



**DEPARTMENT  
OF  
REAL ESTATE  
FORUM**

**WILLIAM E. MORAN**  
**Assistant Commissioner**  
**May 4, 2012**





# Today's Agenda

- **Welcome and Introductions**
- **Operations Report**
- **Current Real Estate Market Issues**
- **Legislation Implementation**
- **Audit Cases**
- **Questions and Answers**





# OPERATIONS REPORT



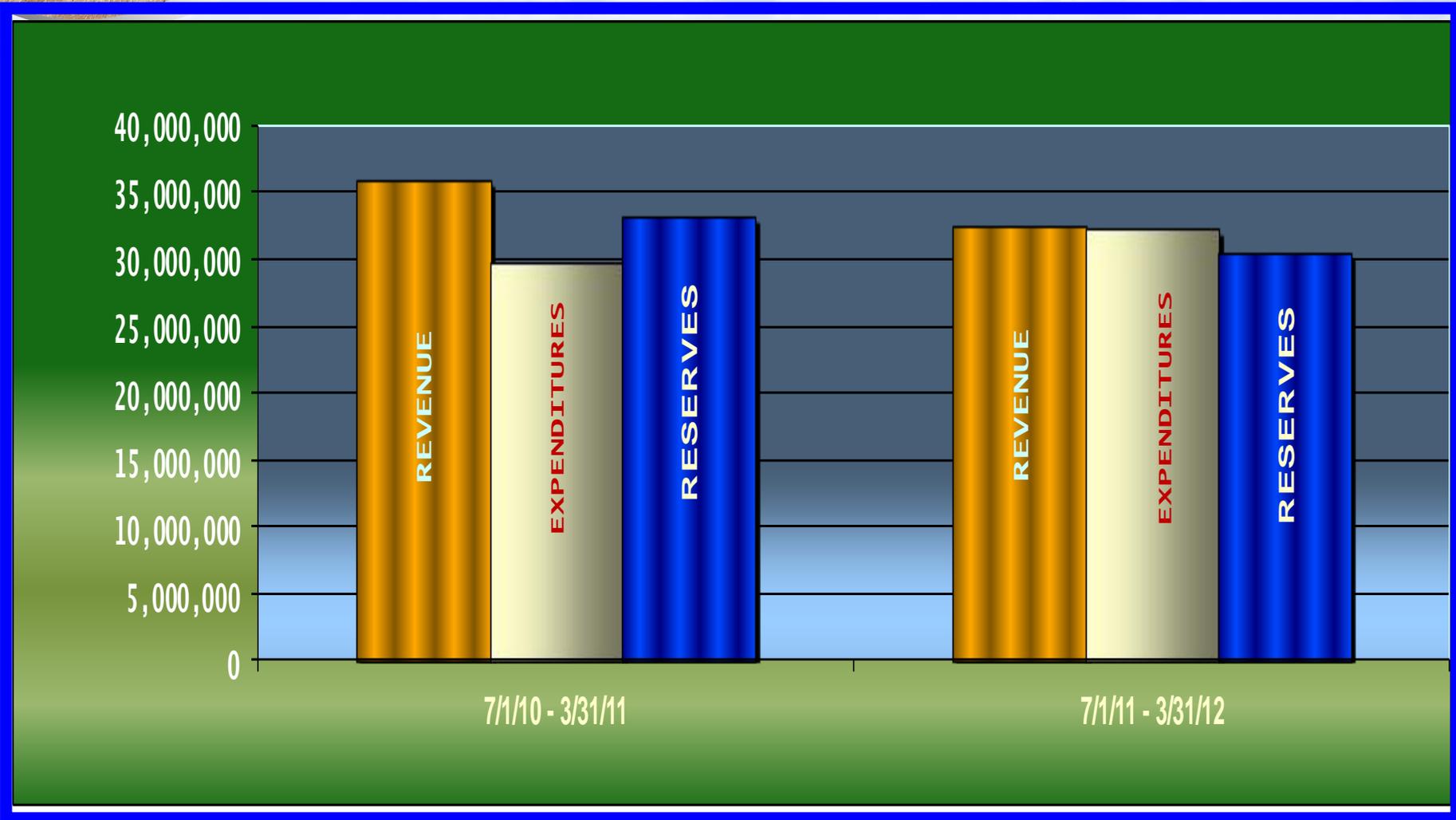


# Financial Statistics

<b>MONTH</b>	<b>REVENUE</b>	<b>NET EXPENDITURES</b>	<b>RESERVES</b>
<b>07/31/2011</b>	<b>\$2,665,229</b>	<b>\$3,509,914</b>	<b>\$29,265,728</b>
<b>08/31/2011</b>	<b>\$3,127,822</b>	<b>\$2,923,963</b>	<b>\$29,469,587</b>
<b>09/30/2011</b>	<b>\$2,973,925</b>	<b>\$2,859,042</b>	<b>\$29,584,470</b>
<b>10/31/2011</b>	<b>\$2,907,639</b>	<b>\$2,523,732</b>	<b>\$29,968,377</b>
<b>11/30/2011</b>	<b>\$4,155,981</b>	<b>\$4,819,433</b>	<b>\$29,304,925</b>
<b>12/31/2011</b>	<b>\$4,988,639</b>	<b>\$2,836,475</b>	<b>\$31,457,089</b>
<b>01/31/2012</b>	<b>\$4,576,557</b>	<b>\$3,232,409</b>	<b>\$32,801,237</b>
<b>02/29/2012</b>	<b>\$3,317,306</b>	<b>\$3,928,559</b>	<b>\$32,189,984</b>
<b>03/31/2012</b>	<b>\$3,805,874</b>	<b>\$5,494,468</b>	<b>\$30,501,390</b>

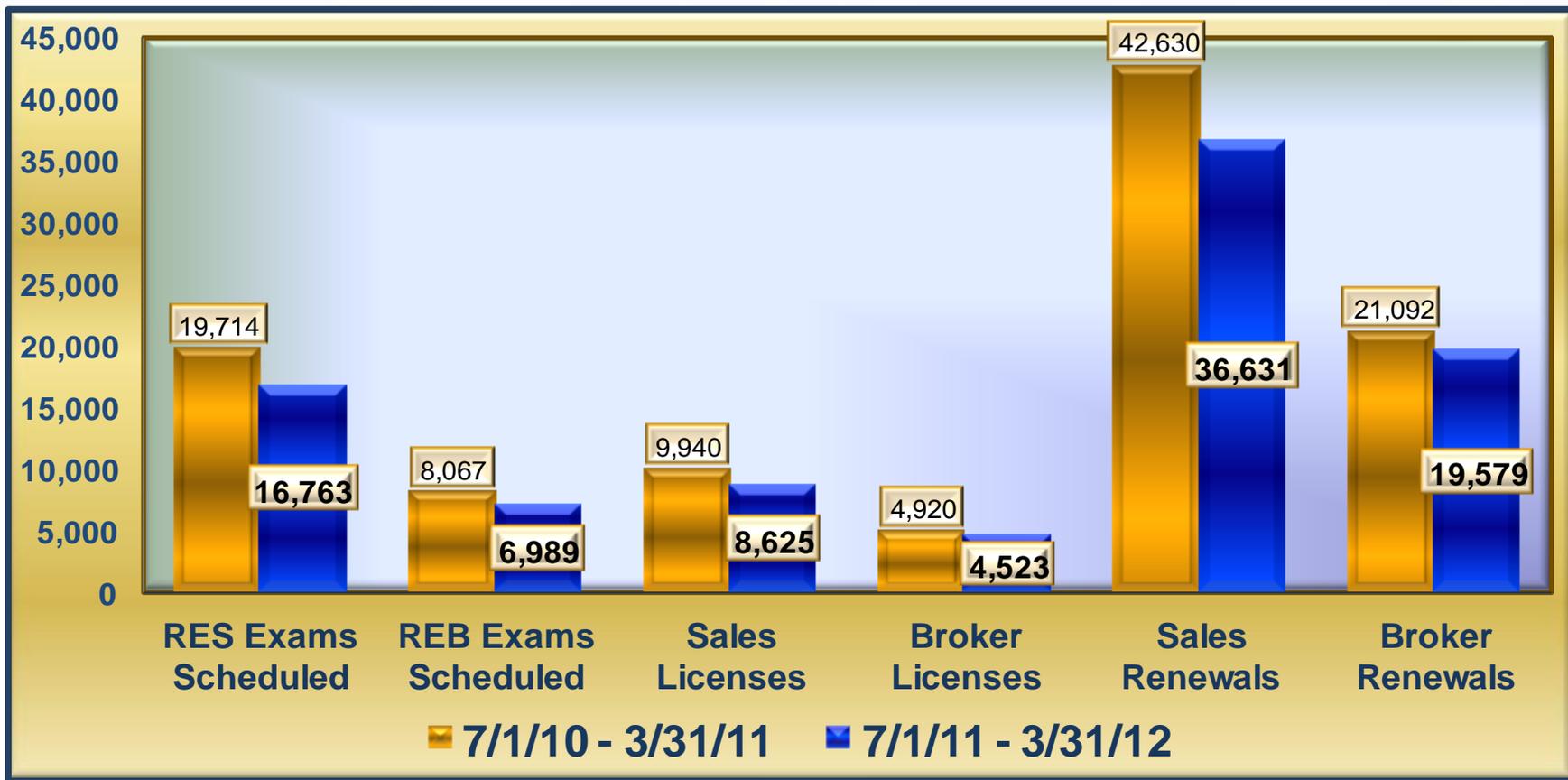


# FY Comparisons



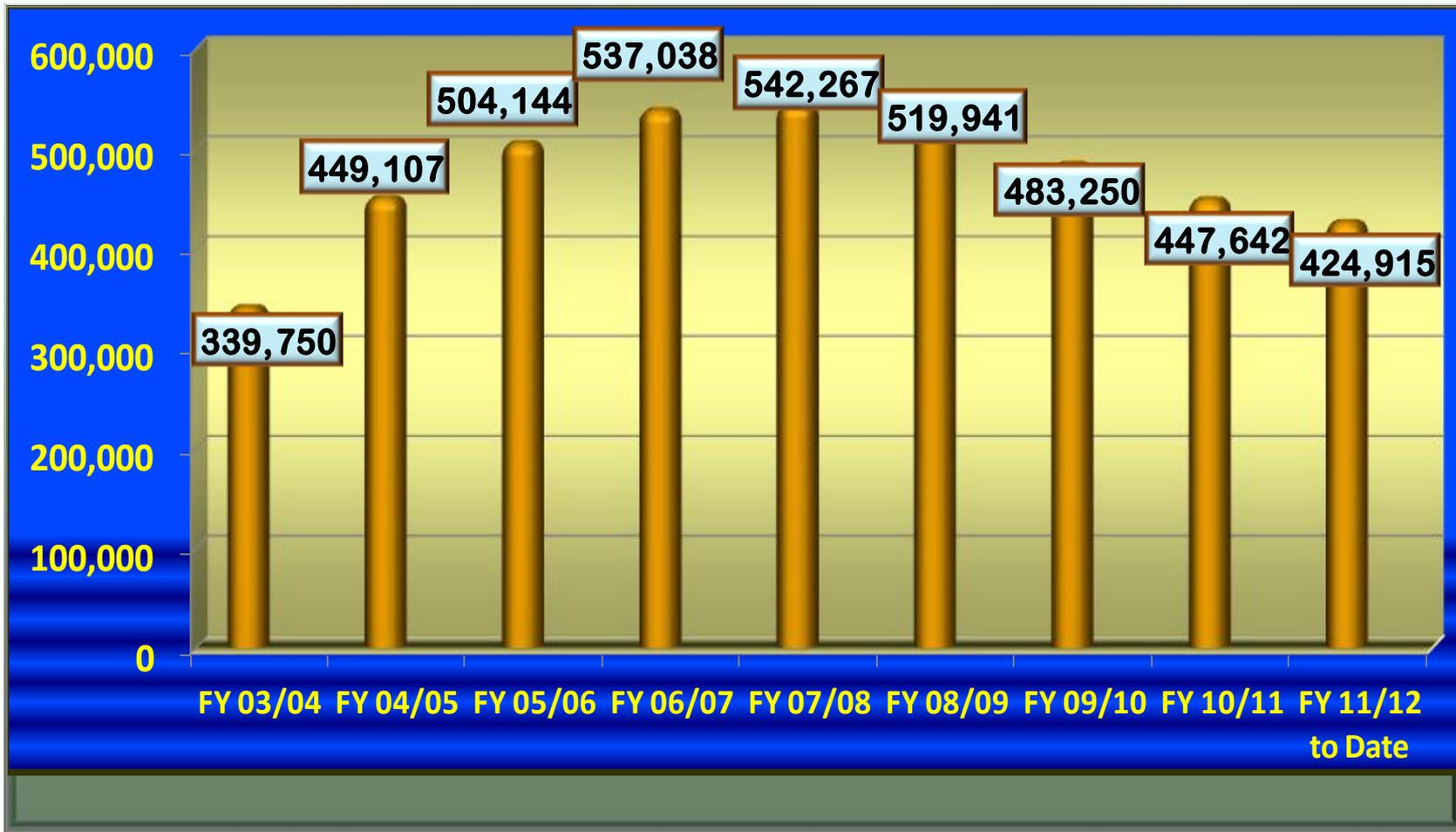


# Licensing Workload



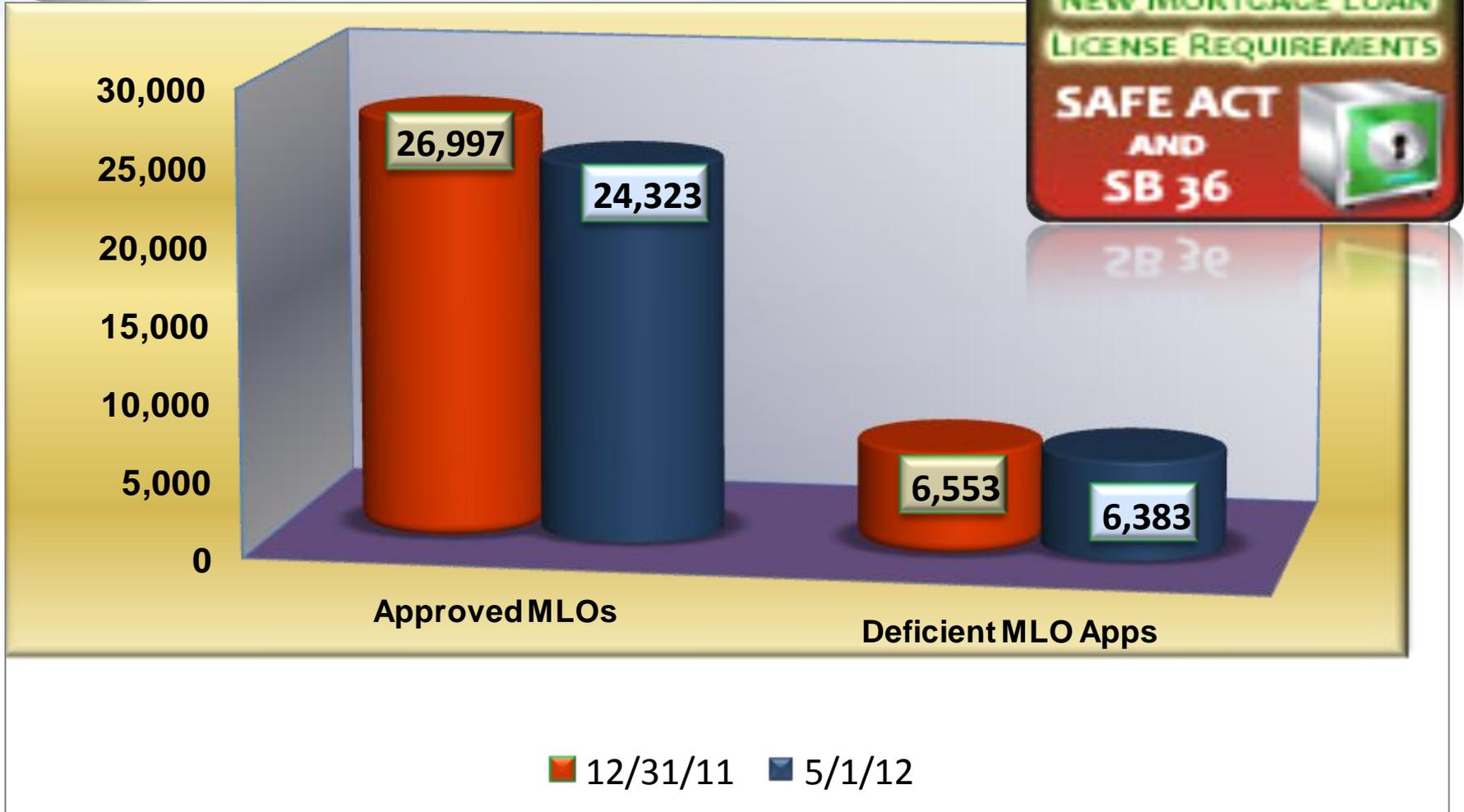


# License Population



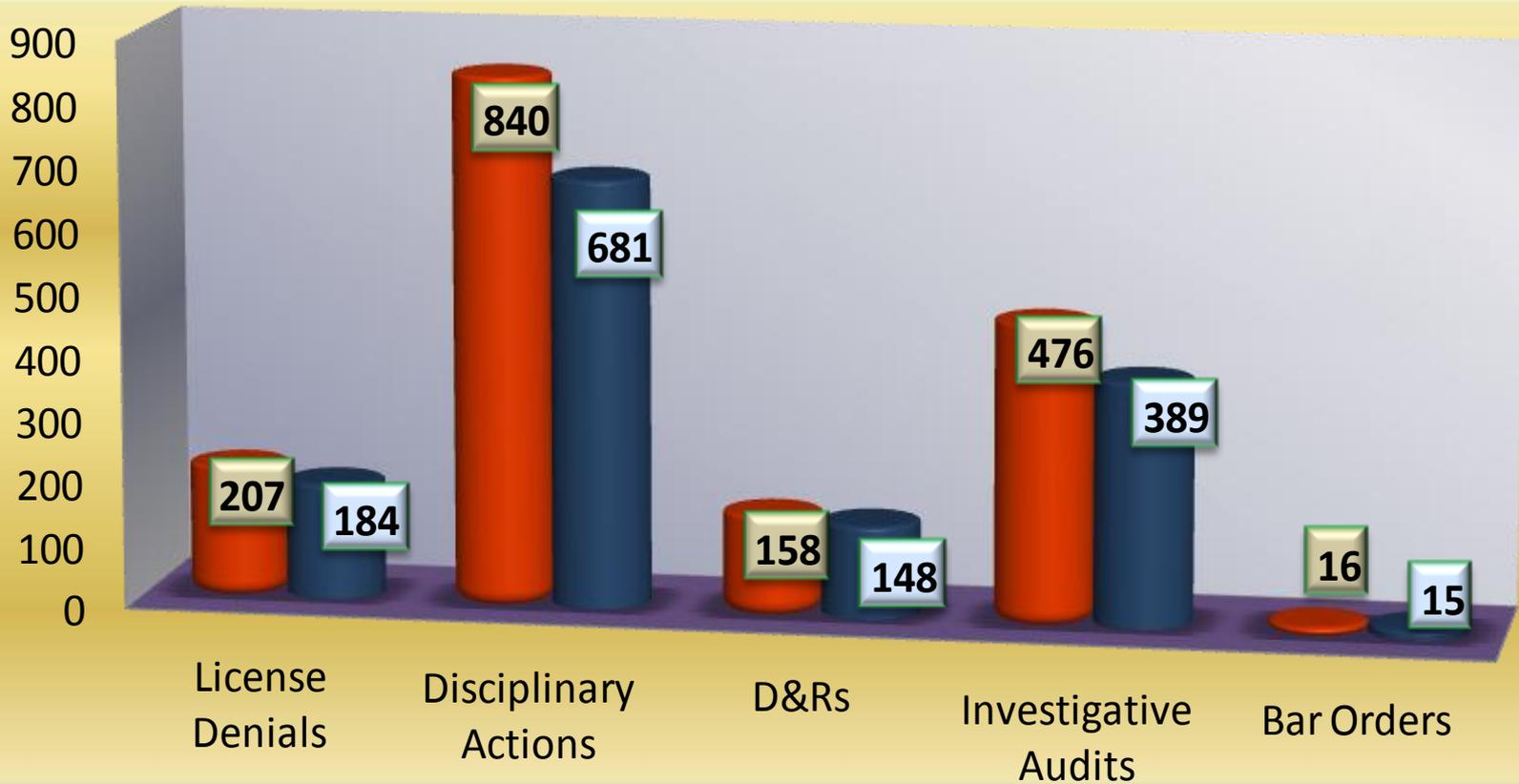


# MLO Endorsements





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



■ 7/1/11-3/31/12   ■ 7/1/10-3/31/11

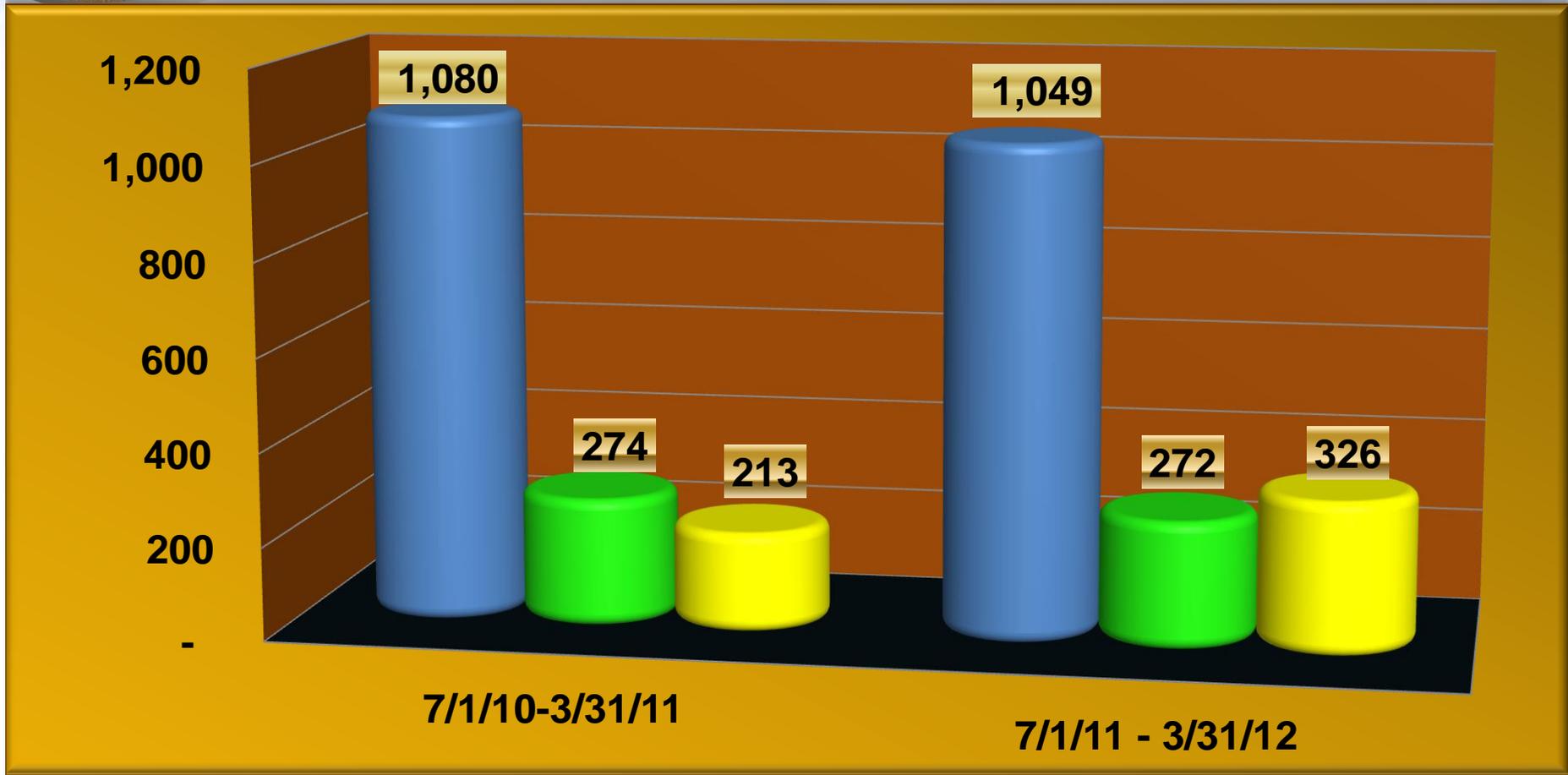


# Enforcement Results

Type of Order	FY 05/06	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11	FY 11/12 (3/31/12)
Revoked	227	247	375	528	484	564	<b>489</b>
Surrendered	38	46	72	106	90	115	<b>94</b>
Revoked/Restricted	168	147	122	146	149	122	<b>101</b>
Suspended	102	113	136	146	163	106	<b>141</b>
Public Repeal	23	10	4	11	20	18	<b>15</b>
Denials/Outright	536	614	650	462	224	152	<b>139</b>
Denials/Restricted	742	770	508	346	135	90	<b>68</b>
Desist & Refrain Orders	30	79	74	145	161	201	<b>158</b>
Bar Orders	N/A	N/A	N/A	N/A	N/A	24	<b>16</b>



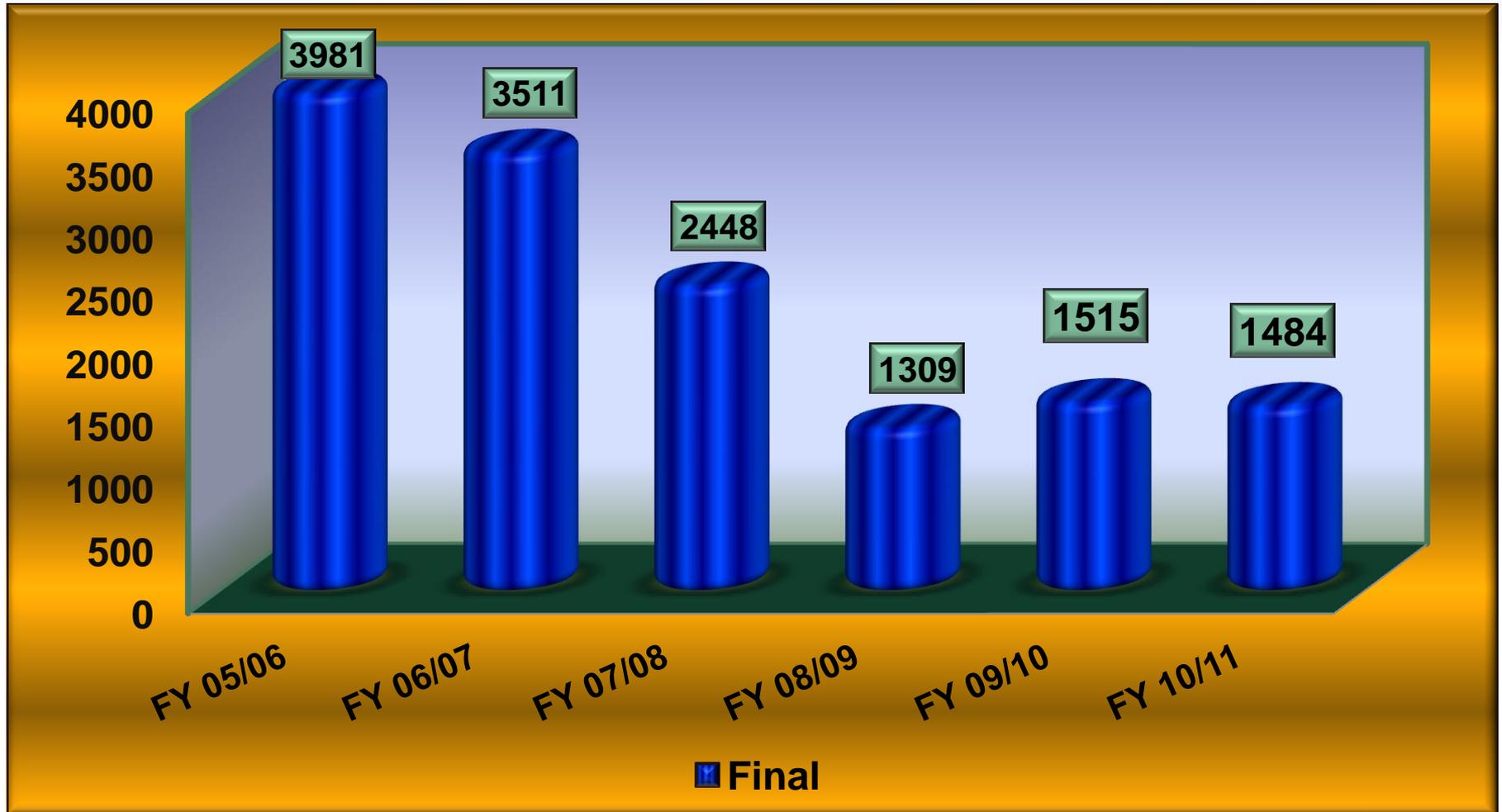
# Subdivision Comparison



Final      Renewal      Amendment



# 6-YR Subdivision Public Report Comparison





# Current Issues in the Real Estate Market

Wayne Bell, Chief Legal Counsel





# LEGISLATION IMPLEMENTATION

By:  
**STEVE ELLIS**  
Assistant Commissioner  
Administration and Licensing



# LEGISLATION

---

- ✓ **SB 53** CITE AND FINE
  - ✓ **SB 706** COST RECOVERY
  - ✓ **SB 510** BRANCH/DIVISION MANAGERS
  - ✓ **AB 1424** TAX DELINQUENT LICENSEES
-

# SB 53 – CITE AND FINE

(Senator Calderon)

**EFFECTIVE DATE – January 1, 2012 (unless otherwise noted).** See Financial Code Section 17006, Vehicle Code 1808.51, and B&P Sections 10079, 10080.9, 10088, 10141.6, 10156.2, 10176, 10177, 10236.7, 10237, 10238, and 10239.4.

## PROVISIONS

Generally gives the Department of Real Estate (DRE) more enforcement tools to combat mortgage fraud and other real estate misconduct.

## FINES AND CITATIONS

Authorizes DRE to issue citations up to \$2,500 to both licensed and unlicensed persons for minor violations of the Real Estate Law. These citations are public records pursuant to the Public Records Act, but are not given formal disciplinary action numbers (H numbers) and are not placed in the public comment section of DRE's website.

# SB 53 - CITE AND FINE IMPLEMENTATION

DRE's Legal section is developing Regulations to establish violation types and other criteria standards for cite and fine cases.

Cases will be referred to a statewide Cite and Fine Desk to set the fine amount at a level that is consistent statewide, mail out citations, receive, record and forward payments, monitor requests for hearings, send delinquent amounts to Fiscal to set up accounts receivables, and refer the case to Legal for appropriate action.

Citations can also be used to notify licensees of the need for simple corrective actions that do not necessarily require a fine to be imposed.

# OTHER **SB 53** PROVISIONS

CONT'd.

## SUBPOENAS

SB 53 authorizes DRE's Commissioner to apply to Superior Court to enforce DRE's administrative subpoenas. Historically, DRE has used the AG's office to enforce its subpoenas, which was costly and considered low priority.

## DISCLOSURE OF INVESTIGATIONS

DRE can now disclose active investigations to the public if other disciplinary action has been filed against a licensee.

# OTHER SB 53 PROVISIONS

CONT'd.

## ESCROW REPORTING

Requires brokers who perform 5 or more escrow transactions in a year, or whose escrow activity exceeds \$1 million in a calendar year, to file a report notifying the Department of the escrow activity within 60 days after the end of the calendar year, or be subject to a penalty. Report format is still under development. DRE to receive and post form on-line and will record the information on the licensees record.

Becomes effective July 1, 2012. First reports are due March 1, 2013 for the 2012 calendar year.

# OTHER **SB 53** PROVISIONS

CONT'd.

## DELAY LICENSE RENEWALS

Enables DRE to hold up license renewals based on final convictions of certain criminal violations that are known or disclosed on a license application. **Effective July 1, 2012.**

## INVESTOR NOTIFICATION

Requires real estate licensees engaged in multi-lender loans to provide information to their investors regarding the Securities Law exemptions under which the licensee is operating.

# SB 706 – COST RECOVERY (Senator Price)

EFFECTIVE DATE – January 1, 2012 (unless otherwise noted).

See Business & Professions Code Sections 10004, 10050.1, 10083.2, 10100.4, 10106, 10166.02, 10166.12, 10175.2, 10186, 10186.1, 10186.2, 10186.9, 10236.2, 10450.6, 10470, 10470.1, 10471, 10471.1, 10471.3, 10471.5, 10472, 10472.1, 10473, 10473.1, 10474, 10454.5, 10475, 10476, 10477, 10479, 10481. Also see California Codes 11310.1, 11313.2, 11317.2, 11318, 11319.2, and 11360.

## PROVISIONS:

This bill makes numerous changes to California's Real Estate Law intended to enhance DRE's enforcement authority to provide increased protections to consumers. Provides that public protection is the highest priority for DRE in exercising its licensing, regulatory and disciplinary functions. DRE's new mission statement is "to safeguard and promote the public interests IN REAL ESTATE MATTERS through licensure, regulation, education and enforcement."

# SB 706 - COST RECOVERY

CONT'd.

## COST RECOVERY (effective July 1, 2012).

Allows DRE to request that an administrative law judge direct a licensee found to have violated the Real Estate Law to pay the costs associated with the investigation and enforcement action. DRE's Information Technology Section is enhancing activity tracking reports that will enable DRE to provide accurate reports for all employees entering time to investigate a case.

## POSTING OF LICENSE STATUS AND ACTIONS

Requires DRE to post the status of every license issued on its website, including information on accusations, suspensions and revocations. The posting of documents is currently underway, with information being uploaded onto DRE's website as it is scanned.

# SB 706 – COST RECOVERY

CONT'd.

## SETTLEMENTS PRIOR TO FORMAL ACTIONS

Allows the DRE to enter into a settlement with a licensee without first filing an accusation or statement of issues. This is still considered disciplinary action.

## RESTRICTED LICENSE MONITORING COSTS

Authorizes DRE to charge fee to cover the cost associated with monitoring the restricted licensee. DRE is developing the details, process, extent and cost to monitor the status of a restricted licensee.

## PETITION FEE (effective May 1, 2012).

SB 706 allows DRE to recover the cost of processing Petitions for restricted licensees who requests to have license restrictions removed, or a revoked license reinstated. DRE's \$800 petition fee must be submitted with the licensee's RE 506 Petition Application.

# SB 706 – COST RECOVERY

CONT'd.

## SUSPEND CONVICTED FELON

Allows DRE to automatically suspend a real estate licensee and/or a mortgage loan originator (MLO) license endorsement of a licensee who has been incarcerated after a felony conviction.

## CRIMINAL REPORTING REQUIREMENT

Requires licensees to report to DRE when he or she has been indicted or charged with a felony, convicted of a crime, or had license disciplinary actions taken by other licensing entity or authority of this state. Failure to report such action would result in cause for disciplinary action. DRE has developed a Notification Form (RE 238), but other written notifications will be accepted as well.

## RECOVERY ACCOUNT RENAMED

Renames the Recovery Account to the Consumer Recovery Account.

# SB 510 – BRANCH MANAGERS

## (Senator Correa)

**EFFECTIVE DATE – JULY 1, 2012.** See Business and Professions Code Sections 10164 and 10165.

An employing real estate broker or corporate designated broker officer may appoint a licensee as a manager of a branch office or division of the employing broker's or employing corporate designated broker officer's real estate business and delegate to that manager responsibility to oversee and supervise operations and licensed activities. An appointment of a branch or division manager must include a written contract whereby the manager accepts the delegated responsibilities. The employing broker or corporate designated broker officer must retain a copy of this contract and also send a completed RE 242 – Branch/Division Manager Appointment form to DRE identifying the appointed manager and the branch office or division the manager is appointed to supervise. The RE 242 will be available no later than June 30th, 2012.

# SB 510 – BRANCH MANAGERS

A licensee will be precluded from being appointed if the licensee holds a restricted license, has been subject to an order of debarment, or is a salesperson with less than two years of full-time real estate experience within five years preceding the appointment. The law also specifies that whenever an appointment of a branch or division manager is terminated or changed, the employing broker or corporate designated broker officer must immediately notify DRE.

DRE has developed form RE 242 to add or cancel Branch or Division Managers. Please continue to use RE 203 Forms for regular Branch Office License Applications. See B&P Sections 10164 and 10156.

# AB 1424

## DELINQUENT TAX PAYERS (Assembly Member Perea)

### SUSPENSION OF DELINQUENT TAX PAYERS

AB 1424 suspends the licenses of delinquent taxpayers (top 500 statewide owing over \$100,000 in delinquent taxes) who are referred to DRE by the Franchise Tax Board and the Board of Equalization. Impacts DRE real estate licenses and other professional or occupational licenses, certificates, registrations, or permits held or maintained by a tax debtor who is on the FTB and/or BOE list of top 500 largest tax delinquencies.

**EFFECTIVE DATE: July 1, 2012**

# AB 1424 - IMPLEMENTATION

## IMPLEMENTATION PROCESS: (Effective Date July 1, 2012)

### Information Technology Services

- Developed a data download process with FTB and BOE
- Matches tax payer data with existing licensing records and incoming license applications.
- Notifies Licensing of potential matches of taxpayer delinquencies.

### Licensing

- Will send notices to licensees informing them of AB1424 requirements and suspensions.
- Will place license suspension on license record until DRE is notified by FTB /BOE that suspension can be lifted.
- Maintains history regarding suspension activity.
- Notifies FTB/BOE and licensee when suspensions are lifted.

# ARE YOU INTERESTED IN DRE'S REGULATION DEVELOPMENT?

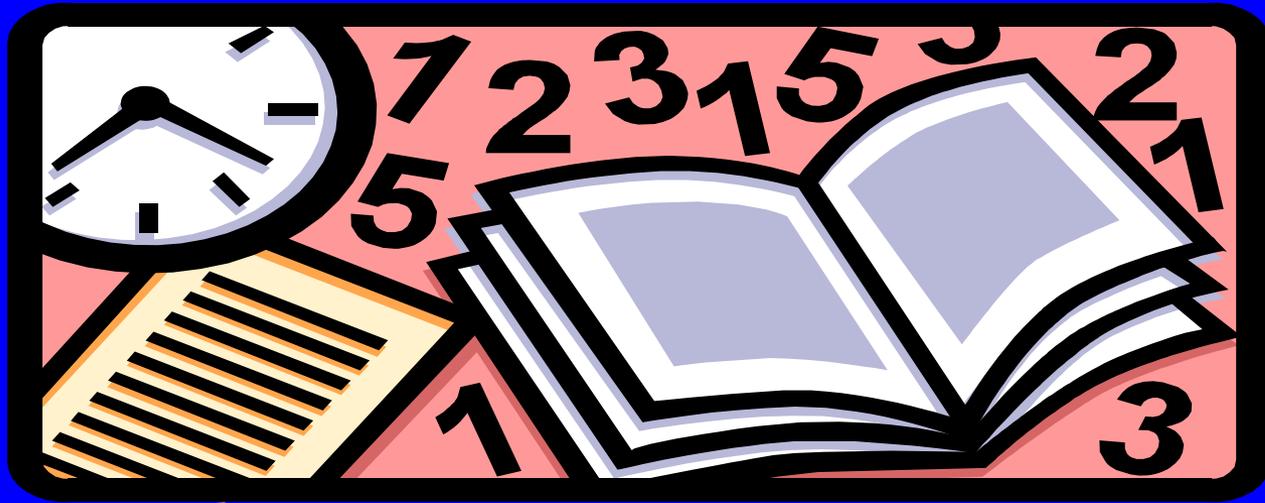
---

If you are interested in providing input into the development of DRE's Regulations, please email DAN KEHEW in the Department's Legal section at [DRERegulations@dre.ca.gov](mailto:DRERegulations@dre.ca.gov) .

Mr. Kehew will send you the pre-publication draft of new regulations under development for your review and comment.

---

# Department of Real Estate Audit Case



Dan Sandri  
Chief of Audits

# Audit Case #1

- Complaint: property owners received bounced trust account checks.
- Broker was nervous and unresponsive.
- Broker managed 56 properties, collecting \$75,000/month.
- Trust funds were deposited to 2 bank accounts.



# Audit Case #1 (cont'd)

- The broker avoided the auditor.
- Numerous delays followed...
- A subpoena for bank statements was prepared and served on the broker and the bank.
- Trust account bank statements from the bank had different \$ numbers.



# Audit Case #1 (cont'd)

Date of Balance	Balance Per Bank Statement Provided by REB	Balance Per Bank Statement Sent by Bank	Difference
12/8/09	\$103,860.01	\$2,968.60	\$100,891.41
12/11/09	\$104,421.19	\$3,392.36	\$101,028.83
12/18/09	\$108,387.21	\$ 270.01	\$108,117.20
12/30/09	\$104,208.27	\$ 158.76	\$104,049.51
1/5/10	\$112,945.80	\$2,323.22	\$110,622.58

- A 2<sup>nd</sup> account had similar differences.
- Something was up...

# Audit Case #1 (cont'd)

- The broker eventually provided records through her daughter.
- The audit revealed a trust fund shortage of \$228,569.93.
- Shortage due to excess management fees (\$224,195.47) and negative owner balances (\$4,374.46).
- The Broker surrendered her license.



# Audit Case #2

- Another Bank Statement Alteration Case
- Again, there were delays in providing records.

Date of Bank Balance	Balance Per Bank Statement Provided By Broker	Balance Per Bank Statement Provided By Bank	Discrepancy
12/8/XX	\$44,270.07	\$4,270.07	\$40,000.00

- Trust fund shortage was over \$42,000 due largely to conversion of trust funds.

# Recent Issues in Audits

- Trust Fund Shortages are UP
  - 97 audits with \$7,852,425 in 2010
  - 143 audits with \$12,396,604 in 2011
- Bank Statement Issues
- Routine Audits
  - Risk-Based Audits

A close-up photograph of a checkbook page. The page is filled with a list of checks, including their dates and amounts. The text is somewhat blurry but legible. At the bottom, there are fields for 'Withdrawn', 'Total Paid to', and 'Balance'.

Amount	Date	Amount	Date	Amount
28.00	17AUG	8000.91		
48.00	17AUG	8721.44		
15.00	17AUG			
74.27	17AUG			
115.00	17AUG			
285.35	18AUG			
150.00	19AUG			
20.00	19AUG			
20.00	20AUG			
	28AUG	8322.80		
2950.00	28AUG			
	21AUG	8152.00		
20.00	21AUG			
100.00	21AUG			
8.83	24AUG			
	24AUG	8588.73		
	24AUG			
	25AUG	8503.25		
	28AUG	8294.42		
		8408.96		



*Q&A*

**PANEL FORUM**

**PANEL FORUM**



# THANK YOU!

This power point presentation and the audio file of the meeting will be made available in its entirety on the DRE website.

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



Next Meeting - October 3, 2012  
Anaheim