeholder engagement to ensure a balanced solution.

**Current Response:** In 2019, the appellate court in *Demoff v. Bell, et al.* found that DRE violated a licensee's due process rights when it suspended the licensee's real estate license automatically following payment from the CRA pursuant to B&P Code Section 10475. This section requires the Commissioner to automatically suspend the licensee's real estate license when the Commissioner approves a CRA payment due to the fraudulent actions of a licensee. The standard of proof in civil fraud actions is preponderance of the evidence unless there is a special finding supporting an award of punitive damages, resulting in the suspensions largely being based upon a preponderance of the evidence standard.

The *Demoff* decision has impacted DRE's processing and approval of CRA applications, delaying or denying relief to consumers. Due to *Demoff*, the Commissioner must apply the clear and convincing evidence standard of proof to issue funds because it is attached to the standard required for suspending a license. This results in some consumers not receiving payment from the CRA whereas they would have before the *Demoff* decision.

In the New Issues section of this sunset review report, DRE proposes statutory changes that could address the implementation challenges stemming from *Demoff v. Bell, et al.* Changes would allow a victim of real estate fraud to seek payment from the account by meeting the preponderance of the evidence standard, as historically allowed. It would also cease automatic license suspensions when DRE issues CRA payments. Rather, license suspensions related to the CRA would be evaluated separately and based upon a clear and convincing evidence standard. It would also make technical changes to clarify when the licensee's fraud is conclusively proven in subsequent civil litigation.

**Issue #11: (CE STANDARDS) Does DRE have consistent standards for CE and CE audits to ensure parity in the audits licensees may undergo?**

**Background:** The DRE conducts CE audits for various reasons. Continuing education audits are conducted by DRE's Enforcement investigators, or by Education Section staff. Audits are conducted to determine if all of laws are being followed and to determine if the licensee has completed the required continuing education. Licensees found to be in violation may have disciplinary action taken against their license, including a citation and notice to comply with the audit.

DRE conducts a routine sampling of the CE course verifications submitted by licensees. Over the past four fiscal years, DRE completed 1,460 audits of licensee CE records for those licensees who renewed using the eLicensing system during the previous four years. This audit resulted in 48 licensees failing to submit requested documents or 3% of the total audit population. The remaining 97% had no errors.

However, licensees have reported potential inconsistencies in the enforcement of CE violations. It would be helpful to understand what standards there are for staff undertaking audits and standards for the outcome of this work, including violations.

**Committee Recommendation:** DRE should provide an update on CE audit standards and process. Does DRE have consistent standards that are consistently applied? If so, what concerns, if any, have been raised to DRE about the process of auditing and evaluation? If not, should DRE develop consistent standards that are consistently applied for auditing situations?

**2020 Response:** DRE, at California Code of Regulations section 3012.2, requires all DRE-approved continuing education course providers to keep records of their students for five years for the purpose of certificate reproduction.

DRE has implemented an automated quality control process where each day a licensee who has renewed is randomly selected for a CE audit. That licensee is sent an audit letter requesting that they submit their course completion certificates from the course provider(s) to DRE for review.

Upon receipt, DRE validates the course information with internal records. Should the licensee fail to comply with the audit request, the licensee is subject to a citation/fine or disciplinary action. Given the high compliance rate, it does not appear that there is a need to modify our current procedures.

**Current Response:** There have been no substantive changes in the continuing education procedures since the previous sunset review. Over the past four fiscal years, DRE completed 1,460 audits of licensee CE records for those licensees who renewed using the eLicensing system during the previous four years. This audit resulted in 48 licensees failing to submit requested documents or 3% of the total audit population. The remaining 97% had no errors.

**Issue #12: (PREPAREDNESS FOR MARKET SWINGS) What do DRE's enforcement statistics demonstrate about the nature of the market and DRE's enforcement efforts? Is the Department adequately prepared to handle the potential uptick in illicit activities if the cyclical real estate market is to downturn in the future?**

**Background:** DRE will always be impacted by cyclical fluctuations of the real estate market, because market cycles of "boom" and "bust" place alternating demands on DRE's Enforcement Program. A hot real estate market, as in the mid-2000s, may generate a huge influx of license applicants requiring background reviews. Market downturns, exemplified by the 2008 mortgage "meltdown," increases the number of unlicensed persons conducting mortgage loan originations, mortgage fraud, and ultimately an increase of foreclosure rescue and loan modification services fraud.

Statistics reported in 2019 show a decrease in disciplinary action since the last sunset review, in part because the volume of consumer complaints has a direct correlation to market conditions. When the real estate market is improving, the number of consumer complaints tends to decrease. As Enforcement caseloads returned to manageable levels following the last decade's market crash, DRE was able to once again be more proactive on enforcement efforts. DRE now conducts more routine broker office surveys and audits of real estate brokers and visits to more real estate offices.

In the past, the real estate market has experienced an uptick in illicit activities if the cyclical real estate market downturns in the future. In the Fall of 2020, the Department shared that, generally speaking, complaints decrease when the market is good but increase when the market turns.

**Committee Recommendation:** DRE should continue to update the Committees on its enforcement statistics and DRE's responses to those statistics. DRE should also inform the Committees of how it will respond when the real estate market experiences a downturn in the future. How will it respond to a likely uptick in illicit activities? What additional resources might DRE need to face this future?

**2020 Response:** Statistical data about the Enforcement program may be found in the Sunset Review Report, commencing on page 39. The following chart represents the types of cases investigated by the Enforcement program by year.

In anticipation of a potential market downturn, DRE is focusing efforts on training staff on real estate and mortgage fraud, reinforcing relationships with criminal and administrative law enforcement partners, and proactive outreach, broker office surveys, and investigations.

When the real estate market experiences a downturn, it is usually followed by an uptick in illicit activities. DRE responds by shifting resources to focus on the increase of consumer complaints cases. DRE will continue to work with criminal and administrative law

enforcement partners to pursue criminal and other administrative actions where appropriate and will also target outreach related to the specific illicit activities to ensure consumers are aware of issues, frauds, and scams.

DRE does not anticipate needing additional resources at this time, as we consistently meet our performance goals.

**Current Response:** Statistical data about the Enforcement program can be found in Table 9. With the volatile nature of the real estate market, DRE is not sure whether it will need additional staffing resources at this time. However, any substantive increase in complaints received will increase special investigator caseloads and lengthen processing times. DRE will shift internal resources to focus on the increase of consumer complaints. DRE will increase work with criminal and administrative law enforcement agencies to pursue criminal and other administrative actions where appropriate. Finally, DRE will increase communication outreach related to the specific illicit activities to increase consumers awareness of issues, frauds, and scams. As data and statistics are tracked and additional resources are needed, DRE will utilize the Budget Change Proposal process to request additional resources.

**Issue #13: (AB 2138) How have the amendments to DRE regulations, specifically in Sections 2911, 2912, and 2915, impacted DRE and applicants for licensing? What data is available after the passage of AB 2138 in 2018?**

**Background:** In 2018, Assembly Bill 2138 (Chiu/Low, Chapter 995, Statutes of 2018) was signed into law, making substantial reforms to the license application process for individuals with criminal records. Under AB 2138, an application may only be denied based on prior misconduct if the applicant was formally convicted of a substantially related crime or was subject to formal discipline by a licensing department. Further, prior conviction and discipline histories are ineligible for disqualification of applications after seven years, with the exception of serious and registerable felonies, as well as financial crimes for certain departments. Among other provisions, the bill additionally requires each department to report data on license denials, publish its criteria on determining if a prior offense is substantially related to licensure, and provide denied applicants with information about how to appeal the decision and how to request a copy of their conviction history. These provisions are scheduled to go into effect on July 1, 2020.

Because AB 2138 significantly modifies current practice for departments in their review of applications for licensure, it was presumed that its implementation would require changes to current regulations for every department impacted by the bill. Currently, the Department is in the process of finalizing its regulations to revise its denial criteria to incorporate the changes from the bill. It is also likely that the Department may identify potential changes to the law that it believes may be advisable to better enable it to protect consumers from license applicants who pose a substantial risk to the public. AB 2138 went into effect on July 1, 2020.

**Committee Recommendation:** DRE should inform the Committees of the impact of changes in regulations (i.e., the criteria for rehabilitation and 10-year-old discipline information removed from a website) and AB 2138. What, if anything, has DRE noticed

after changes to its regulations? What does the data from the time the bill was enacted show about license denials? Is DRE in compliance with AB 2138 now that the July 1, 2020 deadline has passed?

**2020 Response:** In 2016, the Legislature passed and the Governor signed AB 2330 (Ridley-Thomas, Chapter 614, Statutes of 2016), which authorized DRE to remove a licensee's disciplinary history from its website. DRE promulgated regulations, adding section 2915 to the Regulations of the Real Estate Commissioner, to implement the statutory program for licensees to petition for removal of 10-year-old or older discipline information from the Department's website.

To date, DRE has received 139 petitions from licensees to remove dated disciplinary information from its website and granted 56 of these petitions.

With respect to AB 2138 (Chiu, Chapter 995, Statutes of 2018), DRE is not in a position to address the impacts to license applications and denials at this time. DRE is preparing to submit to OAL a regulations package to amend section 2910, which sets out DRE's Criteria for Substantial Relationship, and to adopt section 2910.5, in order to define "financial crime." The package implements changes in the B&P Code resulting from AB 2138.

Although DRE is collecting data as required by AB 2138, only five months have passed since this statute took effect and any analysis of the collected data would be premature and inconclusive.

**Current Response:** In 2021, DRE amended section 2910 and adopted 2910.5 of its regulations for substantial relationship criteria and rehabilitation criteria for crimes, professional misconduct, or acts considered substantially related to the qualifications, functions, or duties of a licensee. Promulgation of these changes brought DRE into compliance with the requirements of AB 2138.

Since that time, DRE has seen a notable decrease in the denial of applications with the implementation of AB 2138.

License Application Denials								
Fiscal Year	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
License Applications Denied	201	229	202	65	60	40	66	103
License Applications Approved	29,122	28,121	28,267	21,307	25,806	35,250	26,698	25,069

\* Data includes both initial salesperson and broker license applications.



**Issue #14: (AB 2330) How has AB 2330, passed after the most recent sunset review, impacted DRE in its processes?**

**Background:** A number of laws have impacted DRE since the last sunset review. AB 1650 (Frazier, Chapter 142, Statutes of 2016) revised the disclosure requirements for real estate licensees when advertising licensee services. AB 1807 (Bonta, Chapter 558, Statutes of 2016) required DRE to establish a petition process to allow licensees to request that DRE remove old license discipline information from DRE's website. AB 2884 (Irwin, Chapter 285, Statutes of 2018) made a number of technical amendments updating the Real Estate Law.

**Additionally, language that originated in AB 1807 and was joined to AB 2330 (Ridley-Thomas, Chapter 614, Statutes of 2016) required the Real Estate Commissioner to establish a petition process to remove license discipline information from CalBRE's (now DRE's) website after a successful petition by a disciplined licensee. The Commissioner may grant the petition upon the licensee showing that the subject discipline is 10 years or older, the licensee has been rehabilitated and no longer poses a consumer risk, and the licensee tenders a fee sufficient to defray the cost of an investigation associated with the petition.**

**In addition, language that originated in AB 2330 required reporting and tracking of broker associates: those brokers who contract to act as salespersons for another broker, who becomes the "responsible broker." Responsible brokers and broker associates will be required to notify CalBRE upon entering or ending such contracts, and CalBRE will track these relationships.**

DRE began processing of petitions for removal of discipline from DRE's website on March 7, 2019, following final approval of Commissioner's Regulation 2915. As of September 30, 2019, DRE has received 59 petitions for removal of discipline, some of which are near the point of decision as to whether removal will be approved or denied. As of October 2018, the Department has developed an online capability through eLicensing (accessed via DRE website) through which responsible brokers and brokers who enter into the employ of a responsible broker can notify the Department of this arrangement.

**Committee Recommendation:** DRE should inform the Committees of the impact of the above-mentioned legislation. What changes has DRE implemented in terms of disclosure requirements, petition processes, or other technical fixes in response? At this point, does DRE believe it has met the requirements of AB 2330?

**2020 Response:** DRE implemented the requirements of AB 1650 (Frazier, Chapter 142, Statutes 2016) by updating Regulation 2773, updating industry guidance forms, publishing a Real Estate Advertising Guideline, and performing outreach to industry.

DRE also successfully implemented the required reporting and tracking of broker associates as required by AB 2330 (Ridley-Thomas, Chapter 614, Statutes of 2016). More specifically, DRE issued an Advisory in 2016 informing licensees of these new licensing



requirements taking effect on January 1, 2018, as well as posted answers to Frequently Asked Questions (FAQ) on its website.

DRE also created a new form titled, "Broker-Associate Affiliation Notification" (Form RE 215), enhanced eLicensing to allow for broker-associate reporting to be completed online, and updated online license information so that broker-associates affiliating their license with other brokers is viewable on DRE's online Public License Information page.

In addition, DRE's Enforcement program instituted several changes to implement AB 2330 and AB 1807 (Bonta, Chapter 558, Statutes of 2016), including the following:

- Creation of a Petition Application form, (RE 506R) for those petitioning for removal of discipline information from the DRE website.
- Establishment of a process for intake and review of the petitions for removal of discipline information. This process may be combined for efficiency purposes for those who may also be petitioning for removal of restriction from a restricted license or reinstatement of a plenary license.
- Establishment of a process for removing disciplinary action from the DRE website. As noted in Issue #13, to date, DRE has received 139 petitions from licensees to remove dated disciplinary information from its website and granted 56 of these petitions.
- Creation and maintenance of a list of those whose petitions for discipline information removal have been granted and provides this list to other licensing entities upon request.

**Current Response:** DRE has met the requirements of AB 2330 (Ridley-Thomas, Chapter 614, Statutes of 2016) and AB 1807, which was tied to AB 2330. DRE updated Commissioner's Regulation 2773 regarding disclosures in solicitation materials, updated industry guidance forms, published a Real Estate Advertising Guidelines, and performed outreach to industry.

Regarding petitions, DRE has established a process for intake, review, and processing applications for removal of disciplinary action from the website. To date, DRE has received 271 petitions from licensees to remove dated disciplinary action from its website and granted 260 of those petitions.

DRE also successfully implemented the required reporting and tracking of broker associates as required by AB 2330. Tracking broker associates has been an effective tool for consumers and licensees to allow for full disclosure of where a broker may be affiliated with another broker, as that information was not readily visible on a person's online license lookup previously.

**Issue #15: (STATUTE OF LIMITATIONS) Has DRE identified any problems with its current Statute of Limitations for completing cases?**

**Background:** Although DRE has no statutory mandate as to the length of time in which to complete a complaint investigation, processing performance goals have been adopted to ensure timely and thorough complaint investigations. Moreover, DRE does work within the confines of the BPC § 10101 statute of limitations on all cases that are assigned for investigation: an action shall be filed not later than three years from the occurrence of the alleged grounds for disciplinary action, unless the acts or omissions with which the licensee is charged involves fraud, misrepresentation, or a false promise. In such cases of dishonesty, the accusation shall be filed within one year after the date of discovery by the aggrieved party of the fraud, misrepresentation, or false promise or within three years after the occurrence thereof, whichever is later, except that in no case shall an accusation be filed later than 10 years from the occurrence of the alleged grounds for disciplinary action.

**Committee Recommendation:** DRE should inform the Committees of any issues it might have had with completing a complaint investigation. Do existing regulations provide enough time to process complaints? Is DRE still able to follow existing BPC § 10101 for all of its cases? If not, why, and what changes should be made?

**2020 Response:** DRE has not been precluded from taking license discipline against a licensee because of statute of limitations issues.

**Current Response:** DRE does not have statistical information on the number of cases that have been lost due to the statute of limitations. However, the Enforcement Division strives to complete cases within a one-year period.

**Issue #16: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF THE ACTS ADMINISTERED BY BSIS AND DEPARTMENT OPERATIONS) Should DRE take amendments to the various practice acts that are technical in nature but may improve Department operations and the enforcement of those laws?**

**Background:** In any practice act, there are technicalities that need to be changed. Because BRE became DRE in 2018, it is appropriate to look at the practice act again for any changes that need to be made to help the Department.

**Committee Recommendation:** DRE should inform the Committees of any outstanding technical issues. The Committees may wish to amend the various acts to include technical clarifications.

**2020 Response:** DRE has requested to convert all remaining references to the Bureau of Real Estate within the Real Estate Law and Subdivided Lands Law, consistent with the re-establishment of DRE by SB 173 (Dodd, Chapter 828, Statutes of 2017). DRE has identified 78 such references in 31 statutory sections of the laws that DRE enforces.

**Current Response:** SB 800 extended the sunset for DRE and the Bureau of Real Estate Appraisers. The measure also allowed DRE to use bar notices issued by sister agencies as grounds for action, codified current expedited licenses for veterans and partners of members of the Armed Forces, and clarified the definition of real estate license in good standing. Additionally, the bill addressed the outstanding issue identified in the previous sunset report regarding the need to convert all remaining references to the Bureau of Real Estate to the Department of Real Estate within the Real Estate Law, Subdivided Lands Law, and Vacation Ownership and Timeshare Act of 2004, consistent with the re-establishment of DRE by SB 173.

The New Issues section of this report includes technical issues with Real Estate Law that could be addressed going forward.

**Issue #17: (WHAT EFFECT HAS THE COVID-19 PANDEMIC HAD ON DRE?) What is the Department doing to address COVID-19 related issues?**

**Background:** COVID-19 dramatically changed the way people live, work, and interact in the world. For safety reasons, DRE reduced the number of applicant exam sites in the early part of the year. It then increased the number of exam sites in the latter half of the year to offer more exams for licensing applicants. Additionally, DRE implemented an emergency telework policy. As of early November 2020, DRE has 87% of its staff working remotely. Finally, DRE is accepting and using more electronic documents and signatures to support their licensees during this time.

Additionally, the Governor has issued a series of waivers to assist professions during the COVID-19 pandemic. Most recently, Governor Newsom issued an Executive Order on October 28, 2020, extending an existing Executive Order that extends the deadlines for the payment of real estate license application and renewal fees and continuing education requirements for licensees.

**Committee Recommendation:** DRE should update the Committees on its efforts to continue to provide licensing exams for its applicants, provide staff with proper electronic equipment to promote remote working environments, and support its licensees. Staff also asks that the Department provide updates on any additional problems that may arise due to COVID-19, such as inability to fill vacant staff positions, budgetary issues, etc. Finally, DRE should assess its ability to provide virtual or mobile opportunities for its licensees, from licensing and application requirements to whether a brokerage should be permitted to operate fully online in California moving forward.

**2020 Response:** Since DRE is a public facing entity, our response to the COVID-19 pandemic is vitally important for our customers. DRE has not experienced difficulties in filling vacancies during COVID-19. Currently, 87 percent of DRE staff are on a telework schedule. DRE has not had difficulties in filling vacant positions and has not experienced budget issues due to the pandemic.

When the shelter-in-place order was issued in March 2020, DRE assessed ways it could continue to offer services to the public and fulfill its consumer protection mandate.

Although DRE initially closed all offices to the public, including examination centers, these were later re-opened based upon local public health orders once staff received personal protective equipment (PPE) and new safety protocols were put into place. DRE is exploring ways to expand licensing examinations into other geographic areas.

DRE's eLicensing system offers an online platform that, among other things, allows for applicant/license change transactions, license renewals, and the printing of real estate license certificates, all easily completed on DRE's website. User-friendly features include a customized selection menu of eLicensing options specific to the conditions of each license, automated fee payment and processing options, status tracking of online transactions, and email confirmations. After the successful completion of an eLicensing transaction, the license record is updated in real-time and available for viewing on DRE's website immediately. To enhance our services due to the pandemic, DRE has expedited development of the next phase of services available from the system. It is anticipated that on-line exam/license applications will be available in 2021.

DRE always has required original signatures on all submitted documents. However, due to the pandemic, DRE made the policy decision, consistent with governing statutes, to allow the submittal of forms using electronic signatures. Moving forward, DRE will continue to allow electronic signatures on documents.

With respect to allowing a brokerage to operate fully online, the real estate law currently requires a brokerage to maintain a definite place of business in California. This is important to facilitate the service of subpoenas and facilitate investigations and reviews of records. Although there is no statute in the Real Estate Law that specifically prohibits "virtual brokerages" in California, licensees who engage in such a business model when offering real estate services should be aware they must make sure they continue to comply with all the applicable real estate laws and regulations.

### **Current Response:**

#### Teleworking Policy

In March 2020, as the state implemented stay-at-home orders to curb the spread of COVID-19, DRE quickly adapted to remote work arrangements. The shift was facilitated by the rapid adoption of digital communication tools like Microsoft Teams, virtual desktops, and new electronic procedures that enabled increased collaboration and productivity from home.

DRE has updated telework policies and procedures to ensure employees are able to continue to work in a true hybrid environment that combines in-office and remote work. Currently, staff are required to be in the office two days per week to ensure effective collaboration can occur.

#### Licensing During the Pandemic

During the early stages of the pandemic, DRE initially closed all offices to the public, including examination centers. These were later re-opened based upon local public

health orders and once staff received personal protective equipment (PPE) and new safety protocols were put into place.

In fiscal year (FY) 2019-20, DRE's licensing program was severely hampered by the COVID-19 pandemic. DRE's five exam centers (Sacramento, Oakland, Fresno, La Palma, and San Diego) were closed from mid-March through May. The closures directly led to a reduction in the number of exams administered and licenses issued. When exam centers re-opened in June, DRE implemented a number of health and safety procedures. These included social distancing and face covering requirements and disinfecting the exam centers and test stations after every test administered. Also, the capacity in each exam center was cut by one-half. To offset the number of tests that could be given at one time, DRE began offering Saturday exams in both Sacramento and La Palma (Orange County).

DRE also deployed an "auxiliary" exam center in its Sacramento conference room utilizing existing equipment which included an additional 23 examinee workstations and resulted in over 3,600 additional exams being administered between February 2021 - July 2021. In 2021, DRE began utilizing exam proctoring services through a third party to assist with the administration of licensing exams. Using exam proctors has been an effective method of enhancing the services associated with administering exams. Upon contracting with the third-party vendor, exam administration services significantly improved, resulting in the administration of additional exam sessions including evenings and weekends at the three largest exam center locations in Sacramento, La Palma, and San Diego.

These steps, along with other efforts to fill exam seats, enabled DRE to administer more exams after the closure than before.

#### Virtual Brokerages

With respect to allowing a brokerage to operate fully online, there has been no such change to the law. The Real Estate Law requires a brokerage to maintain a definite place of business in California. This is important to facilitate the service of subpoenas and facilitate investigations and reviews of records. Adequate broker supervision is of paramount importance in the protection of consumers. The Department works with brokers to ensure that, as businesses shift more services into the virtual space, robust policies and procedures for continued broker supervision are in place.

#### **Issue #18: (SHOULD THE DEPARTMENT BE CONTINUED?) Should the licensing and regulation of salespersons and brokers be continued and regulated by the Department?**

**Background:** The welfare of consumers is best protected when there is a well-regulated real estate profession. Although DRE faces a number of challenges, it should be continued with the recommendation for further review by the Committees in four years.

**Committee Recommendation:** Staff recommends that the Department's operations and Real Estate Law, the Subdivided Lands Act, and the Vacation Ownership and Time-share Act be reviewed again in four years by the respective Committees of the Senate and

Assembly. Staff also recommends that salespersons, brokers, mortgage loan originators, and prepaid rental listing services, and the Subdivided Lands Act and the Vacation Ownership and Time-share Act of 2004 continue to be regulated by the Department in order to protect the interests of licensees and the public.

**2020 Response:** The Department appreciates the committee's support.

**Current Response:** DRE continues to safeguard and promote the public interests in real estate matters through licensure, regulation, education and enforcement. DRE looks forward to working with the Committees during the sunset review process to address ways to improve DRE's continued regulation of the real estate industry.

## Section 10 – New Issues

### 1. **Conditional Licenses**

Prior to October 1, 2007, applicants for a real estate salesperson license could seek to obtain a conditional license. A conditional license enabled such applicants to be licensed prior to completing all necessary education for the salesperson license. Conditional licensees were granted an 18-month window at the beginning of their first, four-year license term to complete the required education. If a licensee did not complete the education requirement within that 18-month window, statute required that the conditional license be suspended until further conditions were met.

The statute lacked language authorizing the eventual expiration of such “conditional suspended” licenses after any period of time. This created the situation where the suspension remains indefinitely in DRE's records, which are available to the public via DRE's online licensee database.

AB 2429 (Negrete McLeod, Chapter 278, Statutes of 2006) sunset the conditional licensing program as of October 1, 2007. However, while AB 2429 eliminated the continuation of the program, the bill did not directly repeal the conditional license statutes or delete other statutory references to those statutes. This resulted in an obsolete reference to the conditional license program remaining in statute. DRE's records reflect that 100,176 licenses issued from 1985 to 2007 remain on “conditional suspended” status.

#### **Department Solution:**

DRE proposes removing from the Real Estate Law sections pertaining to conditional licenses. This would enable DRE to update its database, changing the status of licenses marked as “conditional suspended” to “expired.” Updating these records would ensure that the publicly available status of “conditional suspended” licensees would more accurately be displayed as “expired” on DRE's website, avoiding the misleading impression that such individuals were “suspended” due to an enforcement action taken against them by DRE.



## **2. Fingerprint-based Background Check Authority for License Applicants**

B&P Code Section 10152 requires every original applicant for a real estate license to be fingerprinted prior to being issued a real estate license, and that the fingerprints may be submitted either with the application to take the license examination or with the application for a real estate license. Section 10152 also provides that the Commissioner shall require petitioners for reinstatement of their licenses, or a reduction of a penalty, pursuant to Government Code Section 11522, to submit fingerprints with the petition application. Statute also requires the submission of fingerprints for original applicants for a prepaid rental listing service license (Section 10167.4).

The Real Estate Law is silent as to authorizing the California Department of Justice (DOJ) to provide fingerprint history response information, including Federal Bureau of Investigation (FBI) response information, to DRE for applicants and those petitioning for license reinstatement or penalty reduction. Federal Public Law 92-544 outlines the criteria the FBI requires in state statutes to access federal criminal background check information. B&P Code Section 10177 is the one the FBI currently has on file granting DRE access to federal fingerprint-based background checks. This code section does not include the required elements outlined in Public Law 92-544 and, as such, DRE's authorizing statute should be updated.

### **Department Solution:**

DRE recommends that language be added to B&P Code Section 10152 and 10167.4 specifying that the DOJ shall provide a state and federal level response to DRE, pursuant to California Penal Code Section 11105, for real estate license applicants, those persons petitioning for reinstatement of their licenses or a reduction of a penalty, and prepaid rental listing service license applicants. Language should also meet the requirements of federal Public Law 92-544 which outlines the criteria the FBI requires in state statutes to access criminal background check information.

## **3. Employee Federal Fingerprint-Based Background Check Authority**

In December of 2022, DRE was informed by the DOJ, in conjunction with the FBI, that the statutory authority used to process fingerprint-based background checks for state employees (Government Code Section 19572) no longer qualified for access to federal criminal history information pursuant to Public Law 92-544.

DRE, along with many other state departments, sought legislation to resolve this issue. Chapter 198, Statutes of 2023 contained language to align DRE's statutory authority with Public Law 92-544. This law granted DRE authority to submit fingerprint images to the DOJ for employees, prospective employees, contractors, subcontractors, and volunteers whose duties include access to criminal offender record information.

Unfortunately, a drafting error was included in this measure requiring the contractor "to agree to perform criminal background checks on its employees and subcontractors". The language should have instead only required the contractor to agree to criminal background checks, not agree to perform them.



DRE has recently been informed by the DOJ and FBI that this statute, B&P Code Section 10073.5, does not comply with Public Law 92-544 because it authorizes private entities (contractors) to conduct criminal history background checks on its employees and subcontractors. It was also communicated to DRE that there may be concerns regarding the term "would include" in Section 10073.5(a).

DRE seeks to resolve these concerns and bring B&P Code Section 10073.5 into compliance with Public Law 92-544.

**Department Solution:**

DRE proposes amending B&P Code Section 10073.5 to remove the ambiguous term "would include" from subdivision (a) and to strike the word "perform" which leads to the interpretation that a contractor would perform background checks on its employees and subcontractors. This should bring the code section into compliance with Public Law 92-544, ensuring DRE maintains access to federal fingerprint-based criminal background checks for employees, prospective employees, and contractors. DRE is working with DOJ to gain approval of this language. As DRE deals with sensitive criminal offender record information, it is of the utmost importance that those who have access to this sensitive data are appropriately vetted.

**4. Cross Reference to Statute Outlining Portability of Licensure for Active-Duty Military and Military Spouses**

In 2023, SB 143 (Chapter 196, Statutes of 2023) was signed into law to allow the Department of Consumer Affairs (DCA) and DRE to better implement new federal legislation regarding the portability of licenses for active-duty military and their spouses. The language was included in Section 115.10 of the Business and Professions Code, which is a section of statute that governs DCA's requirements regarding current and former members of the armed services and their spouses. DRE has its own specific area of statute that includes the unique requirements that it must follow in regards to this population (B&P Code Sections 10151.2 and 10151.3).

While the effect of the law is the same, the placement of the new language outside DRE's existing military licensure statutes makes it challenging for persons reading real estate statutes to locate this additional benefit.

**Department Solution:**

DRE proposes adding a cross-reference to the statute created by SB 143 in the military-focused section of the Real Estate Law. This addition will ensure that consumers, advocates, employees, and others can easily find all benefits for members of the armed forces and their families consolidated in one section of the Real Estate Law.

**5. Evidentiary Standards for Consumer Recover Account Claims**

DRE administers the Consumer Recovery Account (CRA), a fund that provides limited compensation to consumers defrauded by real estate licensees unable to pay judgments. Before filing an application with DRE for CRA payment, consumers must first obtain a final judgment or criminal restitution order against the licensee. The

Commissioner determines if the criteria set by statute for payment are satisfied and issues a written decision granting or denying each application. Since 1964, the Commissioner has paid over \$65 million to victims of real estate fraud.

In 2019, the appellate court in *Demoff v. Bell, et al.* found that DRE violated a licensee's due process rights when it suspended the licensee's real estate license automatically following payment from the CRA pursuant to Business & Professions Code Section 10475. This section requires the Commissioner to automatically suspend the licensee's real estate license when the Commissioner approves a CRA payment due to the fraudulent actions of a licensee. The standard of proof in civil fraud actions is preponderance of the evidence, unless there is a special finding supporting an award of punitive damages, resulting in the suspensions largely being based upon a preponderance of the evidence standard.

Although the court in *Demoff* had no constitutional concerns with the CRA statutes or DRE's procedures for processing CRA applications, the court held that the Legislature cannot constitutionally authorize the imposition of professional discipline for fraud (i.e. suspension of a real estate license in CRA proceedings) when the consumer established fraud in the civil matter only by the preponderance of the evidence burden of proof. The Commissioner may only suspend a license if the applicant proved the licensee's fraud by clear and convincing evidence (a comparatively higher evidentiary standard). This is consistent with due process requirements for professional license suspensions.

The *Demoff* decision has impacted DRE's processing and approval of CRA applications, delaying or denying relief to consumers. Due to *Demoff*, the Commissioner must apply the clear and convincing evidence standard of proof to issue funds because it is attached to the standard required for suspending a license. This results in some consumers not receiving payment from the CRA whereas they would have before the *Demoff* decision.

DRE must undertake a greater fact-intensive review of CRA applications and supporting documentation under this higher evidentiary standard. Until *Demoff*, DRE's policy was to grant payment based upon a judgment if the underlying complaint alleged the licensee's fraud and the applicant's detailed narrative statement of facts did not contradict the civil complaint. Since *Demoff*, the Department must request and weigh additional documentary evidence from CRA applicants and licensees. Only a very small percentage of judgments are rendered by a court trial where the burden of proof was higher than a preponderance of the evidence. Also, many CRA applicants never received transaction documents from their agent or are unable to locate the transaction documents. Without sufficient documentary evidence, applicants are unable to meet the higher evidentiary standard and no longer qualify for payment from the CRA. This undermines the very purpose for the CRA and its consumer protection function.

The *Demoff* decision also imposes the additional burden on the consumer to prove fraud by clear and convincing evidence, which affects their ability to recover from the harm perpetrated by a licensee. The *Demoff* ruling requires most consumers to take additional

steps before the end of their civil trials to secure findings regarding the fraud claim, which is inconsistent with the CRA's purpose to protect consumers and afford them the ability to collect on their unpaid judgments.

The appellate court in *Demoff* recognized in its decision that its ruling may place additional burdens on CRA applicants, but noted it was up to the Legislature to decide if the CRA statutes should be changed to permit payment using a preponderance of the evidence burden of proof.<sup>2</sup>

Should the Legislature concur with DRE's recommendation and create different evidentiary standards for payment and suspensions, other elements of the law surrounding the CRA would need conforming changes. One such change would be to clarify that findings of fraud meeting the applicable evidentiary standard are conclusive for subsequent proceedings involving the same parties and facts. . This lack of clarity exists in instances where the consumer appeals a payment denial from the CRA by DRE and the consumer then refiles their case (known as an application) in court. It also occurs when a licensee appeals a license suspension related to a CRA payment and subsequently files a writ of mandamus (called a writ) in court. If statute is not changed, it leaves the door open to additional litigation regarding matters that previously were settled.

#### **Department Recommendation:**

DRE recommends amending three provisions related to the CRA to permit CRA payment without suspending the licensee's real estate license, and separately to suspend the license using a clear and convincing evidence burden of proof, as summarized below.

- CRA Payments: Maintain the lower preponderance of the evidence standard for issuing payments, consistent with the CRA's remedial nature.
- License Suspension: Require the higher clear and convincing evidence standard, reflecting the disciplinary consequences.

This would align the CRA's dual purposes with their respective evidentiary thresholds, ensuring victims can receive timely compensation without unduly burdening their claims with a heightened standard meant for disciplinary actions.

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<sup>2</sup> "Because the standard of proof in a civil fraud action is preponderance of the evidence (unless there is a special finding supporting an award of punitive damages) we recognize our ruling may require some victims to take additional steps before the end of their civil trials or arbitration proceedings to secure special findings regarding the fraud/misrepresentation claims. We do not believe this additional burden should be required to receive payment from the CRA. However, it is up to the Legislature to decide if the statute should be changed to permit payment using a preponderance of the evidence burden of proof, but revoke the license using a clear and convincing evidence burden of proof." (*Demoff v. Bel, et al.*, 2019 Cal. App. Unpub. LEXIS 7794)

<https://casetext.com/case/demoff-v-bell>

DRE also proposes that the statute be clarified so that in CRA-related cases, if clear and convincing evidence was used as the evidentiary standard to originally determine that fraud occurred on the part of a licensee, it cannot be contested and is legally “conclusive” in further actions. This would apply to both suspensions and payments. If preponderance of the evidence was used, then the licensee’s fraud would not be considered conclusive, and the consumer would have the right to prove it again in subsequent superior court actions.

Without statutory changes, consumers will continue to have more limited access to financial support from the CRA in the aftermath of real estate related fraud. This hurts consumers who have already been victimized.

## Section 11 – Attachments

Please provide the following attachments:

- A. Department's administrative manual.
- B. Current organizational chart showing relationship of committees to the Department and membership of each committee (cf., Section 1, Question 1) - N/A.
- C. Major studies, if any (cf., Section 1, Question 4).  
[Agent-Next: PropTech and the Future of Real Estate Intermediation](#)
- D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).
- E. DRE 2022-2025 Strategic Plan (cf., Section 1, Question 3).  
[https://dre.ca.gov/files/pdf/DREStrategicPlan2022\\_25.pdf](https://dre.ca.gov/files/pdf/DREStrategicPlan2022_25.pdf)
- F. All legislation that impacts the Department (cf., Section 1, Question 3).
- G. List of the authority for each fee charged by the Department (cf., Section 2, Question 12).