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Executive Orders

EXECUTIVE ORDER NO. 91

WHEREAS, it is essential to the general welfare of the State that Louisiana's system of legal justice maintain an attitude of fairness to all, regardless of their economic condition; and

WHEREAS, Section 13 of Article I of the Louisiana Constitution of 1974 provides that any person arrested or detained is entitled to counsel and shall be provided with counsel if indigent; and

WHEREAS, the Declaration of Rights of the Louisiana Constitution in Article I, Section 13 also provides that the Legislature shall provide a uniform system for securing and compensating qualified counsel for indigents; and

WHEREAS, it is of critical importance that a uniform system for securing and compensating qualified counsel for indigents be established; and

WHEREAS, it is necessary that such a uniform plan be developed, giving consideration to the practices now employed in the various areas of the State, to the funding of such a system and its organization.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of Louisiana, it is ordered as follows:

Section 1.

(a) There is hereby established the Governor's Commission on a Uniform Indigent Defense System (hereinafter referred to as the Commission).

(b) The Commission shall be composed of 13 members including the President and President-elect of the Louisiana Bar Association and 11 other members, all attorneys at law, appointed by the Governor, in such a manner that there shall be at least one appointee who is an elector from each congressional district. The President of the Louisiana Bar Association shall be Chairman of the Commission and the President-elect shall be Secretary.

Section 2.

The Commission shall:

(a) Conduct such research and prepare such

studies as are necessary to devise and formulate a proposed uniform indigent defense system. To this end, the Commission is authorized to hold hearings, employ necessary personnel, and do all other things necessary to accomplish the purpose for which it was created.

(b) Prepare and present to the Governor recommendations, together with the draft of proposed legislation to accomplish its recommendations, for a proposed uniform indigent defense system which will conform to Article I, Section 13 of the 1974 Constitution.

Section 3.

The Commission is authorized to request the use of personnel, services, and facilities of the Louisiana Legislative Council, the Louisiana State Law Institute, and such counsel, assistance, personnel, facilities, and advice as may be obtained from other public and private sources, including but not necessarily restricted to business, labor, and private research agencies, individuals, or organizations.

Section 4.

The Commission is authorized to receive grants, donations, or gifts of money or services from public or private persons and entities to be utilized to accomplish the purpose for which it is created.

Section 5.

All who may be in a position to do so are requested to furnish the Commission information pertinent to its work and otherwise to facilitate the Commission's work.

Section 6.

The members of the Commission shall receive the same per diem and travel allowance in the performance of their duties as are provided for members of the Legislature, and the compensation of the members and personnel of the Commission, lawful allowance therefor, and other necessary expenses arising in connection with the work of the Commission shall be paid from such moneys as may be available therefor.

Section 7.

The Commission, at its discretion, may transmit to the Governor such preliminary or interim report, or reports, as it may deem appropriate. It shall transmit its final report and recommendations, together with the draft of proposed legislation to accomplish its recommendations, to the Governor not later than March 31,

1976. The Commission shall terminate not later than 30 days after the submission of its final report to the Governor.

mmmmmmmn IN WITNESS WHEREOF, I have here-
unto set my hand officially and caused
to be affixed the Great Seal of the State
of Louisiana, at the Capitol, in the City
of Baton Rouge, on this 10th day of
September, A.D., 1975.

EDWIN EDWARDS
Governor of Louisiana

EXECUTIVE ORDER NO. 92

SUBJECT: Cooperation of All State Agencies in Energy Conservation

WHEREAS, the Natural Resources and Energy Act of 1973 (Act 16) provides for the control of natural resources and energy to effect the conservation thereof by the prevention of waste, wasteful use, and wasteful utilization thereof and the resultant economic waste by providing for a comprehensive energy policy for the State of Louisiana; and

WHEREAS, for the purposes thereof to provide for the establishment of the Division of Natural Resources and Energy within the Department of Conservation in order to consolidate and merge functions exercised by the State in relation to energy into the Office of the Commissioner of Conservation; and

WHEREAS, the Commissioner of Conservation shall regulate the use, end use, production, transportation, conservation, sale, and price of the State's energy resources, and among other things, provide for the equitable distribution of energy supplies to the residents and the commercial and industrial users of these energy supplies; and

WHEREAS, the Commissioner of Conservation has formulated an Energy Conservation Program Guide for Commercial Buildings which will include the use of energy in all State-owned and State-leased buildings; and

WHEREAS, the coordination and leadership combining both public and private interests on a Statewide level is essential to assist the Commissioner of Conservation in carrying out the mandates set forth in the aforementioned Act 16 and in particular the full cooperation of the directors of all State agencies with the inclusion of all State employees;

NOW, THEREFORE, I, EDWIN EDWARDS, by virtue of the authority vested in me as Governor of the State of Louisiana, pursuant to the Constitution, and applicable statutes of the State of Louisiana, in order to promote energy conservation and assist the Commissioner of Conservation in the execution of aforementioned duties and responsibilities and to provide the necessary example for the citizens of this State to diligently pursue a program of energy conservation in all sectors of energy utilization, do order as follows:

All State agencies and employees thereof will cooperate to the fullest extent possible in the implementation of the State Energy Conservation Program Guide established by the Commissioner of Conservation for all State-owned and State-leased buildings and all other energy conservation programs established by the Commissioner of Conservation by authority granted to him under the Natural Resources and Energy Act of 1975 (Act 16), all of which are being monitored by the Office of the Commissioner of Conservation.

IN WITNESS WHEREOF, I have here-
unto set my hand officially and caused
to be affixed the Great Seal of the State
of Louisiana, at the Capitol, in the City
of Baton Rouge, on this the 10th day of
September, A.D., 1975.

EDWIN EDWARDS
Governor of Louisiana

EXECUTIVE ORDER NO. 93

Section 1 (b) of Executive Order No. 91 issued by me on September 10, 1975, is hereby amended as follows:

Section 1.

(b) The Commission shall be composed of fifteen members including the President and President-elect of the Louisiana Bar Association and thirteen other members, all attorneys at law, appointed by the Governor, in such a manner that there shall be at least one appointee who is an elector from each Congressional district. The President of the Louisiana Bar Association shall be Chairman of the Commission and the President-elect shall be Secretary.

IN WITNESS WHEREOF, I have here-
unto set my hand officially and caused
to be affixed the Great Seal of the State

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of September, A.D., 1975.

EDWIN EDWARDS

Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

State Board of Elementary and Secondary Education

At its meeting on September 1, 1975, the State Board of Elementary and Secondary Education adopted the following rule, effective immediately:

An applicant seeking certification under Bulletin 746 (as revised in 1964) after September 1, 1975, may have his or her records reviewed for this purpose until September 1, 1976. During this time period, certification may be granted according to the 1964 standards only if the applicant completed the appropriate requirements prior to September 1, 1975.

In such cases, the Bureau of Higher Education and Teacher Certification shall evaluate teachers' records for the specific area of certification requested.

The necessity for this rule is the urgent need for teaching personnel in the schools to compile their records of courses taken and to submit them for an evaluation to the State Department of Education. On September 1, 1975, a deadline passed for the completion of older certification requirements. The careers of numerous individuals would be vitally affected should the Board not permit a certain period of time for individuals to prove they had completed the older certification requirements by September 1, 1975.

This action was taken in accordance with the emergency provision of the Administrative Procedures Act, R. S. 49:953B.

Earl Ingram
Director

DECLARATION OF EMERGENCY

Louisiana Health and Human Resources Administration

Division of Family Services

The Louisiana Health and Human Resources Administration, Division of Family Services has been notified by the Regional Office of the Department of Health, Education and Welfare, that Louisiana is not in compliance with Federal regulations in allowing an exclusion for the cost of divorce in an Aid to Families with Dependent Children (AFDC) recipient's grant computation when the recipient has other income. The Federal regulation citation is Section 233.20 (a) (3) (ii) (a), Part 233, Chapter II, Title 45 of the Code of Federal Regulations, as reported in the Federal Register, Wednesday, March 19, 1975, Vol. 40, No. 54, page 12507.

Because of the Federal mandate, the Louisiana Health and Human Resources Administration has deleted the above income exclusion, effective September 22, 1975, under an emergency rule. In situations where an allowance is currently being made, it shall be discontinued when the divorce is paid for or at the time of next redetermination, whichever comes first. This action was taken pursuant to R.S. 49:953B and R.S. 49:966C. Copies of the emergency rule are available for public examination at the offices of the Louisiana Health and Human Resources Administration, Division of Family Services, Room 201, 755 North Riverside, Baton Rouge, Louisiana.

William H. Stewart, M.D.
Commissioner

DECLARATION OF EMERGENCY

Louisiana Real Estate Commission

Emergency Rules Effective September 17, 1975

1. Licenses; examination; fees
2. Remittance of fees
3. Credit report
4. Term of license
5. Renewal of license
6. Delinquent renewal of license
7. Veterans waiver
8. Transfer of salesman license
9. Broker's acknowledgment of salesman's broker application
10. Trade name restrictions

11. Broker/salesman; concurrent license prohibition
12. Termination of salesman affiliation with broker
13. Advertising
14. Escrow account
15. Salesman change of address
16. Broker change of address
17. Multiple representation
18. Disclosure of licensee ownership in property
19. Representation through listing broker
20. Substitute contract prohibition
21. Prohibition on payment to unlicensed individuals
22. Duty to report legal actions
23. Maintenance of broker records
24. Investigations
25. Duty of broker to inform salesman
26. Registration of out-of-state land development
27. Complaints
28. Broker-broker affiliation
29. Corporations and partnerships
30. Issuance of bond
31. Cancellation of bond
32. Reinstatement of bond-license cancellation
33. Definition of broker
34. Real estate school definition
35. Certification of real estate school
36. Application and renewal of Certificate of Registration
37. Exemption from Certificate of Registration
38. Instructor certification
39. Instructor qualifications
40. Course information reporting
41. Course Certificate of Completion
42. Advertising by real estate schools
43. Investigation of schools
44. Deceased broker: continuation of business

1. Applications for broker or salesman licenses, accompanied by a license fee and separate examination fee, are required to be received by the Commission at least eleven days prior to the date of examination in order to obtain the required examination admittance authorization. Official admittance authorization must be presented to the examination monitor before an examination will be administered to any applicant.

A. Salesman and broker examinations shall be held monthly excluding January and December.

B. Applicants who fail to pass the initial examination will be allowed to take a second examination at any subsequent regular examination period provided that they remit a new examination fee and obtain official examination admittance authorization.

C. Applicants who fail to pass the second examination shall have their applications and license fees returned by the Commission. Those applicants who fail to pass the second examination shall be allowed to take additional examination(s) at any subsequent regular examination period not less than six months beyond the date of their last examination failure, provided that they resubmit their application, license fee, new examination fee and obtain official examination admittance authorization.

D. Applicants who, for any reason, are disqualified on an examination may retake said examination at any subsequent regular examination period provided that they remit a new examination fee and obtain official examination admittance authorization.

E. Applicants are not allowed to possess or utilize any reference material, slide rules, protractors, tables, or computers during examinations.

F. Examinations will be administered only at designated examination centers, on the prescribed date and at the prescribed time as shown on admittance authorization, and only after all of the requirements of this section have been met.

2. Any check presented as a fee under this section which is returned unpaid by the payor's bank shall be cause for suspension, revocation, or denial of renewal of license.

A. Examination fees shall be submitted by separate remittance and shall be submitted in the form of a certified check, cashier's check, bank or U.S. postal money order payable to the Louisiana Real Estate Commission. Examination fees shall not be combined with the payment of any other fees remitted pursuant to this section.

3. Applicant for broker's license shall furnish to the Commission a current credit and character report obtained from a recognized credit reporting agency. The report required herein must be received by the Commission before the applicant's application will be processed.

4. Real estate license fees shall cover a period of one calendar year beginning January 1 and expiring December 31. Fees remitted for licenses issued for a portion of a year shall not be prorated. Credit allowances or refunds for any unlicensed portion of the license shall not be allowed.

5. All renewal applications shall be submitted for receipt by the Commission by October 15 in order for licenses to be issued in proper statutory time. The responsibility for timely submission of renewal applications rests solely with each individual licensee. Failure to timely submit applications for renewal shall be cause for suspension of license.
 - A. Salesmen's licenses shall be renewed subsequent to renewal of their sponsoring broker's license.
 - B. Salesmen's renewal applications shall be signed by the sponsoring broker and submitted to the Commission together with the renewal fee.
6. Applications for renewal of delinquent licenses shall be accepted by the Commission only during the calendar year following the last date on which applicant held a valid license. Formerly licensed brokers or salesmen who are not eligible for renewal shall apply for licenses as initial applicants.
 - A. Examination requirements shall apply to all applicants who are not eligible for renewal.
 - B. Applicants who have been previously licensed but who have not been licensed during any of the three calendar years immediately preceding their date of application are subject to all educational requirements of initial applicants.
 - C. Applicants who were previously licensed at least two consecutive years during three calendar years immediately preceding the date of application may obtain a waiver of all or part of the educational requirements at the discretion of the Commission.
7. Licensees who are inducted into military service, or those military personnel licensees who are transferred out-of-state shall, upon notifying of their honorable discharge and furnishing appropriate evidence thereof, be entitled to renewal of their licenses, without penalty, provided their request is furnished within six months following their discharge.
 - A. The provisions of this section extend to the spouses of the persons described hereinabove who were licensed at the time of such induction or transfer.
8. In accordance with R.S. 37:1442, all requests for transfer of salesmen licenses from one sponsoring broker to another shall be signed by the new sponsoring broker and forwarded to the Commission with the required transfer fee. Additionally, any broker who returns a salesman's license to the Commission for transfer or cancellation shall sign and forward to the Commission one copy of the letter by which said broker notifies a salesman that his license has been returned to the Commission.
 - A. Transfer fees are forfeited by the transferor upon receipt thereof by the Commission. Any additional or amended request for transfer shall be accompanied by a separate transfer fee.
 - B. Transfer fees are waived in the event that the transfer is due to the death of a sponsoring broker.
9. Salesmen who apply for brokers' licenses shall obtain the written acknowledgment of such action from their sponsoring broker. The acknowledgment may be submitted under separate cover or affixed to the applicant's application; in either case the application will not be processed until the acknowledgment is received by the Commission.
 - A. The subject acknowledgment shall be given by the sponsoring broker, without qualification, within ten days following broker's receipt of written request therefor.
 - B. Failure of a broker to acknowledge an application, in accordance with the provisions of this section, shall be cause for the suspension or revocation of license.
 - C. The provisions of this section shall not apply to an applicant for broker's license who is not a salesman at the time of submitting an application but otherwise meets the requirements for a broker's license.
10. Not more than one brokers license shall be issued in the same or substantially similar name.
 - A. No surname shall appear on an individual brokers license except that of the said broker.
 - B. No surname shall appear in the name of a corporation or partnership license which is to be issued unless such surname is that of an active broker who owns a substantial interest in the said corporation or partnership.
11. Broker and salesman licenses shall not be issued nor held concurrently.
12. A salesman shall, upon termination of business

relationship with a sponsoring broker, forthwith turn over to such broker any and all listing information, contracts, keys, and other property obtained during said business relationship whether such information was originally given by, or copied from the records of such broker, or otherwise acquired by the salesman during the business relationship with said broker.

- A. The requirement of this section must be complied with before a salesman's license will be transferred.
- B. Brokers who allege the failure of a salesman to comply with the requirements of this section shall furnish a detailed documented report of the alleged violation to the Commission concurrently when submitting the salesman's license to the Commission in accordance with R.S. 37:1442. Brokers who fail to comply with the requirements of this section shall be deemed to have waived the provisions thereof.

13. Advertising

- A. All advertising of property by real estate brokers shall be stated in the exact name as shown on their real estate broker's license.
 - 1. Brokers shall have the actual authority of the owner of any property before they represent or advertise the said property in any way.
 - 2. All advertising by real estate brokers shall be a clear, concise, true, and up-to-date representation of the thing advertised.
 - 3. All advertising, whether printed, radio, television, display or, of any other nature, must contain the name and telephone number of the advertising broker. The name and telephone number of salesmen and/or broker-affiliates may appear in advertising of the sponsoring broker, however, it must be displayed in a manner distinctively subordinate to that of the sponsoring broker.
 - 4. No advertisement shall be made by telephone number alone.
- B. A licensed broker or salesman offering property in which such licensee owns an interest shall state in any advertisement that the owner is a licensed real estate agent.

- C. No real estate broker shall offer or advertise to the public the service of "free appraisal" unless said broker is fully qualified and/or certified in the field of real estate appraisal by competent authority. Any real estate broker who, nevertheless, advertises or offers the service of "free appraisal" shall furnish a complete written copy of each appraisal that is requested in response to such offer or advertisement.

- 14. Immediately upon becoming licensed, each broker shall open and maintain an escrow (trust) account into which they shall deposit all monies, including rentals or other things of value received in trust on behalf of clients.

- A. The escrow (trust) account required by this section shall be established as a separate account in a bank in the parish in which the broker's main office is located except under circumstances where requirements of the parties dictate a different parish.

- 1. In the discretion of the broker a separate escrow (trust) account may be opened and maintained for the collection and management of rentals.

- B. Monies received in trust on behalf of clients are not assets of the broker and shall not be commingled with personal or business funds of the broker; however, a broker may deposit and keep a sum not to exceed \$100.00 in said account from his personal funds, which sum shall be specifically identified and deposited to cover bank service charges related to said escrow (trust) account. Failure to comply with the requirements of this subsection shall be construed as prima facie evidence of fraud.
- C. Applicants for brokers' licenses shall execute an affidavit authorizing and empowering the Commission or its representative to examine and/or inspect their escrow (trust) accounts.
- D. Brokers shall execute a separate escrow (trust) account affidavit upon opening any new or additional escrow (trust) account. Affidavits required by this subsection shall be submitted to and received by the Commission within ten days following the opening of such account.
- E. Monies received and deposited in escrow (trust) accounts shall be removed and/or disbursed therefrom only upon:

- B. Bond restrictions
- C. License fee
- D. Term, suspension, and posting of license
- E. Contracts
- F. Inspection of premises and books of cotton buyer

A copy of the complete rules and regulations may be obtained by writing the Louisiana Department of Agriculture, Grain Division, 2843 Victoria Drive, Baton Rouge, La. 70805.

All interested persons will be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing.

Dave L. Pearce
Commissioner

NOTICE OF INTENT

Board of Trustees for State Colleges and Universities

In accordance with the laws of the State of Louisiana and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950 as amended, a public hearing will be held in the Moss Library Building on the City Park Campus of Delgado College in New Orleans, Louisiana beginning at 9:00 a.m., November 14, 1975.

At such hearing, the Board will consider its bylaws and policies and procedures governing the institutions operating under the authority of the Board and specifically:

- 1. Part 1, Bylaws.
- 2. Part 2, Operating Policies and Procedures.
- 3. Part 3, Building Use, Capital Outlay and Construction.
- 4. Part 4, Educational Programs, Policies and Procedures.
- 5. Part 5, General Administration Policies and Procedures.

- 6. Part 6, Financial Policies and Procedures.
- 7. Part 7, Faculty and Staff Personnel Policies and Procedures.
- 8. Part 8, Student Personnel Policies and Procedures.
- 9. Part 9, Athletic Program, Policies and Procedures.
- 10. Part 10, Insurance, Accidents, Safety Policies and Procedures.

The Board of Trustees for State Colleges and Universities will accept written comments until 5:00 p.m., Monday, November 10, 1975, at the following address:

Board of Trustees for State
Colleges and Universities
P. O. Box 44307, Capitol Station
Baton Rouge, Louisiana 70804

The public is made aware of the above proposed policies and procedures in compliance with R.S. 49:951-966.

All interested persons will be afforded reasonable opportunity to submit data, views, comments or arguments at the regular November Board meeting.

Bill Junkin
Executive Director

NOTICE OF INTENT

Governor's Consumer Protection Division

The Director of the Governor's Consumer Protection Division hereby gives notice of his intention to amend Title 2 of the Consumer Protection Rules and Regulations to reflect changes in the Administrative Procedures Act (Act 730 of 1975), subject to the approval of the Consumer Protection Advisory Board and the Attorney General, on November 10, 1975, at 5:00 p.m. at the Division's Office in Suite 1218, Capital Bank Center, 1885 Wooddale Boulevard, Baton Rouge, Louisiana 70806.

Any interested person may submit, orally or in writing, his views, arguments, data, or reasons in support of or in opposition to this intended adoption of amendments to the rules and regulations by personally

visiting the above office during its normal office hours from 8:30 a.m. to 5:00 p.m. on any day not a legal holiday or day of the weekend, from now until the above time and date of taking the intended action, and submitting same.

Charles W. Tapp
Director

NOTICE OF INTENT

State Board of Elementary and Secondary Education

Notice is hereby given that the State Board of Elementary and Secondary Education intends to consider at its regular November meeting the adoption of policy changes relative to the following areas: 1) designation of the State Board of Elementary and Secondary Education as the primary agency to receive, supervise, and control Federal funds authorized and appropriated for the purpose of comprehensive state-wide planning and evaluation under Title V of the Elementary and Secondary Education Act of 1965, 2) a resolution on special education as follows:

Resolved: that the Board of Elementary and Secondary Education's philosophy of special education is that of providing a least restrictive alternative program for all handicapped children, e.g., mainstreaming.

The removal of handicapped children from the regular education environment should occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Local school systems are urged and requested to design and implement flexible programs for handicapped children which will lead to both normalization and individualization, and thus avoid or minimize labeling and categorizing. Such flexible programming will insure that the child receives the special attention that he needs without disassociating him from his peers in the regular classroom.

It is to be understood that the Board's intentions are to provide sufficient resource and itinerant teachers without affecting the pupil-teacher ratio in the regular class. Keeping handicapped children in the public school and in the mainstream culture gives their "normal" peers an opportunity to learn about

and accept individual differences. Special education should be an integral part of the regular school program in order to guarantee that right by law of all handicapped children to an equal educational opportunity and enable them to become productive and functioning members of society at large.

3) the fundamental structure of the minimum foundation formula, 4) new certification requirements for school psychologists, school social workers, education specialists, and speech and hearing therapists, and 5) general policy on vocational-technical programs and Federal appropriations.

The State Board of Elementary and Secondary Education will accept written comments until 5:00 p.m. November 4 at the following address:

State Board of Elementary
and Secondary Education
P. O. Box 44064, Capitol Station
Baton Rouge, Louisiana 70804

The public is made aware of the consideration of the above rule change proposal in compliance with R.S. 49:951 et seq.

All interested persons will be afforded reasonable opportunity to submit data, views, comments, or arguments at the regular November Board meeting.

Earl Ingram
Director

NOTICE OF INTENT

Commission on Fire Fighting Personnel Standards and Education

The Commission on Fire Fighting Personnel Standards and Education will meet at 10:00 a.m., November 4, 1975, in the Conference Room of the Shreveport Fire Prevention Bureau, Shreveport City Hall, to consider adoption of the following proposals:

1. Rules and procedures;
2. Approved subjects for certified Fire Fighter I training;
3. Performance objective evaluation requirements for becoming a Commission-certified Fire Fighter I.