

Department of Finance		Fund: 0317
STATE OF CALIFORNIA MANUAL OF STATE FUNDS		PAGE 1 Renumbered From:
<u>Legal Title</u> Real Estate Fund		
<u>Legal Citation/Authority</u> Chapter 127, Statutes of 1943 Business and Professions Code sections 10000-10602, and 11000-11202		
<u>Fund Classification</u> <u>GAAP Basis</u> Governmental/Special Revenue Funds	<u>Fund Classification</u> <u>Legal Basis</u> Governmental/Other Governmental Cost Funds	
<u>Purpose</u> The purpose of the Real Estate Fund is to provide funding for the regulation and enforcement of the Real Estate Law. Although all fees collected under the Real Estate Law are now deposited in the Real Estate Fund, 8 percent is allocated for the Education and Research Account and 12 percent is allocated for the Consumer Recovery Account. The Consumer Recovery Account enables a person who has been defrauded or had trust funds converted by a real estate licensee in a transaction requiring that license, and who satisfies specified requirements (California Business and Professions Code section 10471 et seq.) to recover at least some of his or her actual loss when the licensee has insufficient personal assets to pay for that loss; not to exceed \$50,000 for any one transaction and \$250,000 for any one licensee. If, on June 30 of any year, this Consumer Recovery Account balance for payment of final court judgments is less than \$200,000, every licensed broker and licensed salesperson is statutorily required to pay an additional fee when obtaining or renewing such license within four years thereafter. The Real Estate Commissioner may authorize transfers between these accounts within the Real Estate Fund in accordance with Business and Professions Code section 10470.1.		
<u>Administering Agency/Organization Code</u> Department of Consumer Affairs - Bureaus, Programs, Divisions/Org 1111		
<u>Major Revenue Source</u> Examination fees, license fees, mortgage loan endorsement fees, filing fees, inspection fees, and penalties. Fifty percent of civil penalties recovered where the Real Estate Commissioner is a party/plaintiff to the action.		
<u>Disposition of Fund (upon abolishment)</u> Pursuant to Government Code section 16346, in the absence of language that identifies a successor fund, any balance remaining in this fund upon abolishment of the Department, shall be transferred to the General Fund.		
<u>Appropriation Authority</u> Business and Professions Code section 10451 appropriates all money in the fund "to be used by the Commissioner in carrying out the provisions of this part...."		

Business and Professions Code section 10451.5 provides that all money in the Education and Research Account in the fund is available for appropriation by the Legislature in the advancement of education and research in real estate at the University of California, state colleges and community colleges, or in contracting for a particular research project in the field of real estate for the state with any university in the State of California accredited by the Western Association of Schools and Colleges. Per Section 10450.6 the Consumer Recovery Account is a continuing appropriation for carrying out Chapter 6.5 (commencing with Section 10470).

State Appropriations Limit

Excluded- Revenues in this fund are not proceeds of taxes. These revenues are used to regulate the activities engaged in by the payers. The funds cannot be transferred or loaned to the General Fund without causing a significant reduction in fees to 1982 levels, pursuant to BPC Code section 10226.5.

Comments/Historical Information

This fund was originally created as the *Real Estate Fund* and then later was inadvertently changed to the *Real Estate Commissioner's Fund* per 1996/97 Governor's Budget. All current references in code refer to the *Real Estate Fund*. Therefore, this fund title is amended on April 7, 2003, as the *Real Estate Fund*.

The Real Estate Fund was created by Chapter 130, Statutes of 1929 and continued in existence by Section 10450 of the code. It replaced the Real Estate Commissioners' Fund established in 1917.

Chapter 928, Statutes of 1969 added the Real Estate Syndicate Act to the code and transferred jurisdiction from the Corporation Commissioner to the Real Estate Commissioner.

Chapter 271, Statutes of 1976 abolished the Real Estate Education, Research and Recovery Fund, effective January 1, 1977, and made them special accounts within the Real Estate Fund.

Chapter 712, Statutes of 2011 renames the Recovery Account as the Consumer Recovery Account.

Pursuant to the Governor's Reorganization Plan 2, the Administering Agency and Organization Code changed from Department of Real Estate/Org 2320 to Department of Consumer Affairs - Bureaus, Programs, Divisions/Org 1111, effective July 1, 2013.