

AMENDED IN SENATE JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 806**

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**Introduced by Assembly Member Torres**

February 17, 2011

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An act to amend Sections 10131.01, 10153.2, 10177, 11003, 11003.2, 11004, 11004.5, 11010.10, 11018.1, 11018.12, 11018.6, 11211.7, 11500, 11502, 11504, 11505, 23426.5, and 23428.20 of the Business and Professions Code, to amend Sections 51.11, 714, 714.1, 782, 782.5, 783, 783.1, 798.20, 799.10, 800.25, 895, 935, 945, 1098, 1102.6a, 1102.6d, 1133, 1633.3, 1864, 2079.3, 2924b, 2929.5, and 2955.1 of the Civil Code, to amend Sections 86, 116.540, 564, 726.5, 729.035, and 736 of the Code of Civil Procedure, to amend Sections 12191, 12956.1, 12956.2, 53341.5, 65008, 65915, 65995.5, 66411, 66412, 66424, 66427, 66452.10, 66475.2, and 66477 of the Government Code, to amend Sections 1597.531, 13132.7, 19850, 25400.22, 25915.2, 25915.5, 33050, 33435, 33436, 33769, 35811, 37630, 37923, 50955, 51602, and 116048 of the Health and Safety Code, to amend Section 790.031 of the Insurance Code, to amend Section 2188.6 of the Revenue and Taxation Code, to amend Sections 21107.7, 22651, 22651.05, and 22658 of the Vehicle Code, and to amend Section 13553 of the Water Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 806, as amended, Torres. Common interest developments.

The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments.

This bill, operative January 1, 2014, would make various technical conforming changes to reflect a proposed revision and recodification

of the Davis-Stirling Common Interest Development Act, and the operation of this bill would be contingent upon the enactment and operation of that revision and recodification.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 10131.01 of the Business and Professions  
2 Code is amended to read:

3 10131.01. (a) Subdivision (b) of Section 10131 does not apply  
4 to (1) the manager of a hotel, motel, auto and trailer park, to the  
5 resident manager of an apartment building, apartment complex,  
6 or court, or to the employees of that manager, or (2) any person  
7 or entity, including a person employed by a real estate broker,  
8 who, on behalf of another or others, solicits or arranges, or accepts  
9 reservations or money, or both, for transient occupancies described  
10 in paragraphs (1) and (2) of subdivision (b) of Section 1940 of the  
11 Civil Code, in a dwelling unit in a common interest development,  
12 as defined in Section 4100 of the Civil Code, in a dwelling unit in  
13 an apartment building or complex, or in a single-family home, or  
14 (3) any person other than the resident manager or employees of  
15 that manager, performing the following functions, who is the  
16 employee of the property management firm retained to manage a  
17 residential apartment building or complex or court and who is  
18 performing under the supervision and control of a broker of record  
19 who is an employee of that property management firm or a  
20 salesperson licensed to the broker who meets certain minimum  
21 requirements as specified in a regulation issued by the  
22 commissioner:

23 (A) Showing rental units and common areas to prospective  
24 tenants.

25 (B) Providing or accepting preprinted rental applications, or  
26 responding to inquiries from a prospective tenant concerning the  
27 completion of the application.

28 (C) Accepting deposits or fees for credit checks or administrative  
29 costs and accepting security deposits and rents.

30 (D) Providing information about rental rates and other terms  
31 and provisions of a lease or rental agreement, as set out in a  
32 schedule provided by an employer.

1 (E) Accepting signed leases and rental agreements from  
2 prospective tenants.

3 (b) A broker or salesperson shall exercise reasonable supervision  
4 and control over the activities of nonlicensed persons acting under  
5 paragraph (3) of subdivision (a).

6 (c) A broker employing nonlicensed persons to act under  
7 paragraph (3) of subdivision (a) shall comply with Section 10163  
8 for each apartment building or complex or court where the  
9 nonlicensed persons are employed.

10 SEC. 2. Section 10153.2 of the Business and Professions Code  
11 is amended to read:

12 10153.2. (a) An applicant to take the examination for an  
13 original real estate broker license shall also submit evidence,  
14 satisfactory to the commissioner, of successful completion, at an  
15 accredited institution, of:

16 (1) A three-semester unit course, or the quarter equivalent  
17 thereof, in each of the following:

18 (A) Real estate practice.

19 (B) Legal aspects of real estate.

20 (C) Real estate appraisal.

21 (D) Real estate financing.

22 (E) Real estate economics or accounting.

23 (2) A three-semester unit course, or the quarter equivalent  
24 thereof, in three of the following:

25 (A) Advanced legal aspects of real estate.

26 (B) Advanced real estate finance.

27 (C) Advanced real estate appraisal.

28 (D) Business law.

29 (E) Escrows.

30 (F) Real estate principles.

31 (G) Property management.

32 (H) Real estate office administration.

33 (I) Mortgage loan brokering and lending.

34 (J) Computer applications in real estate.

35 (K) On and after July 1, 2004, California law that relates to  
36 common interest developments, including, but not limited to, topics  
37 addressed in the Davis-Stirling Common Interest Development  
38 Act (Part 5 (commencing with Section 4000) of Division 4 of the  
39 Civil Code).

1 (b) The commissioner shall waive the requirements of this  
 2 section for an applicant who is a member of the State Bar of  
 3 California and shall waive the requirements for which an applicant  
 4 has successfully completed an equivalent course of study as  
 5 determined under Section 10153.5.

6 (c) The commissioner shall extend credit under this section for  
 7 any course completed to satisfy requirements of Section 10153.3  
 8 or 10153.4.

9 ~~SEC. 3. Section 10177 of the Business and Professions Code~~  
 10 ~~is amended to read:~~

11 ~~10177. The commissioner may suspend or revoke the license~~  
 12 ~~of a real estate licensee, or may deny the issuance of a license to~~  
 13 ~~an applicant, who has done any of the following, or may suspend~~  
 14 ~~or revoke the license of a corporation, or deny the issuance of a~~  
 15 ~~license to a corporation, if an officer, director, or person owning~~  
 16 ~~or controlling 10 percent or more of the corporation's stock has~~  
 17 ~~done any of the following:~~

18 ~~(a) Procured, or attempted to procure, a real estate license or~~  
 19 ~~license renewal, for himself or herself or a salesperson, by fraud,~~  
 20 ~~misrepresentation, or deceit, or by making a material misstatement~~  
 21 ~~of fact in an application for a real estate license, license renewal,~~  
 22 ~~or reinstatement.~~

23 ~~(b) Entered a plea of guilty or nolo contendere to, or been found~~  
 24 ~~guilty of, or been convicted of, a felony, or a crime substantially~~  
 25 ~~related to the qualifications, functions, or duties of a real estate~~  
 26 ~~licensee, and the time for appeal has elapsed or the judgment of~~  
 27 ~~conviction has been affirmed on appeal, irrespective of an order~~  
 28 ~~granting probation following that conviction, suspending the~~  
 29 ~~imposition of sentence, or of a subsequent order under Section~~  
 30 ~~1203.4 of the Penal Code allowing that licensee to withdraw his~~  
 31 ~~or her plea of guilty and to enter a plea of not guilty, or dismissing~~  
 32 ~~the accusation or information.~~

33 ~~(c) Knowingly authorized, directed, connived at, or aided in the~~  
 34 ~~publication, advertisement, distribution, or circulation of a material~~  
 35 ~~false statement or representation concerning his or her designation~~  
 36 ~~or certification of special education, credential, trade organization~~  
 37 ~~membership, or business, or concerning a business opportunity or~~  
 38 ~~a land or subdivision, as defined in Chapter 1 (commencing with~~  
 39 ~~Section 11000) of Part 2, offered for sale.~~

- 1 ~~(d) Willfully disregarded or violated the Real Estate Law (Part~~  
2 ~~1 (commencing with Section 10000)) or Chapter 1 (commencing~~  
3 ~~with Section 11000) of Part 2 or the rules and regulations of the~~  
4 ~~commissioner for the administration and enforcement of the Real~~  
5 ~~Estate Law and Chapter 1 (commencing with Section 11000) of~~  
6 ~~Part 2.~~
- 7 ~~(e) Willfully used the term “realtor” or a trade name or insignia~~  
8 ~~of membership in a real estate organization of which the licensee~~  
9 ~~is not a member.~~
- 10 ~~(f) Acted or conducted himself or herself in a manner that would~~  
11 ~~have warranted the denial of his or her application for a real estate~~  
12 ~~license, or has either had a license denied or had a license issued~~  
13 ~~by another agency of this state, another state, or the federal~~  
14 ~~government revoked or suspended for acts that, if done by a real~~  
15 ~~estate licensee, would be grounds for the suspension or revocation~~  
16 ~~of a California real estate license, if the action of denial, revocation,~~  
17 ~~or suspension by the other agency or entity was taken only after~~  
18 ~~giving the licensee or applicant fair notice of the charges, an~~  
19 ~~opportunity for a hearing, and other due process protections~~  
20 ~~comparable to the Administrative Procedure Act (Chapter 3.5~~  
21 ~~(commencing with Section 11340), Chapter 4 (commencing with~~  
22 ~~Section 11370), and Chapter 5 (commencing with Section 11500)~~  
23 ~~of Part 1 of Division 3 of Title 2 of the Government Code), and~~  
24 ~~only upon an express finding of a violation of law by the agency~~  
25 ~~or entity.~~
- 26 ~~(g) Demonstrated negligence or incompetence in performing~~  
27 ~~an act for which he or she is required to hold a license.~~
- 28 ~~(h) As a broker licensee, failed to exercise reasonable~~  
29 ~~supervision over the activities of his or her salespersons, or, as the~~  
30 ~~officer designated by a corporate broker licensee, failed to exercise~~  
31 ~~reasonable supervision and control of the activities of the~~  
32 ~~corporation for which a real estate license is required.~~
- 33 ~~(i) Has used his or her employment by a governmental agency~~  
34 ~~in a capacity giving access to records, other than public records,~~  
35 ~~in a manner that violates the confidential nature of the records.~~
- 36 ~~(j) Engaged in any other conduct, whether of the same or a~~  
37 ~~different character than specified in this section, which constitutes~~  
38 ~~fraud or dishonest dealing.~~
- 39 ~~(k) Violated any of the terms, conditions, restrictions, and~~  
40 ~~limitations contained in an order granting a restricted license.~~

1 ~~(l) (1) Solicited or induced the sale, lease, or listing for sale or~~  
2 ~~lease of residential property on the ground, wholly or in part, of~~  
3 ~~loss of value, increase in crime, or decline of the quality of the~~  
4 ~~schools due to the present or prospective entry into the~~  
5 ~~neighborhood of a person or persons having a characteristic listed~~  
6 ~~in subdivision (a) or (d) of Section 12955 of the Government Code,~~  
7 ~~as those characteristics are defined in Sections 12926 and 12926.1,~~  
8 ~~subdivision (m) and paragraph (1) of subdivision (p) of Section~~  
9 ~~12955, and Section 12955.2 of the Government Code.~~

10 ~~(2) Notwithstanding paragraph (1), with respect to familial~~  
11 ~~status, paragraph (1) shall not be construed to apply to housing for~~  
12 ~~older persons, as defined in Section 12955.9 of the Government~~  
13 ~~Code. With respect to familial status, nothing in paragraph (1)~~  
14 ~~shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,~~  
15 ~~and 799.5 of the Civil Code, relating to housing for senior citizens.~~  
16 ~~Subdivision (d) of Section 51 and Section 4760 of the Civil Code~~  
17 ~~and subdivisions (n), (o), and (p) of Section 12955 of the~~  
18 ~~Government Code shall apply to paragraph (1).~~

19 ~~(m) Violated the Franchise Investment Law (Division 5~~  
20 ~~(commencing with Section 31000) of Title 4 of the Corporations~~  
21 ~~Code) or regulations of the Commissioner of Corporations~~  
22 ~~pertaining thereto.~~

23 ~~(n) Violated the Corporate Securities Law of 1968 (Division 1~~  
24 ~~(commencing with Section 25000) of Title 4 of the Corporations~~  
25 ~~Code) or the regulations of the Commissioner of Corporations~~  
26 ~~pertaining thereto.~~

27 ~~(o) Failed to disclose to the buyer of real property, in a~~  
28 ~~transaction in which the licensee is an agent for the buyer, the~~  
29 ~~nature and extent of a licensee's direct or indirect ownership~~  
30 ~~interest in that real property. The direct or indirect ownership~~  
31 ~~interest in the property by a person related to the licensee by blood~~  
32 ~~or marriage, by an entity in which the licensee has an ownership~~  
33 ~~interest, or by any other person with whom the licensee has a~~  
34 ~~special relationship shall be disclosed to the buyer.~~

35 ~~(p) Violated Article 6 (commencing with Section 10237).~~

36 ~~(q) Violated or failed to comply with Chapter 2 (commencing~~  
37 ~~with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil~~  
38 ~~Code, related to mortgages.~~

39 ~~If a real estate broker that is a corporation has not done any of~~  
40 ~~the foregoing acts, either directly or through its employees, agents,~~

1 ~~officers, directors, or persons owning or controlling 10 percent or~~  
2 ~~more of the corporation's stock, the commissioner may not deny~~  
3 ~~the issuance of a real estate license to, or suspend or revoke the~~  
4 ~~real estate license of, the corporation, provided that any offending~~  
5 ~~officer, director, or stockholder, who has done any of the foregoing~~  
6 ~~acts individually and not on behalf of the corporation, has been~~  
7 ~~completely disassociated from any affiliation or ownership in the~~  
8 ~~corporation.~~

9 *SEC. 3. Section 10177 of the Business and Professions Code,*  
10 *as added by Section 9 of Chapter 717 of the Statutes of 2011, is*  
11 *amended to read:*

12 10177. The commissioner may suspend or revoke the license  
13 of a real estate licensee, delay the renewal of a license of a real  
14 estate licensee, or deny the issuance of a license to an applicant,  
15 who has done any of the following, or may suspend or revoke the  
16 license of a corporation, delay the renewal of a license of a  
17 corporation, or deny the issuance of a license to a corporation, if  
18 an officer, director, or person owning or controlling 10 percent or  
19 more of the corporation's stock has done any of the following:

20 (a) Procured, or attempted to procure, a real estate license or  
21 license renewal, for himself or herself or a salesperson, by fraud,  
22 misrepresentation, or deceit, or by making a material misstatement  
23 of fact in an application for a real estate license, license renewal,  
24 or reinstatement.

25 (b) Entered a plea of guilty or nolo contendere to, or been found  
26 guilty of, or been convicted of, a felony, or a crime substantially  
27 related to the qualifications, functions, or duties of a real estate  
28 licensee, and the time for appeal has elapsed or the judgment of  
29 conviction has been affirmed on appeal, irrespective of an order  
30 granting probation following that conviction, suspending the  
31 imposition of sentence, or of a subsequent order under Section  
32 1203.4 of the Penal Code allowing that licensee to withdraw his  
33 or her plea of guilty and to enter a plea of not guilty, or dismissing  
34 the accusation or information.

35 (c) Knowingly authorized, directed, connived at, or aided in the  
36 publication, advertisement, distribution, or circulation of a material  
37 false statement or representation concerning his or her designation  
38 or certification of special education, credential, trade organization  
39 membership, or business, or concerning a business opportunity or

1 a land or subdivision, as defined in Chapter 1 (commencing with  
2 Section 11000) of Part 2, offered for sale.

3 (d) Willfully disregarded or violated the Real Estate Law (Part  
4 1 (commencing with Section 10000)) or Chapter 1 (commencing  
5 with Section 11000) of Part 2 or the rules and regulations of the  
6 commissioner for the administration and enforcement of the Real  
7 Estate Law and Chapter 1 (commencing with Section 11000) of  
8 Part 2.

9 (e) Willfully used the term “realtor” or a trade name or insignia  
10 of membership in a real estate organization of which the licensee  
11 is not a member.

12 (f) Acted or conducted himself or herself in a manner that would  
13 have warranted the denial of his or her application for a real estate  
14 license, or either had a license denied or had a license issued by  
15 another agency of this state, another state, or the federal  
16 government revoked or suspended for acts that, if done by a real  
17 estate licensee, would be grounds for the suspension or revocation  
18 of a California real estate license, if the action of denial, revocation,  
19 or suspension by the other agency or entity was taken only after  
20 giving the licensee or applicant fair notice of the charges, an  
21 opportunity for a hearing, and other due process protections  
22 comparable to the Administrative Procedure Act (Chapter 3.5  
23 (commencing with Section 11340), Chapter 4 (commencing with  
24 Section 11370), and Chapter 5 (commencing with Section 11500)  
25 of Part 1 of Division 3 of Title 2 of the Government Code), and  
26 only upon an express finding of a violation of law by the agency  
27 or entity.

28 (g) Demonstrated negligence or incompetence in performing  
29 an act for which he or she is required to hold a license.

30 (h) As a broker licensee, failed to exercise reasonable  
31 supervision over the activities of his or her salespersons, or, as the  
32 officer designated by a corporate broker licensee, failed to exercise  
33 reasonable supervision and control of the activities of the  
34 corporation for which a real estate license is required.

35 (i) Used his or her employment by a governmental agency in a  
36 capacity giving access to records, other than public records, in a  
37 manner that violates the confidential nature of the records.

38 (j) Engaged in any other conduct, whether of the same or a  
39 different character than specified in this section, that constitutes  
40 fraud or dishonest dealing.

- 1 (k) Violated any of the terms, conditions, restrictions, and  
2 limitations contained in an order granting a restricted license.
- 3 (l) (1) Solicited or induced the sale, lease, or listing for sale or  
4 lease of residential property on the ground, wholly or in part, of  
5 loss of value, increase in crime, or decline of the quality of the  
6 schools due to the present or prospective entry into the  
7 neighborhood of a person or persons having a characteristic listed  
8 in subdivision (a) or (d) of Section 12955 of the Government Code,  
9 as those characteristics are defined in Sections 12926 and 12926.1,  
10 subdivision (m) and paragraph (1) of subdivision (p) of Section  
11 12955, and Section 12955.2 of the Government Code.
- 12 (2) Notwithstanding paragraph (1), with respect to familial  
13 status, paragraph (1) shall not be construed to apply to housing for  
14 older persons, as defined in Section 12955.9 of the Government  
15 Code. With respect to familial status, nothing in paragraph (1)  
16 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
17 and 799.5 of the Civil Code, relating to housing for senior citizens.  
18 Subdivision (d) of Section 51 and Section ~~1360~~ 4760 of the Civil  
19 Code and subdivisions (n), (o), and (p) of Section 12955 of the  
20 Government Code shall apply to paragraph (1).
- 21 (m) Violated the Franchise Investment Law (Division 5  
22 commencing with Section 31000) of Title 4 of the Corporations  
23 Code) or regulations of the Commissioner of Corporations  
24 pertaining thereto.
- 25 (n) Violated the Corporate Securities Law of 1968 (Division 1  
26 commencing with Section 25000) of Title 4 of the Corporations  
27 Code) or the regulations of the Commissioner of Corporations  
28 pertaining thereto.
- 29 (o) Failed to disclose to the buyer of real property, in a  
30 transaction in which the licensee is an agent for the buyer, the  
31 nature and extent of a licensee's direct or indirect ownership  
32 interest in that real property. The direct or indirect ownership  
33 interest in the property by a person related to the licensee by blood  
34 or marriage, by an entity in which the licensee has an ownership  
35 interest, or by any other person with whom the licensee has a  
36 special relationship shall be disclosed to the buyer.
- 37 (p) Violated Article 6 (commencing with Section 10237).
- 38 (q) Violated or failed to comply with Chapter 2 (commencing  
39 with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil  
40 Code, related to mortgages.

1 If a real estate broker that is a corporation has not done any of  
2 the foregoing acts, either directly or through its employees, agents,  
3 officers, directors, or persons owning or controlling 10 percent or  
4 more of the corporation's stock, the commissioner may not deny  
5 the issuance or delay the renewal of a real estate license to, or  
6 suspend or revoke the real estate license of, the corporation,  
7 provided that any offending officer, director, or stockholder, who  
8 has done any of the foregoing acts individually and not on behalf  
9 of the corporation, has been completely disassociated from any  
10 affiliation or ownership in the corporation. A decision by the  
11 commissioner to delay the renewal of a real estate license shall  
12 toll the expiration of that license until the results of any pending  
13 disciplinary actions against that licensee are final, or until the  
14 licensee voluntarily surrenders his, her, or its license, whichever  
15 is earlier.

16 This section shall become operative on July 1, 2012.

17 SEC. 4. Section 11003 of the Business and Professions Code  
18 is amended to read:

19 11003. "Planned development" has the same meaning as  
20 specified in Section 4175 of the Civil Code.

21 SEC. 5. Section 11003.2 of the Business and Professions Code  
22 is amended to read:

23 11003.2. "Stock cooperative" has the same meaning as  
24 specified in Section 4190 of the Civil Code, except that, as used  
25 in this chapter, a "stock cooperative" does not include a  
26 limited-equity housing cooperative.

27 SEC. 6. Section 11004 of the Business and Professions Code  
28 is amended to read:

29 11004. "Community apartment project" has the same meaning  
30 as specified in Section 4105 of the Civil Code.

31 SEC. 7. Section 11004.5 of the Business and Professions Code  
32 is amended to read:

33 11004.5. In addition to any provisions of Section 11000, the  
34 reference in this code to "subdivided lands" and "subdivision"  
35 shall include all of the following:

36 (a) Any planned development, as defined in Section 11003,  
37 containing five or more lots.

38 (b) Any community apartment project, as defined by Section  
39 11004, containing five or more apartments.

1 (c) Any condominium project containing five or more  
2 condominiums, as defined in Section 783 of the Civil Code.

3 (d) Any stock cooperative as defined in Section 11003.2,  
4 including any legal or beneficial interests therein, having or  
5 intended to have five or more shareholders.

6 (e) Any limited-equity housing cooperative, as defined in  
7 Section 11003.4.

8 (f) In addition, the following interests shall be subject to this  
9 chapter and the regulations of the commissioner adopted pursuant  
10 thereto:

11 (1) Any accompanying memberships or other rights or privileges  
12 created in, or in connection with, any of the forms of development  
13 referred to in subdivision (a), (b), (c), (d), or (e) by any deeds,  
14 conveyances, leases, subleases, assignments, declarations of  
15 restrictions, articles of incorporation, bylaws, or contracts  
16 applicable thereto.

17 (2) Any interests or memberships in any owners' association  
18 as defined in Section 4080 of the Civil Code, created in connection  
19 with any of the forms of the development referred to in subdivision  
20 (a), (b), (c), (d), or (e).

21 (g) Notwithstanding this section, time-share plans, exchange  
22 programs, incidental benefits, and short-term product subject to  
23 Chapter 2 (commencing with Section 11210) are not "subdivisions"  
24 or "subdivided lands" subject to this chapter.

25 SEC. 8. Section 11010.10 of the Business and Professions  
26 Code is amended to read:

27 11010.10. A person who plans to offer for sale or lease lots or  
28 other interests in a subdivision which sale or lease (a) is not subject  
29 to the provisions of this chapter, (b) does not require the submission  
30 of a notice of intention as provided in Section 11010, or (c) is  
31 subject to this chapter and for which the local jurisdiction requires  
32 review and approval of the declaration, as defined in Section 4135  
33 of the Civil Code, prior to or concurrently with the recordation of  
34 the subdivision map and prior to the approval of the declaration  
35 pursuant to a notice of intention for a public report, may submit  
36 an application requesting review of the declaration, along with any  
37 required supporting documentation, to the commissioner, without  
38 the filing of a notice of intention for the subdivision for which the  
39 declaration is being prepared. Upon approval, the commissioner  
40 shall give notice to the applicant that the declaration shall be

1 approved for a subsequent notice of intent filing for any public  
2 report for the subdivision identified in the application, provided  
3 that the subdivision setup is substantially the same as that originally  
4 described in the application for review of the declaration.

5 SEC. 9. Section 11018.1 of the Business and Professions Code  
6 is amended to read:

7 11018.1. (a) A copy of the public report of the commissioner,  
8 when issued, shall be given to the prospective purchaser by the  
9 owner, subdivider, or agent prior to the execution of a binding  
10 contract or agreement for the sale or lease of any lot or parcel in  
11 a subdivision. The requirement of this section extends to lots or  
12 parcels offered by the subdivider after repossession. A receipt shall  
13 be taken from the prospective purchaser in a form and manner as  
14 set forth in regulations of the Real Estate Commissioner.

15 (b) A copy of the public report shall be given by the owner,  
16 subdivider, or agent at any time, upon oral or written request, to  
17 any member of the public. A copy of the public report and a  
18 statement advising that a copy of the public report may be obtained  
19 from the owner, subdivider or agent at any time, upon oral or  
20 written request, shall be posted in a conspicuous place at any office  
21 where sales or leases or offers to sell or lease lots within the  
22 subdivision are regularly made.

23 (c) At the same time that a public report is required to be given  
24 by the owner, subdivider, or agent pursuant to subdivision (a) with  
25 respect to a common interest development, as defined, in Section  
26 4100 of the Civil Code, the owner, subdivider, or agent shall give  
27 the prospective purchaser a copy of the following statement:

28

29 “COMMON INTEREST DEVELOPMENT GENERAL INFORMATION

30 The project described in the attached Subdivision Public Report  
31 is known as a common-interest development. Read the public  
32 report carefully for more information about the type of  
33 development. The development includes common areas and  
34 facilities which will be owned or operated by an owners’  
35 association. Purchase of a lot or unit automatically entitles and  
36 obligates you as a member of the association and, in most cases,  
37 includes a beneficial interest in the areas and facilities. Since  
38 membership in the association is mandatory, you should be aware  
39 of the following information before you purchase:

1 Your ownership in this development and your rights and  
2 remedies as a member of its association will be controlled by  
3 governing instruments which generally include a Declaration of  
4 Restrictions (also known as ~~CC&R<sup>2</sup>s~~) *CC&Rs*), Articles of  
5 Incorporation (or association), and bylaws. The provisions of these  
6 documents are intended to be, and in most cases are, enforceable  
7 in a court of law. Study these documents carefully before entering  
8 into a contract to purchase a subdivision interest.

9 In order to provide funds for operation and maintenance of the  
10 common facilities, the association will levy assessments against  
11 your lot or unit. If you are delinquent in the payment of  
12 assessments, the association may enforce payment through court  
13 proceedings or your lot or unit may be liened and sold through the  
14 exercise of a power of sale. The anticipated income and expenses  
15 of the association, including the amount that you may expect to  
16 pay through assessments, are outlined in the proposed budget. Ask  
17 to see a copy of the budget if the subdivider has not already made  
18 it available for your examination.

19 A homeowner association provides a vehicle for the ownership  
20 and use of recreational and other common facilities which were  
21 designed to attract you to buy in this development. The association  
22 also provides a means to accomplish architectural control and to  
23 provide a base for homeowner interaction on a variety of issues.  
24 The purchaser of an interest in a common-interest development  
25 should contemplate active participation in the affairs of the  
26 association. He or she should be willing to serve on the board of  
27 directors or on committees created by the board. In short, “they”  
28 in a common interest development is “you.” Unless you serve as  
29 a member of the governing board or on a committee appointed by  
30 the board, your control of the operation of the common areas and  
31 facilities is limited to your vote as a member of the association.  
32 There are actions that can be taken by the governing body without  
33 a vote of the members of the association which can have a  
34 significant impact upon the quality of life for association members.

35 Until there is a sufficient number of purchasers of lots or units  
36 in a common interest development to elect a majority of the  
37 governing body, it is likely that the subdivider will effectively  
38 control the affairs of the association. It is frequently necessary and  
39 equitable that the subdivider do so during the early stages of  
40 development. It is vitally important to the owners of individual

1 subdivision interests that the transition from subdivider to  
2 resident-owner control be accomplished in an orderly manner and  
3 in a spirit of cooperation.

4 When contemplating the purchase of a dwelling in a common  
5 interest development, you should consider factors beyond the  
6 attractiveness of the dwelling units themselves. Study the governing  
7 instruments and give careful thought to whether you will be able  
8 to exist happily in an atmosphere of cooperative living where the  
9 interests of the group must be taken into account as well as the  
10 interests of the individual. Remember that managing a common  
11 interest development is very much like governing a small  
12 community ... the management can serve you well, but you will  
13 have to work for its success.”

14 Failure to provide the statement in accordance with this  
15 subdivision shall not be deemed a violation subject to Section  
16 10185.

17 SEC. 10. Section 11018.12 of the Business and Professions  
18 Code is amended to read:

19 11018.12. (a) The commissioner may issue a conditional public  
20 report for a subdivision specified in Section 11004.5 if the  
21 requirements of subdivision (e) are met, all deficiencies and  
22 substantive inadequacies in the documents that are required to  
23 make an application for a final public report for the subdivision  
24 substantially complete have been corrected, the material elements  
25 of the setup of the offering to be made under the authority of the  
26 conditional public report have been established, and all  
27 requirements for the issuance of a public report set forth in the  
28 regulations of the commissioner have been satisfied, except for  
29 one or more of the following requirements, as applicable:

30 (1) A final map has not been recorded.

31 (2) A condominium plan pursuant to Section 4120 of the Civil  
32 Code has not been recorded.

33 (3) A declaration of covenants, conditions, and restrictions  
34 pursuant to Sections 4250 and 4255 of the Civil Code has not been  
35 recorded.

36 (4) A declaration of annexation has not been recorded.

37 (5) A recorded subordination of existing liens to the declaration  
38 of covenants, conditions, and restrictions or declaration of  
39 annexation, or escrow instructions to effect recordation prior to  
40 the first sale, are lacking.

1 (6) Filed articles of incorporation are lacking.

2 (7) A current preliminary report of a licensed title insurance  
3 company issued after filing of the final map and recording of the  
4 declaration covering all subdivision interests to be included in the  
5 public report has not been provided.

6 (8) Other requirements the commissioner determines are likely  
7 to be timely satisfied by the applicant, notwithstanding the fact  
8 that the failure to meet these requirements makes the application  
9 qualitatively incomplete.

10 (b) The commissioner may issue a conditional public report for  
11 a subdivision not referred to or specified in Section 11000.1 or  
12 11004.5 if the requirements of subdivision (e) are met, all  
13 deficiencies and substantive inadequacies in the documents that  
14 are required to make an application for a final public report for the  
15 subdivision substantially complete have been corrected, the  
16 material elements of the setup of the offering to be made under  
17 the authority of the conditional public report have been established,  
18 and all requirements for issuance of a public report set forth in the  
19 regulations of the commissioner have been satisfied, except for  
20 one or more of the following requirements, as applicable:

21 (1) A final map has not been recorded.

22 (2) A declaration of covenants, conditions, and restrictions has  
23 not been recorded.

24 (3) A current preliminary report of a licensed title insurance  
25 company issued after filing of the final map and recording of the  
26 declaration covering all subdivision interests to be included in the  
27 public report has not been provided.

28 (4) Other requirements the commissioner determines are likely  
29 to be timely satisfied by the applicant, notwithstanding the fact  
30 that the failure to meet these requirements makes the application  
31 qualitatively incomplete.

32 (c) A decision by the commissioner to not issue a conditional  
33 public report shall be noticed in writing to the applicant within  
34 five business days and that notice shall specifically state the reasons  
35 why the report is not being issued.

36 (d) Notwithstanding the provisions of Section 11018.2, a person  
37 may sell or lease, or offer for sale or lease, lots or parcels in a  
38 subdivision pursuant to a conditional public report if, as a condition  
39 of the sale or lease or offer for sale or lease, delivery of legal title  
40 or other interest contracted for will not take place until issuance

1 of a public report and provided that the requirements of subdivision  
2 (e) are met.

3 (e) (1) Evidence shall be supplied that all purchase money will  
4 be deposited in compliance with subdivision (a) of Section 11013.2  
5 or subdivision (a) of Section 11013.4, and in the case of a  
6 subdivision referred to in subdivision (a) of this section, evidence  
7 shall be given of compliance with paragraphs (1) and (2) of  
8 subdivision (a) of Section 11018.5.

9 (2) A description of the nature of the transaction shall be  
10 supplied.

11 (3) Provision shall be made for the return of the entire sum of  
12 money paid or advanced by the purchaser if a subdivision public  
13 report has not been issued during the term of the conditional public  
14 report, or as extended, or the purchaser is dissatisfied with the  
15 public report because of a change pursuant to Section 11012.

16 (f) A subdivider, principal, or his or her agent shall provide a  
17 prospective purchaser a copy of the conditional public report and  
18 a written statement including all of the following:

19 (1) Specification of the information required for issuance of a  
20 public report.

21 (2) Specification of the information required in the public report  
22 that is not available in the conditional public report, along with a  
23 statement of the reasons why that information is not available at  
24 the time of issuance of the conditional public report.

25 (3) A statement that no person acting as a principal or agent  
26 shall sell or lease, or offer for sale or lease, lots or parcels in a  
27 subdivision for which a conditional public report has been issued  
28 except as provided in this article.

29 (4) Specification of the requirements of subdivision (e).

30 (g) The prospective purchaser shall sign a receipt that he or she  
31 has received and has read the conditional public report and the  
32 written statement provided pursuant to subdivision (f).

33 (h) The term of a conditional public report shall not exceed six  
34 months, and may be renewed for one additional term of six months  
35 if the commissioner determines that the requirements for issuance  
36 of a public report are likely to be satisfied during the renewal term.

37 (i) The term of a conditional public report for attached residential  
38 condominium units, as defined pursuant to Section 783 of the Civil  
39 Code, consisting of 25 units or more as specified on the approved  
40 tentative tract map, shall not exceed 30 months and may be

1 renewed for one additional term of six months if the commissioner  
2 determines that the requirements for issuance of a public report  
3 are likely to be satisfied during the renewal term.

4 SEC. 11. Section 11018.6 of the Business and Professions  
5 Code is amended to read:

6 11018.6. Any person offering to sell or lease any interest  
7 subject to the requirements of subdivision (a) of Section 11018.1  
8 in a subdivision described in Section 11004.5 shall make a copy  
9 of each of the following documents available for examination by  
10 a prospective purchaser or lessee before the execution of an offer  
11 to purchase or lease and shall give a copy thereof to each purchaser  
12 or lessee as soon as practicable before transfer of the interest being  
13 acquired by the purchaser or lessee:

14 (a) The declaration of covenants, conditions, and restrictions  
15 for the subdivision.

16 (b) Articles of incorporation or association for the subdivision  
17 owners association.

18 (c) Bylaws for the subdivision owners association.

19 (d) Any other instrument which establishes or defines the  
20 common, mutual, and reciprocal rights, and responsibilities of the  
21 owners or lessees of interests in the subdivision as shareholders  
22 or members of the subdivision owners association or otherwise.

23 (e) To the extent available, the current financial information  
24 and related statements as specified in Sections 5300 and 5565 of  
25 the Civil Code, for subdivisions subject to those provisions.

26 (f) A statement prepared by the governing body of the  
27 association setting forth the outstanding delinquent assessments  
28 and related charges levied by the association against the subdivision  
29 interests in question under authority of the governing instruments  
30 for the subdivision and association.

31 SEC. 12. Section 11211.7 of the Business and Professions  
32 Code is amended to read:

33 11211.7. (a) Any time-share plan registered pursuant to this  
34 chapter to which the Davis-Stirling Common Interest Development  
35 Act (Part 5 (commencing with Section 4000) of Division 4 of the  
36 Civil Code) might otherwise apply is exempt from that act, except  
37 for Sections 4090, 4177, 4178, 4215, 4220, 4230, 4260 to 4275,  
38 inclusive, 4500 to 4510, inclusive, 4625 to 4650, inclusive, 4775  
39 to 4790, inclusive, 4900 to 4950, inclusive, 5500 to 5560, inclusive,  
40 and 5975 of the Civil Code.

1 (b) (1) To the extent that a single site time-share plan or  
2 component site of a multisite time-share plan located in the state  
3 is structured as a condominium or other common interest  
4 development, and there is any inconsistency between the applicable  
5 provisions of this chapter and the Davis-Stirling Common Interest  
6 Development Act, the applicable provisions of this chapter shall  
7 control.

8 (2) To the extent that a time-share plan is part of a mixed use  
9 project where the time-share plan comprises a portion of a  
10 condominium or other common interest development, the  
11 applicable provisions of this chapter shall apply to that portion of  
12 the project uniquely comprising the time-share plan, and the  
13 Davis-Stirling Common Interest Development Act shall apply to  
14 the project as a whole.

15 (c) (1) The offering of any time-share plan, exchange program,  
16 incidental benefit, or short term product in this state that is subject  
17 to the provisions of this chapter shall be exempt from Sections  
18 1689.5 to 1689.14, inclusive, of the Civil Code (Home Solicitation  
19 Sales), Sections 1689.20 to 1689.24, inclusive, of the Civil Code  
20 (Seminar Sales), and Sections 1812.100 to 1812.129, inclusive, of  
21 the Civil Code (Contracts for Discount Buying Services).

22 (2) A developer or exchange company that, in connection with  
23 a time-share sales presentation or offer to arrange an exchange,  
24 offers a purchaser the opportunity to utilize the services of an  
25 affiliate, subsidiary, or third-party entity in connection with  
26 wholesale or retail air or sea transportation, shall not, in and of  
27 itself, cause the developer or exchange company to be considered  
28 a seller of travel subject to Sections 17550 to 17550.34, inclusive,  
29 of the Business and Professions Code, so long as the entity that  
30 actually provides or arranges the air or sea transportation is  
31 registered as a seller of travel with the California Attorney  
32 General's office or is otherwise exempt under those sections.

33 (d) To the extent certain sections in this chapter require  
34 information and disclosure that by their terms only apply to real  
35 property time-share plans, those requirements shall not apply to  
36 personal property time-share plans.

37 SEC. 13. Section 11500 of the Business and Professions Code  
38 is amended to read:

39 11500. For purposes of this chapter, the following definitions  
40 apply:

1 (a) “Common interest development” means a residential  
2 development identified in Section 4100 of the Civil Code.

3 (b) “Association” has the same meaning as defined in Section  
4 4080 of the Civil Code.

5 (c) “Financial services” means acts performed or offered to be  
6 performed, for compensation, for an association, including, but  
7 not limited to, the preparation of internal unaudited financial  
8 statements, internal accounting and bookkeeping functions, billing  
9 of assessments, and related services.

10 (d) “Management services” means acts performed or offered to  
11 be performed in an advisory capacity for an association including,  
12 but not limited to, the following:

13 (1) Administering or supervising the collection, reporting, and  
14 archiving of the financial or common area assets of an association  
15 or common interest development, at the direction of the  
16 association’s board of directors.

17 (2) Implementing resolutions and directives of the board of  
18 directors of the association elected to oversee the operation of a  
19 common interest development.

20 (3) Implementing provisions of governing documents, as defined  
21 in Section 4150 of the Civil Code, that govern the operation of the  
22 common interest development.

23 (4) Administering association contracts, including insurance  
24 contracts, within the scope of the association’s duties or with other  
25 common interest development managers, vendors, contractors,  
26 and other third-party providers of goods and services to an  
27 association or common interest development.

28 (e) “Professional association for common interest development  
29 managers” means an organization that meets all of the following:

30 (1) Has at least 200 members or certificants who are common  
31 interest development managers in California.

32 (2) Has been in existence for at least five years.

33 (3) Operates pursuant to Section 501(c) of the Internal Revenue  
34 Code.

35 (4) Certifies that a common interest development manager has  
36 met the criteria set forth in Section 11502 without requiring  
37 membership in the association.

38 (5) Requires adherence to a code of professional ethics and  
39 standards of practice for certified common interest development  
40 managers.

1 SEC. 14. Section 11502 of the Business and Professions Code  
2 is amended to read:

3 11502. In order to be called a “certified common interest  
4 development manager,” a person shall meet one of the following  
5 requirements:

6 (a) Prior to July 1, 2003, has passed a knowledge, skills, and  
7 aptitude examination as specified in Section 11502.5 or has been  
8 granted a certification or a designation by a professional association  
9 for common interest development managers, and who has, within  
10 five years prior to July 1, 2004, received instruction in California  
11 law pursuant to paragraph (1) of subdivision (b).

12 (b) On or after July 1, 2003, has successfully completed an  
13 educational curriculum that shall be no less than a combined 30  
14 hours in coursework described in this subdivision and passed an  
15 examination or examinations that test competence in common  
16 interest development management in the following areas:

17 (1) The law that relates to the management of common interest  
18 developments, including, but not limited to, the following courses  
19 of study:

20 (A) Topics covered by the Davis-Stirling Common Interest  
21 Development Act, contained in Part 5 (commencing with Section  
22 4000) of Division 4 of the Civil Code, including, but not limited  
23 to, the types of California common interest developments,  
24 disclosure requirements pertaining to common interest  
25 developments, meeting requirements, financial reporting  
26 requirements, and member access to association records.

27 (B) Personnel issues, including, but not limited to, general  
28 matters related to independent contractor or employee status, the  
29 laws on harassment, the Unruh Civil Rights Act, the California  
30 Fair Employment and Housing Act, and the Americans with  
31 Disabilities Act.

32 (C) Risk management, including, but not limited to, insurance  
33 coverage, maintenance, operations, and emergency preparedness.

34 (D) Property protection for associations, including, but not  
35 limited to, pertinent matters relating to environmental hazards such  
36 as asbestos, radon gas, and lead-based paint, the Vehicle Code,  
37 local and municipal regulations, family day care facilities, energy  
38 conservation, Federal Communications Commission rules and  
39 regulations, and solar energy systems.

1 (E) Business affairs of associations, including, but not limited  
2 to, necessary compliance with federal, state, and local law.

3 (F) Basic understanding of governing documents, codes, and  
4 regulations relating to the activities and affairs of associations and  
5 common interest developments.

6 (2) Instruction in general management that is related to the  
7 managerial and business skills needed for management of a  
8 common interest development, including, but not limited to, the  
9 following:

10 (A) Finance issues, including, but not limited to, budget  
11 preparation; management; administration or supervision of the  
12 collection, reporting, and archiving of the financial or common  
13 area assets of an association or common interest development;  
14 bankruptcy laws; and assessment collection.

15 (B) Contract negotiation and administration.

16 (C) Supervision of employees and staff.

17 (D) Management of maintenance programs.

18 (E) Management and administration of rules, regulations, and  
19 parliamentary procedures.

20 (F) Management and administration of architectural standards.

21 (G) Management and administration of the association's  
22 recreational programs and facilities.

23 (H) Management and administration of owner and resident  
24 communications.

25 (I) Training and strategic planning for the association's board  
26 of directors and its committees.

27 (J) Implementation of association policies and procedures.

28 (K) Ethics, professional conduct, and standards of practice for  
29 common interest development managers.

30 (L) Current issues relating to common interest developments.

31 (M) Conflict avoidance and resolution mechanisms.

32 SEC. 15. Section 11504 of the Business and Professions Code  
33 is amended to read:

34 11504. On or before September 1, 2003, and annually  
35 thereafter, a person who either provides or contemplates providing  
36 the services of a common interest development manager to an  
37 association shall disclose to the board of directors of the association  
38 the following information:

1 (a) Whether or not the common interest development manager  
 2 has met the requirements of Section 11502 so he or she may be  
 3 called a certified common interest development manager.

4 (b) The name, address, and telephone number of the professional  
 5 association that certified the common interest development  
 6 manager, the date the manager was certified, and the status of the  
 7 certification.

8 (c) The location of his or her primary office.

9 (d) Prior to entering into or renewing a contract with an  
 10 association, the common interest development manager shall  
 11 disclose to the board of directors of the association or common  
 12 interest development whether the fidelity insurance of the common  
 13 interest development manager or his or her employer covers the  
 14 current year’s operating and reserve funds of the association. This  
 15 requirement shall not be construed to compel an association to  
 16 require a common interest development manager to obtain or  
 17 maintain fidelity insurance.

18 (e) Whether the common interest development manager  
 19 possesses an active real estate license.

20 This section may not preclude a common interest development  
 21 manager from disclosing information as required in Section 5375  
 22 of the Civil Code.

23 SEC. 16. Section 11505 of the Business and Professions Code  
 24 is amended to read:

25 11505. It is an unfair business practice for a common interest  
 26 development manager, a company that employs the common  
 27 interest development manager, or a company that is controlled by  
 28 a company that also has a financial interest in a company  
 29 employing that manager, to do any of the following:

30 (a) On or after July 1, 2003, to hold oneself out or use the title  
 31 of “certified common interest development manager” or any other  
 32 term that implies or suggests that the person is certified as a  
 33 common interest development manager without meeting the  
 34 requirements of Section 11502.

35 (b) To state or advertise that he or she is certified, registered,  
 36 or licensed by a governmental agency to perform the functions of  
 37 a certified common interest development manager.

38 (c) To state or advertise a registration or license number, unless  
 39 the license or registration is specified by a statute, regulation, or  
 40 ordinance.

1 (d) To fail to comply with any item to be disclosed in Section  
2 11504 of this code, or Section 5375 of the Civil Code.

3 SEC. 17. Section 23426.5 of the Business and Professions  
4 Code is amended to read:

5 23426.5. (a) For purposes of this article, “club” also means  
6 any tennis club that maintains not less than four regulation tennis  
7 courts, together with the necessary facilities and clubhouse, has  
8 members paying regular monthly dues, has been in existence for  
9 not less than 45 years, and is not associated with a common interest  
10 development as defined in Section 4100 of the Civil Code, a  
11 community apartment project as defined in Section 11004 of this  
12 code, a project consisting of condominiums as defined in Section  
13 783 of the Civil Code, or a mobilehome park as defined in Section  
14 18214 of the Health and Safety Code.

15 (b) It shall be unlawful for any club licensed pursuant to this  
16 section to make any discrimination, distinction, or restriction  
17 against any person on account of age or any characteristic listed  
18 or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

19 SEC. 18. Section 23428.20 of the Business and Professions  
20 Code is amended to read:

21 23428.20. (a) For the purposes of this article, “club” also  
22 means any bona fide nonprofit corporation that has been in  
23 existence for not less than nine years, has more than 8,500  
24 memberships issued and outstanding to owners of condominiums  
25 and owners of memberships in stock cooperatives, and owns,  
26 leases, operates, or maintains recreational facilities for its members.

27 (b) For the purposes of this article, “club” also means any bona  
28 fide nonprofit corporation that was formed as a condominium  
29 homeowners’ association, has at least 250 members, has served  
30 daily meals to its members and guests for a period of not less than  
31 12 years, owns or leases, operates, and maintains a clubroom or  
32 rooms for its membership, has an annual fee of not less than nine  
33 hundred dollars (\$900) per year per member, and has as a condition  
34 of membership that one member of each household be at least 54  
35 years old.

36 (c) Section 23399 and the numerical limitation of Section 23430  
37 shall not apply to a club defined in this section.

38 (d) No license shall be issued pursuant to this section to any  
39 club that withholds membership or denies facilities or services to  
40 any person on account of any basis listed in subdivision (a) or (d)

1 of Section 12955 of the Government Code, as those bases are  
2 defined in Sections 12926, 12926.1, subdivision (m) and paragraph  
3 (1) of subdivision (p) of Section 12955, and Section 12955.2 of  
4 the Government Code.

5 (e) Notwithstanding subdivision (d), with respect to familial  
6 status, subdivision (d) shall not be construed to apply to housing  
7 for older persons, as defined in Section 12955.9 of the Government  
8 Code. With respect to familial status, nothing in subdivision (d)  
9 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
10 and 799.5 of the Civil Code, relating to housing for senior citizens.  
11 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
12 and subdivisions (n), (o), and (p) of Section 12955 of the  
13 Government Code shall apply to subdivision (d).

14 SEC. 19. Section 51.11 of the Civil Code is amended to read:

15 51.11. (a) The Legislature finds and declares that this section  
16 is essential to establish and preserve housing for senior citizens.  
17 There are senior citizens who need special living environments,  
18 and find that there is an inadequate supply of this type of housing  
19 in the state.

20 (b) For the purposes of this section, the following definitions  
21 apply:

22 (1) “Qualifying resident” or “senior citizen” means a person 62  
23 years of age or older, or 55 years of age or older in a senior citizen  
24 housing development.

25 (2) “Qualified permanent resident” means a person who meets  
26 both of the following requirements:

27 (A) Was residing with the qualifying resident or senior citizen  
28 prior to the death, hospitalization, or other prolonged absence of,  
29 or the dissolution of marriage with, the qualifying resident or senior  
30 citizen.

31 (B) Was 45 years of age or older, or was a spouse, cohabitant,  
32 or person providing primary physical or economic support to the  
33 qualifying resident or senior citizen.

34 (3) “Qualified permanent resident” also means a disabled person  
35 or person with a disabling illness or injury who is a child or  
36 grandchild of the senior citizen or a qualified permanent resident  
37 as defined in paragraph (2) who needs to live with the senior citizen  
38 or qualified permanent resident because of the disabling condition,  
39 illness, or injury. For purposes of this section, “disabled” means  
40 a person who has a disability as defined in subdivision (b) of

1 Section 54. A “disabling injury or illness” means an illness or  
2 injury which results in a condition meeting the definition of  
3 disability set forth in subdivision (b) of Section 54.

4 (A) For any person who is a qualified permanent resident under  
5 paragraph (3) whose disabling condition ends, the owner, board  
6 of directors, or other governing body may require the formerly  
7 disabled resident to cease residing in the development upon receipt  
8 of six months’ written notice; provided, however, that the owner,  
9 board of directors, or other governing body may allow the person  
10 to remain a resident for up to one year, after the disabling condition  
11 ends.

12 (B) The owner, board of directors, or other governing body of  
13 the senior citizen housing development may take action to prohibit  
14 or terminate occupancy by a person who is a qualified permanent  
15 resident under paragraph (3) if the owner, board of directors, or  
16 other governing body finds, based on credible and objective  
17 evidence, that the person is likely to pose a significant threat to  
18 the health or safety of others that cannot be ameliorated by means  
19 of a reasonable accommodation; provided, however, that action  
20 to prohibit or terminate the occupancy may be taken only after  
21 doing both of the following:

22 (i) Providing reasonable notice to and an opportunity to be heard  
23 for the disabled person whose occupancy is being challenged, and  
24 reasonable notice to the coresident parent or grandparent of that  
25 person.

26 (ii) Giving due consideration to the relevant, credible, and  
27 objective information provided in that hearing. The evidence shall  
28 be taken and held in a confidential manner, pursuant to a closed  
29 session, by the owner, board of directors, or other governing body  
30 in order to preserve the privacy of the affected persons.

31 The affected persons shall be entitled to have present at the  
32 hearing an attorney or any other person authorized by them to  
33 speak on their behalf or to assist them in the matter.

34 (4) “Senior citizen housing development” means a residential  
35 development developed with more than 20 units as a senior  
36 community by its developer and zoned as a senior community by  
37 a local governmental entity, or characterized as a senior community  
38 in its governing documents, as these are defined in Section 4150,  
39 or qualified as a senior community under the federal Fair Housing  
40 Amendments Act of 1988, as amended. Any senior citizen housing

1 development which is required to obtain a public report under  
2 Section 11010 of the Business and Professions Code and which  
3 submits its application for a public report after July 1, 2001, shall  
4 be required to have been issued a public report as a senior citizen  
5 housing development under Section 11010.05 of the Business and  
6 Professions Code.

7 (5) “Dwelling unit” or “housing” means any residential  
8 accommodation other than a mobilehome.

9 (6) “Cohabitant” refers to persons who live together as husband  
10 and wife, or persons who are domestic partners within the meaning  
11 of Section 297 of the Family Code.

12 (7) “Permitted health care resident” means a person hired to  
13 provide live-in, long-term, or terminal health care to a qualifying  
14 resident, or a family member of the qualifying resident providing  
15 that care. For the purposes of this section, the care provided by a  
16 permitted health care resident must be substantial in nature and  
17 must provide either assistance with necessary daily activities or  
18 medical treatment, or both.

19 A permitted health care resident shall be entitled to continue his  
20 or her occupancy, residency, or use of the dwelling unit as a  
21 permitted resident in the absence of the senior citizen from the  
22 dwelling unit only if both of the following are applicable:

23 (A) The senior citizen became absent from the dwelling due to  
24 hospitalization or other necessary medical treatment and expects  
25 to return to his or her residence within 90 days from the date the  
26 absence began.

27 (B) The absent senior citizen or an authorized person acting for  
28 the senior citizen submits a written request to the owner, board of  
29 directors, or governing board stating that the senior citizen desires  
30 that the permitted health care resident be allowed to remain in  
31 order to be present when the senior citizen returns to reside in the  
32 development.

33 Upon written request by the senior citizen or an authorized  
34 person acting for the senior citizen, the owner, board of directors,  
35 or governing board shall have the discretion to allow a permitted  
36 health care resident to remain for a time period longer than 90 days  
37 from the date that the senior citizen’s absence began, if it appears  
38 that the senior citizen will return within a period of time not to  
39 exceed an additional 90 days.

1 (c) The covenants, conditions, and restrictions and other  
2 documents or written policy shall set forth the limitations on  
3 occupancy, residency, or use on the basis of age. Any limitation  
4 shall not be more exclusive than to require that one person in  
5 residence in each dwelling unit may be required to be a senior  
6 citizen and that each other resident in the same dwelling unit may  
7 be required to be a qualified permanent resident, a permitted health  
8 care resident, or a person under 55 years of age whose occupancy  
9 is permitted under subdivision (g) of this section or subdivision  
10 (b) of Section 51.12. That limitation may be less exclusive, but  
11 shall at least require that the persons commencing any occupancy  
12 of a dwelling unit include a senior citizen who intends to reside in  
13 the unit as his or her primary residence on a permanent basis. The  
14 application of the rules set forth in this subdivision regarding  
15 limitations on occupancy may result in less than all of the dwellings  
16 being actually occupied by a senior citizen.

17 (d) The covenants, conditions, and restrictions or other  
18 documents or written policy shall permit temporary residency, as  
19 a guest of a senior citizen or qualified permanent resident, by a  
20 person of less than 55 years of age for periods of time, not more  
21 than 60 days in any year, that are specified in the covenants,  
22 conditions, and restrictions or other documents or written policy.

23 (e) Upon the death or dissolution of marriage, or upon  
24 hospitalization, or other prolonged absence of the qualifying  
25 resident, any qualified permanent resident shall be entitled to  
26 continue his or her occupancy, residency, or use of the dwelling  
27 unit as a permitted resident. This subdivision shall not apply to a  
28 permitted health care resident.

29 (f) The covenants, conditions, and restrictions or other  
30 documents or written policies applicable to any condominium,  
31 stock cooperative, limited-equity housing cooperative, planned  
32 development, or multiple-family residential property that contained  
33 age restrictions on January 1, 1984, shall be enforceable only to  
34 the extent permitted by this section, notwithstanding lower age  
35 restrictions contained in those documents or policies.

36 (g) Any person who has the right to reside in, occupy, or use  
37 the housing or an unimproved lot subject to this section on or after  
38 January 1, 1985, shall not be deprived of the right to continue that  
39 residency, occupancy, or use as the result of the enactment of this  
40 section by Chapter 1147 of the Statutes of 1996.

1 (h) A housing development may qualify as a senior citizen  
 2 housing development under this section even though, as of January  
 3 1, 1997, it does not meet the definition of a senior citizen housing  
 4 development specified in subdivision (b), if the development  
 5 complies with that definition for every unit that becomes occupied  
 6 after January 1, 1997, and if the development was once within that  
 7 definition, and then became noncompliant with the definition as  
 8 the result of any one of the following:

9 (1) The development was ordered by a court or a local, state,  
 10 or federal enforcement agency to allow persons other than  
 11 qualifying residents, qualified permanent residents, or permitted  
 12 health care residents to reside in the development.

13 (2) The development received a notice of a pending or proposed  
 14 action in, or by, a court, or a local, state, or federal enforcement  
 15 agency, which action could have resulted in the development being  
 16 ordered by a court or a state or federal enforcement agency to allow  
 17 persons other than qualifying residents, qualified permanent  
 18 residents, or permitted health care residents to reside in the  
 19 development.

20 (3) The development agreed to allow persons other than  
 21 qualifying residents, qualified permanent residents, or permitted  
 22 health care residents to reside in the development by entering into  
 23 a stipulation, conciliation agreement, or settlement agreement with  
 24 a local, state, or federal enforcement agency or with a private party  
 25 who had filed, or indicated an intent to file, a complaint against  
 26 the development with a local, state, or federal enforcement agency,  
 27 or file an action in a court.

28 (4) The development allowed persons other than qualifying  
 29 residents, qualified permanent residents, or permitted health care  
 30 residents to reside in the development on the advice of counsel in  
 31 order to prevent the possibility of an action being filed by a private  
 32 party or by a local, state, or federal enforcement agency.

33 (i) The covenants, conditions, and restrictions or other  
 34 documents or written policy of the senior citizen housing  
 35 development shall permit the occupancy of a dwelling unit by a  
 36 permitted health care resident during any period that the person is  
 37 actually providing live-in, long-term, or hospice health care to a  
 38 qualifying resident for compensation.

39 (j) This section shall only apply to the County of Riverside.

40 SEC. 20. Section 714 of the Civil Code is amended to read:

1 714. (a) Any covenant, restriction, or condition contained in  
2 any deed, contract, security instrument, or other instrument  
3 affecting the transfer or sale of, or any interest in, real property,  
4 and any provision of a governing document, as defined in Section  
5 4150, that effectively prohibits or restricts the installation or use  
6 of a solar energy system is void and unenforceable.

7 (b) This section does not apply to provisions that impose  
8 reasonable restrictions on solar energy systems. However, it is the  
9 policy of the state to promote and encourage the use of solar energy  
10 systems and to remove obstacles thereto. Accordingly, reasonable  
11 restrictions on a solar energy system are those restrictions that do  
12 not significantly increase the cost of the system or significantly  
13 decrease its efficiency or specified performance, or that allow for  
14 an alternative system of comparable cost, efficiency, and energy  
15 conservation benefits.

16 (c) (1) A solar energy system shall meet applicable health and  
17 safety standards and requirements imposed by state and local  
18 permitting authorities.

19 (2) A solar energy system for heating water shall be certified  
20 by the Solar Rating Certification Corporation (SRCC) or other  
21 nationally recognized certification agencies. SRCC is a nonprofit  
22 third party supported by the United States Department of Energy.  
23 The certification shall be for the entire solar energy system and  
24 installation.

25 (3) A solar energy system for producing electricity shall also  
26 meet all applicable safety and performance standards established  
27 by the National Electrical Code, the Institute of Electrical and  
28 Electronics Engineers, and accredited testing laboratories such as  
29 Underwriters Laboratories and, where applicable, rules of the  
30 Public Utilities Commission regarding safety and reliability.

31 (d) For the purposes of this section:

32 (1) (A) For solar domestic water heating systems or solar  
33 swimming pool heating systems that comply with state and federal  
34 law, “significantly” means an amount exceeding 20 percent of the  
35 cost of the system or decreasing the efficiency of the solar energy  
36 system by an amount exceeding 20 percent, as originally specified  
37 and proposed.

38 (B) For photovoltaic systems that comply with state and federal  
39 law, “significantly” means an amount not to exceed two thousand  
40 dollars (\$2,000) over the system cost as originally specified and

1 proposed, or a decrease in system efficiency of an amount  
2 exceeding 20 percent as originally specified and proposed.

3 (2) “Solar energy system” has the same meaning as defined in  
4 paragraphs (1) and (2) of subdivision (a) of Section 801.5.

5 (e) (1) Whenever approval is required for the installation or  
6 use of a solar energy system, the application for approval shall be  
7 processed and approved by the appropriate approving entity in the  
8 same manner as an application for approval of an architectural  
9 modification to the property, and shall not be willfully avoided or  
10 delayed.

11 (2) For an approving entity that is a homeowners’ association,  
12 as defined in Section 4080, and that is not a public entity, both of  
13 the following shall apply:

14 (A) The approval or denial of an application shall be in writing.

15 (B) If an application is not denied in writing within 60 days  
16 from the date of receipt of the application, the application shall be  
17 deemed approved, unless that delay is the result of a reasonable  
18 request for additional information.

19 (f) Any entity, other than a public entity, that willfully violates  
20 this section shall be liable to the applicant or other party for actual  
21 damages occasioned thereby, and shall pay a civil penalty to the  
22 applicant or other party in an amount not to exceed one thousand  
23 dollars (\$1,000).

24 (g) In any action to enforce compliance with this section, the  
25 prevailing party shall be awarded reasonable attorney’s fees.

26 (h) (1) A public entity that fails to comply with this section  
27 may not receive funds from a state-sponsored grant or loan program  
28 for solar energy. A public entity shall certify its compliance with  
29 the requirements of this section when applying for funds from a  
30 state-sponsored grant or loan program.

31 (2) A local public entity may not exempt residents in its  
32 jurisdiction from the requirements of this section.

33 SEC. 21. Section 714.1 of the Civil Code is amended to read:

34 714.1. Notwithstanding Section 714, any association, as defined  
35 in Section 4080, may impose reasonable provisions which:

36 (a) Restrict the installation of solar energy systems installed in  
37 common areas, as defined in Section 4095, to those systems  
38 approved by the association.

1 (b) Require the owner of a separate interest, as defined in Section  
2 4185, to obtain the approval of the association for the installation  
3 of a solar energy system in a separate interest owned by another.

4 (c) Provide for the maintenance, repair, or replacement of roofs  
5 or other building components.

6 (d) Require installers of solar energy systems to indemnify or  
7 reimburse the association or its members for loss or damage caused  
8 by the installation, maintenance, or use of the solar energy system.

9 SEC. 22. Section 782 of the Civil Code is amended to read:

10 782. (a) Any provision in any deed of real property in  
11 California, whether executed before or after the effective date of  
12 this section, that purports to restrict the right of any persons to sell,  
13 lease, rent, use, or occupy the property to persons having any  
14 characteristic listed in subdivision (a) or (d) of Section 12955 of  
15 the Government Code, as those bases are defined in Sections  
16 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision  
17 (p) of Section 12955 and Section 12955.2 of the Government Code,  
18 by providing for payment of a penalty, forfeiture, reverter, or  
19 otherwise, is void.

20 (b) Notwithstanding subdivision (a), with respect to familial  
21 status, subdivision (a) shall not be construed to apply to housing  
22 for older persons, as defined in Section 12955.9 of the Government  
23 Code. With respect to familial status, nothing in subdivision (a)  
24 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
25 and 799.5, relating to housing for senior citizens. Subdivision (d)  
26 of Section 51 and Section 4760 of this code and subdivisions (n),  
27 (o), and (p) of Section 12955 of the Government Code shall apply  
28 to subdivision (a).

29 SEC. 23. Section 782.5 of the Civil Code is amended to read:

30 782.5. (a) Any deed or other written instrument that relates to  
31 title to real property, or any written covenant, condition, or  
32 restriction annexed or made a part of, by reference or otherwise,  
33 any deed or instrument that relates to title to real property, which  
34 contains any provision that purports to forbid, restrict, or condition  
35 the right of any person or persons to sell, buy, lease, rent, use, or  
36 occupy the property on account of any basis listed in subdivision  
37 (a) or (d) of Section 12955 of the Government Code, as those bases  
38 are defined in Sections 12926, 12926.1, subdivision (m) and  
39 paragraph (1) of subdivision (p) of Section 12955, and Section

1 12955.2 of the Government Code, with respect to any person or  
2 persons, shall be deemed to be revised to omit that provision.

3 (b) Notwithstanding subdivision (a), with respect to familial  
4 status, subdivision (a) shall not be construed to apply to housing  
5 for older persons, as defined in Section 12955.9 of the Government  
6 Code. With respect to familial status, nothing in subdivision (a)  
7 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
8 and 799.5, relating to housing for senior citizens. Subdivision (d)  
9 of Section 51 and Section 4760 of this code and subdivisions (n),  
10 (o), and (p) of Section 12955 of the Government Code shall apply  
11 to subdivision (a).

12 (c) This section shall not be construed to limit or expand the  
13 powers of a court to reform a deed or other written instrument.

14 SEC. 24. Section 783 of the Civil Code is amended to read:

15 783. A condominium is an estate in real property described in  
16 Section 4125. A condominium may, with respect to the duration  
17 of its enjoyment, be either (1) an estate of inheritance or perpetual  
18 estate, (2) an estate for life, (3) an estate for years, such as a  
19 leasehold or a subleasehold, or (4) any combination of the  
20 foregoing.

21 SEC. 25. Section 783.1 of the Civil Code is amended to read:

22 783.1. In a stock cooperative, as defined in Section 4190, both  
23 the separate interest, as defined in paragraph (4) of subdivision (a)  
24 of Section 4185, and the correlative interest in the stock cooperative  
25 corporation, however designated, are interests in real property.

26 SEC. 26. Section 798.20 of the Civil Code is amended to read:

27 798.20. (a) Membership in any private club or organization  
28 that is a condition for tenancy in a park shall not be denied on any  
29 basis listed in subdivision (a) or (d) of Section 12955 of the  
30 Government Code, as those bases are defined in Sections 12926,  
31 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of  
32 Section 12955, and Section 12955.2 of the Government Code.

33 (b) Notwithstanding subdivision (a), with respect to familial  
34 status, subdivision (a) shall not be construed to apply to housing  
35 for older persons, as defined in Section 12955.9 of the Government  
36 Code. With respect to familial status, nothing in subdivision (a)  
37 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
38 and 799.5, relating to housing for senior citizens. Subdivision (d)  
39 of Section 51 and Section 4760 of this code and subdivisions (n),

1 (o), and (p) of Section 12955 of the Government Code shall apply  
2 to subdivision (a).

3 SEC. 27. Section 799.10 of the Civil Code is amended to read:

4 799.10. A resident may not be prohibited from displaying a  
5 political campaign sign relating to a candidate for election to public  
6 office or to the initiative, referendum, or recall process in the  
7 window or on the side of a manufactured home or mobilehome,  
8 or within the site on which the home is located or installed. The  
9 size of the face of a political sign may not exceed six square feet,  
10 and the sign may not be displayed in excess of a period of time  
11 from 90 days prior to an election to 15 days following the election,  
12 unless a local ordinance within the jurisdiction where the  
13 manufactured home or mobilehome subject to this article is located  
14 imposes a more restrictive period of time for the display of such  
15 a sign. In the event of a conflict between the provisions of this  
16 section and the provisions of Part 5 (commencing with Section  
17 4000) of Division 4, relating to the size and display of political  
18 campaign signs, the provisions of this section shall prevail.

19 SEC. 28. Section 800.25 of the Civil Code is amended to read:

20 800.25. (a) Membership in any private club or organization  
21 that is a condition for tenancy in a floating home marina shall not  
22 be denied on any basis listed in subdivision (a) or (d) of Section  
23 12955 of the Government Code, as those bases are defined in  
24 Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
25 subdivision (p) of Section 12955, and Section 12955.2 of the  
26 Government Code.

27 (b) Notwithstanding subdivision (a), with respect to familial  
28 status, subdivision (a) shall not be construed to apply to housing  
29 for older persons, as defined in Section 12955.9 of the Government  
30 Code. With respect to familial status, nothing in subdivision (a)  
31 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
32 and 799.5, relating to housing for senior citizens. Subdivision (d)  
33 of Section 51 and Section 4760 of this code and subdivisions (n),  
34 (o), and (p) of Section 12955 of the Government Code shall apply  
35 to subdivision (a).

36 SEC. 29. Section 895 of the Civil Code is amended to read:

37 895. (a) "Structure" means any residential dwelling, other  
38 building, or improvement located upon a lot or within a common  
39 area.

1 (b) “Designed moisture barrier” means an installed moisture  
 2 barrier specified in the plans and specifications, contract  
 3 documents, or manufacturer’s recommendations.

4 (c) “Actual moisture barrier” means any component or material,  
 5 actually installed, that serves to any degree as a barrier against  
 6 moisture, whether or not intended as a barrier against moisture.

7 (d) “Unintended water” means water that passes beyond, around,  
 8 or through a component or the material that is designed to prevent  
 9 that passage.

10 (e) “Close of escrow” means the date of the close of escrow  
 11 between the builder and the original homeowner. With respect to  
 12 claims by an association, as defined in Section 4080, “close of  
 13 escrow” means the date of substantial completion, as defined in  
 14 Section 337.15 of the Code of Civil Procedure, or the date the  
 15 builder relinquishes control over the association’s ability to decide  
 16 whether to initiate a claim under this title, whichever is later.

17 (f) “Claimant” or “homeowner” includes the individual owners  
 18 of single-family homes, individual unit owners of attached  
 19 dwellings and, in the case of a common interest development, any  
 20 association as defined in Section 4080.

21 SEC. 30. Section 935 of the Civil Code is amended to read:  
 22 935. To the extent that provisions of this chapter are enforced  
 23 and those provisions are substantially similar to provisions in  
 24 Section 6000, but an action is subsequently commenced under  
 25 Section 6000, the parties are excused from performing the  
 26 substantially similar requirements under Section 6000.

27 SEC. 31. Section 945 of the Civil Code is amended to read:  
 28 945. The provisions, standards, rights, and obligations set forth  
 29 in this title are binding upon all original purchasers and their  
 30 successors-in-interest. For purposes of this title, associations and  
 31 others having the rights set forth in Sections 4810 and 4815 shall  
 32 be considered to be original purchasers and shall have standing to  
 33 enforce the provisions, standards, rights, and obligations set forth  
 34 in this title.

35 SEC. 32. Section 1098 of the Civil Code is amended to read:  
 36 1098. A “transfer fee” is any fee payment requirement imposed  
 37 within a covenant, restriction, or condition contained in any deed,  
 38 contract, security instrument, or other document affecting the  
 39 transfer or sale of, or any interest in, real property that requires a

1 fee be paid upon transfer of the real property. A transfer fee does  
2 not include any of the following:

3 (a) Fees or taxes imposed by a governmental entity.

4 (b) Fees pursuant to mechanics' liens.

5 (c) Fees pursuant to court-ordered transfers, payments, or  
6 judgments.

7 (d) Fees pursuant to property agreements in connection with a  
8 legal separation or dissolution of marriage.

9 (e) Fees, charges, or payments in connection with the  
10 administration of estates or trusts pursuant to Division 7  
11 (commencing with Section 7000), Division 8 (commencing with  
12 Section 13000), or Division 9 (commencing with Section 15000)  
13 of the Probate Code.

14 (f) Fees, charges, or payments imposed by lenders or purchasers  
15 of loans, as these entities are described in subdivision (c) of Section  
16 10232 of the Business and Professions Code.

17 (g) Assessments, charges, penalties, or fees authorized by the  
18 Davis-Stirling Common Interest Development Act (Part 5  
19 (commencing with Section 4000) of Division 4).

20 (h) Fees, charges, or payments for failing to comply with, or  
21 for transferring the real property prior to satisfying, an obligation  
22 to construct residential improvements on the real property.

23 (i) Any fee reflected in a document recorded against the property  
24 on or before December 31, 2007, that is separate from any  
25 covenants, conditions, and restrictions, and that substantially  
26 complies with subdivision (a) of Section 1098.5 by providing a  
27 prospective transferee notice of the following:

28 (1) Payment of a transfer fee is required.

29 (2) The amount or method of calculation of the fee.

30 (3) The date or circumstances under which the transfer fee  
31 payment requirement expires, if any.

32 (4) The entity to which the fee will be paid.

33 (5) The general purposes for which the fee will be used.

34 SEC. 33. Section 1102.6a of the Civil Code is amended to read:

35 1102.6a. (a) On and after July 1, 1990, any city or county may  
36 elect to require disclosures on the form set forth in subdivision (b)  
37 in addition to those disclosures required by Section 1102.6.  
38 However, this section does not affect or limit the authority of a  
39 city or county to require disclosures on a different disclosure form  
40 in connection with transactions subject to this article pursuant to

1 an ordinance adopted prior to July 1, 1990. An ordinance like this  
2 adopted prior to July 1, 1990, may be amended thereafter to revise  
3 the disclosure requirements of the ordinance, in the discretion of  
4 the city council or county board of supervisors.

5 (b) Disclosures required pursuant to this section pertaining to  
6 the property proposed to be transferred, shall be set forth in, and  
7 shall be made on a copy of, the following disclosure form:

- 1 PRINTER PLEASE NOTE: TIP-IN MATERIAL TO BE
- 2 INSERTED

1

1 (c) This section does not preclude the use of addenda to the  
2 form specified in subdivision (b) to facilitate the required  
3 disclosures. This section does not preclude a city or county from  
4 using the disclosure form specified in subdivision (b) for a purpose  
5 other than that specified in this section.

6 (d) (1) On and after January 1, 2005, if a city or county adopts  
7 a different or additional disclosure form pursuant to this section  
8 regarding the proximity or effects of an airport, the statement in  
9 that form shall contain, at a minimum, the information in the  
10 statement “Notice of Airport in Vicinity” found in Section 11010  
11 of the Business and Professions Code, or Section 1103.4 or 4255.

12 (2) On and after January 1, 2006, if a city or county does not  
13 adopt a different or additional disclosure form pursuant to this  
14 section, then the provision of an “airport influence area” disclosure  
15 pursuant to Section 11010 of the Business and Professions Code,  
16 or Section 1103.4 or 4255, or if there is not a current airport  
17 influence map, a written disclosure of an airport within two statute  
18 miles, shall be deemed to satisfy any city or county requirements  
19 for the disclosure of airports in connection with transfers of real  
20 property.

21 SEC. 34. Section 1102.6d of the Civil Code is amended to  
22 read:

23 1102.6d. Except for manufactured homes and mobilehomes  
24 located in a common interest development governed by Part 5  
25 (commencing with Section 4000) of Division 4, the disclosures  
26 applicable to the resale of a manufactured home or mobilehome  
27 pursuant to subdivision (b) of Section 1102 are set forth in, and  
28 shall be made on a copy of, the following disclosure form:

- 1 PRINTER PLEASE NOTE: TIP-IN MATERIAL TO BE
- 2 INSERTED

1

1

1

1

1 SEC. 35. Section 1133 of the Civil Code is amended to read:

2 1133. (a) If a lot, parcel, or unit of a subdivision is subject to  
3 a blanket encumbrance, as defined in Section 11013 of the Business  
4 and Professions Code, but is exempt from a requirement of  
5 compliance with Section 11013.2 of the Business and Professions  
6 Code, the subdivider, his or her agent, or representative, shall not  
7 sell, or lease for a term exceeding five years, the lot, parcel, or  
8 unit, nor cause it to be sold, or leased for a term exceeding five  
9 years, until the prospective purchaser or lessee of the lot, parcel,  
10 or unit has been furnished with and has signed a true copy of the  
11 following notice:

12  
13 BUYER/LESSEE IS AWARE OF THE FACT THAT THE  
14 LOT, PARCEL, OR UNIT WHICH HE OR SHE IS PROPOSING  
15 TO PURCHASE OR LEASE IS SUBJECT TO A DEED OF  
16 TRUST, MORTGAGE, OR OTHER LIEN KNOWN AS A  
17 “BLANKET ENCUMBRANCE.”

18 IF BUYER/LESSEE PURCHASES OR LEASES THIS LOT,  
19 PARCEL, OR UNIT, HE OR SHE COULD LOSE THAT  
20 INTEREST THROUGH FORECLOSURE OF THE BLANKET  
21 ENCUMBRANCE OR OTHER LEGAL PROCESS EVEN  
22 THOUGH BUYER/LESSEE IS NOT DELINQUENT IN HIS OR  
23 HER PAYMENTS OR OTHER OBLIGATIONS UNDER THE  
24 MORTGAGE, DEED OF TRUST, OR LEASE.

25  
26 \_\_\_\_\_  
27 Date Signature of  
28 Buyer or Lessee

29 (b) “Subdivision,” as used in subdivision (a), means improved  
30 or unimproved land that is divided or proposed to be divided for  
31 the purpose of sale, lease, or financing, whether immediate or  
32 future, into two or more lots, parcels, or units and includes a  
33 condominium project, as defined in Section 4125, a community  
34 apartment project, as defined in Section 4105, a stock cooperative,  
35 as defined in Section 4190, and a limited equity housing  
36 cooperative, as defined in Section 4190.

37 (c) The failure of the buyer or lessee to sign the notice shall not  
38 invalidate any grant, conveyance, lease, or encumbrance.

39 (d) Any person or entity who willfully violates the provisions  
40 of this section shall be liable to the purchaser of a lot or unit which

1 is subject to the provisions of this section; for actual damages, ~~and~~  
2 *and*, in addition thereto, shall be guilty of a public offense  
3 punishable by a fine in an amount not to exceed five hundred  
4 dollars (\$500). In an action to enforce the liability or fine, the  
5 prevailing party shall be awarded reasonable attorney's fees.

6 SEC. 36. Section 1633.3 of the Civil Code is amended to read:

7 1633.3. (a) Except as otherwise provided in subdivisions (b)  
8 and (c), this title applies to electronic records and electronic  
9 signatures relating to a transaction.

10 (b) This title does not apply to transactions subject to the  
11 following laws:

12 (1) A law governing the creation and execution of wills, codicils,  
13 or testamentary trusts.

14 (2) Division 1 (commencing with Section 1101) of the Uniform  
15 Commercial Code, except Sections 1107 and 1206.

16 (3) Divisions 3 (commencing with Section 3101), 4  
17 (commencing with Section 4101), 5 (commencing with Section  
18 5101), 8 (commencing with Section 8101), 9 (commencing with  
19 Section 9101), and 11 (commencing with Section 11101) of the  
20 Uniform Commercial Code.

21 (4) A law that requires that specifically identifiable text or  
22 disclosures in a record or a portion of a record be separately signed,  
23 including initialed, from the record. However, this paragraph does  
24 not apply to Section 1677 or 1678 of this code or Section 1298 of  
25 the Code of Civil Procedure.

26 (c) This title does not apply to any specific transaction described  
27 in Section 17511.5 of the Business and Professions Code, Section  
28 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,  
29 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of  
30 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,  
31 1789.16, 1789.33, or 1793.23 of, Chapter 1 (commencing with  
32 Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24,  
33 1862.5, 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c,  
34 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing  
35 with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division  
36 3 of, Section 2954.5 or 2963 of, Chapter 2b (commencing with  
37 Section 2981) or 2d (commencing with Section 2985.7) of Title  
38 14 of Part 4 of Division 3 of, Section 3071.5 of, or Part 5  
39 (commencing with Section 4000) of Division 4 of, the Civil Code,  
40 subdivision (b) of Section 18608 or Section 22328 of the Financial

1 Code, Section 1358.15, 1365, 1368.01, 1368.1, 1371, or 18035.5  
2 of the Health and Safety Code, Section 662, 663, 664, 667.5, 673,  
3 677, 678, 678.1, 786, 10086, 10113.7, 10127.7, 10127.9, 10127.10,  
4 10197, 10199.44, 10199.46, 10235.16, 10235.40, 10509.4, 10509.7,  
5 11624.09, or 11624.1 of the Insurance Code, Section 779.1,  
6 10010.1, or 16482 of the Public Utilities Code, or Section 9975  
7 or 11738 of the Vehicle Code. An electronic record may not be  
8 substituted for any notice that is required to be sent pursuant to  
9 Section 1162 of the Code of Civil Procedure. Nothing in this  
10 subdivision shall be construed to prohibit the recordation of any  
11 document with a county recorder by electronic means.

12 (d) This title applies to an electronic record or electronic  
13 signature otherwise excluded from the application of this title under  
14 subdivision (b) when used for a transaction subject to a law other  
15 than those specified in subdivision (b).

16 (e) A transaction subject to this title is also subject to other  
17 applicable substantive law.

18 (f) The exclusion of a transaction from the application of this  
19 title under subdivision (b) or (c) shall be construed only to exclude  
20 the transaction from the application of this title, but shall not be  
21 construed to prohibit the transaction from being conducted by  
22 electronic means if the transaction may be conducted by electronic  
23 means under any other applicable law.

24 SEC. 37. Section 1864 of the Civil Code is amended to read:

25 1864. Any person or entity, including a person employed by  
26 a real estate broker, who, on behalf of another or others, solicits  
27 or arranges, or accepts reservations or money, or both, for transient  
28 occupancies described in paragraphs (1) and (2) of subdivision (b)  
29 of Section 1940, in a dwelling unit in a common interest  
30 development, as defined in Section 4100, in a dwelling unit in an  
31 apartment building or complex, or in a single-family home, shall  
32 do each of the following:

33 (a) Prepare and maintain, in accordance with a written agreement  
34 with the owner, complete and accurate records and books of  
35 account, kept in accordance with generally accepted accounting  
36 principles, of all reservations made and money received and spent  
37 with respect to each dwelling unit. All money received shall be  
38 kept in a trust account maintained for the benefit of owners of the  
39 dwelling units.

1 (b) Render, monthly, to each owner of the dwelling unit, or to  
2 that owner's designee, an accounting for each month in which  
3 there are any deposits or disbursements on behalf of that owner,  
4 however, in no event shall this accounting be rendered any less  
5 frequently than quarterly.

6 (c) Make all records and books of account with respect to a  
7 dwelling unit available, upon reasonable advance notice, for  
8 inspection and copying by the dwelling unit's owner. The records  
9 shall be maintained for a period of at least three years.

10 (d) Comply fully with all collection, payment, and recordkeeping  
11 requirements of a transient occupancy tax ordinance, if any,  
12 applicable to the occupancy.

13 (e) In no event shall any activities described in this section  
14 subject the person or entity performing those activities in any  
15 manner to Part 1 (commencing with Section 10000) of Division  
16 4 of the Business and Professions Code. However, a real estate  
17 licensee subject to this section may satisfy the requirements of this  
18 section by compliance with the Real Estate Law.

19 SEC. 38. Section 2079.3 of the Civil Code is amended to read:

20 2079.3. The inspection to be performed pursuant to this article  
21 does not include or involve an inspection of areas that are  
22 reasonably and normally inaccessible to this type of an inspection,  
23 nor an affirmative inspection of areas off the site of the subject  
24 property or public records or permits concerning the title or use  
25 of the property, and, if the property comprises a unit in a planned  
26 development as defined in Section 11003 of the Business and  
27 Professions Code, a condominium as defined in Section 783, or a  
28 stock cooperative as defined in Section 11003.2 of the Business  
29 and Professions Code, does not include an inspection of more than  
30 the unit offered for sale, if the seller or the broker complies with  
31 the provisions of Sections 4525 to 4580, inclusive.

32 SEC. 39. Section 2924b of the Civil Code is amended to read:

33 2924b. (a) Any person desiring a copy of any notice of default  
34 and of any notice of sale under any deed of trust or mortgage with  
35 power of sale upon real property or an estate for years therein, as  
36 to which deed of trust or mortgage the power of sale cannot be  
37 exercised until these notices are given for the time and in the  
38 manner provided in Section 2924 may, at any time subsequent to  
39 recordation of the deed of trust or mortgage and prior to recordation  
40 of notice of default thereunder, cause to be filed for record in the

1 office of the recorder of any county in which any part or parcel of  
 2 the real property is situated, a duly acknowledged request for a  
 3 copy of the notice of default and of sale. This request shall be  
 4 signed and acknowledged by the person making the request,  
 5 specifying the name and address of the person to whom the notice  
 6 is to be mailed, shall identify the deed of trust or mortgage by  
 7 stating the names of the parties thereto, the date of recordation  
 8 thereof, and the book and page where the deed of trust or mortgage  
 9 is recorded or the recorder’s number, and shall be in substantially  
 10 the following form:

11  
 12 “In accordance with Section 2924b, Civil Code, request is hereby  
 13 made that a copy of any notice of default and a copy of any notice of sale  
 14 under the deed of trust (or mortgage) recorded \_\_\_\_\_, \_\_\_\_\_, in Book  
 15 \_\_\_\_\_ page \_\_\_\_\_ records of \_\_\_\_\_ County, (or filed for record with  
 16 recorder’s serial number \_\_\_\_\_, \_\_\_\_\_ County) California, executed  
 17 by \_\_\_\_\_ as trustor (or mortgagor) in which \_\_\_\_\_ is named as  
 18 beneficiary (or mortgagee) and \_\_\_\_\_ as trustee be mailed to  
 19 \_\_\_\_\_ at \_\_\_\_\_.  
 20 Name Address

21 NOTICE: A copy of any notice of default and of any notice of sale will be  
 22 sent only to the address contained in this recorded request. If your address  
 23 changes, a new request must be recorded.

24 Signature \_\_\_\_\_”

25  
 26 Upon the filing for record of the request, the recorder shall index  
 27 in the general index of grantors the names of the trustors (or  
 28 mortgagor) recited therein and the names of persons requesting  
 29 copies.

30 (b) The mortgagee, trustee, or other person authorized to record  
 31 the notice of default or the notice of sale shall do each of the  
 32 following:

33 (1) Within 10 business days following recordation of the notice  
 34 of default, deposit or cause to be deposited in the United States  
 35 mail an envelope, sent by registered or certified mail with postage  
 36 prepaid, containing a copy of the notice with the recording date  
 37 shown thereon, addressed to each person whose name and address  
 38 are set forth in a duly recorded request therefor, directed to the  
 39 address designated in the request and to each trustor or mortgagor

1 at his or her last known address if different than the address  
2 specified in the deed of trust or mortgage with power of sale.

3 (2) At least 20 days before the date of sale, deposit or cause to  
4 be deposited in the United States mail an envelope, sent by  
5 registered or certified mail with postage prepaid, containing a copy  
6 of the notice of the time and place of sale, addressed to each person  
7 whose name and address are set forth in a duly recorded request  
8 therefor, directed to the address designated in the request and to  
9 each trustor or mortgagor at his or her last known address if  
10 different than the address specified in the deed of trust or mortgage  
11 with power of sale.

12 (3) As used in paragraphs (1) and (2), the “last known address”  
13 of each trustor or mortgagor means the last business or residence  
14 physical address actually known by the mortgagee, beneficiary,  
15 trustee, or other person authorized to record the notice of default.  
16 For the purposes of this subdivision, an address is “actually known”  
17 if it is contained in the original deed of trust or mortgage, or in  
18 any subsequent written notification of a change of physical address  
19 from the trustor or mortgagor pursuant to the deed of trust or  
20 mortgage. For the purposes of this subdivision, “physical address”  
21 does not include an e-mail or any form of electronic address for a  
22 trustor or mortgagor. The beneficiary shall inform the trustee of  
23 the trustor’s last address actually known by the beneficiary.  
24 However, the trustee shall incur no liability for failing to send any  
25 notice to the last address unless the trustee has actual knowledge  
26 of it.

27 (4) A “person authorized to record the notice of default or the  
28 notice of sale” shall include an agent for the mortgagee or  
29 beneficiary, an agent of the named trustee, any person designated  
30 in an executed substitution of trustee, or an agent of that substituted  
31 trustee.

32 (c) The mortgagee, trustee, or other person authorized to record  
33 the notice of default or the notice of sale shall do the following:

34 (1) Within one month following recordation of the notice of  
35 default, deposit or cause to be deposited in the United States mail  
36 an envelope, sent by registered or certified mail with postage  
37 prepaid, containing a copy of the notice with the recording date  
38 shown thereon, addressed to each person set forth in paragraph  
39 (2), provided that the estate or interest of any person entitled to  
40 receive notice under this subdivision is acquired by an instrument

1 sufficient to impart constructive notice of the estate or interest in  
2 the land or portion thereof that is subject to the deed of trust or  
3 mortgage being foreclosed, and provided the instrument is recorded  
4 in the office of the county recorder so as to impart that constructive  
5 notice prior to the recording date of the notice of default and  
6 provided the instrument as so recorded sets forth a mailing address  
7 that the county recorder shall use, as instructed within the  
8 instrument, for the return of the instrument after recording, and  
9 which address shall be the address used for the purposes of mailing  
10 notices herein.

11 (2) The persons to whom notice shall be mailed under this  
12 subdivision are:

13 (A) The successor in interest, as of the recording date of the  
14 notice of default, of the estate or interest or any portion thereof of  
15 the trustor or mortgagor of the deed of trust or mortgage being  
16 foreclosed.

17 (B) The beneficiary or mortgagee of any deed of trust or  
18 mortgage recorded subsequent to the deed of trust or mortgage  
19 being foreclosed, or recorded prior to or concurrently with the  
20 deed of trust or mortgage being foreclosed but subject to a recorded  
21 agreement or a recorded statement of subordination to the deed of  
22 trust or mortgage being foreclosed.

23 (C) The assignee of any interest of the beneficiary or mortgagee  
24 described in subparagraph (B), as of the recording date of the notice  
25 of default.

26 (D) The vendee of any contract of sale, or the lessee of any  
27 lease, of the estate or interest being foreclosed that is recorded  
28 subsequent to the deed of trust or mortgage being foreclosed, or  
29 recorded prior to or concurrently with the deed of trust or mortgage  
30 being foreclosed but subject to a recorded agreement or statement  
31 of subordination to the deed of trust or mortgage being foreclosed.

32 (E) The successor in interest to the vendee or lessee described  
33 in subparagraph (D), as of the recording date of the notice of  
34 default.

35 (F) The office of the Controller, Sacramento, California, where,  
36 as of the recording date of the notice of default, a “Notice of Lien  
37 for Postponed Property Taxes” has been recorded against the real  
38 property to which the notice of default applies.

39 (3) At least 20 days before the date of sale, deposit or cause to  
40 be deposited in the United States mail an envelope, sent by

1 registered or certified mail with postage prepaid, containing a copy  
2 of the notice of the time and place of sale addressed to each person  
3 to whom a copy of the notice of default is to be mailed as provided  
4 in paragraphs (1) and (2), and addressed to the office of any state  
5 taxing agency, Sacramento, California, that has recorded,  
6 subsequent to the deed of trust or mortgage being foreclosed, a  
7 notice of tax lien prior to the recording date of the notice of default  
8 against the real property to which the notice of default applies.

9 (4) Provide a copy of the notice of sale to the Internal Revenue  
10 Service, in accordance with Section 7425 of the Internal Revenue  
11 Code and any applicable federal regulation, if a “Notice of Federal  
12 Tax Lien under Internal Revenue Laws” has been recorded,  
13 subsequent to the deed of trust or mortgage being foreclosed,  
14 against the real property to which the notice of sale applies. The  
15 failure to provide the Internal Revenue Service with a copy of the  
16 notice of sale pursuant to this paragraph shall be sufficient cause  
17 to rescind the trustee’s sale and invalidate the trustee’s deed, at  
18 the option of either the successful bidder at the trustee’s sale or  
19 the trustee, and in either case with the consent of the beneficiary.  
20 Any option to rescind the trustee’s sale pursuant to this paragraph  
21 shall be exercised prior to any transfer of the property by the  
22 successful bidder to a bona fide purchaser for value. A rescision of  
23 the trustee’s sale pursuant to this paragraph may be recorded in a  
24 notice of rescision pursuant to Section 1058.5.

25 (5) The mailing of notices in the manner set forth in paragraph  
26 (1) shall not impose upon any licensed attorney, agent, or employee  
27 of any person entitled to receive notices as herein set forth any  
28 duty to communicate the notice to the entitled person from the fact  
29 that the mailing address used by the county recorder is the address  
30 of the attorney, agent, or employee.

31 (d) Any deed of trust or mortgage with power of sale hereafter  
32 executed upon real property or an estate for years therein may  
33 contain a request that a copy of any notice of default and a copy  
34 of any notice of sale thereunder shall be mailed to any person or  
35 party thereto at the address of the person given therein, and a copy  
36 of any notice of default and of any notice of sale shall be mailed  
37 to each of these at the same time and in the same manner required  
38 as though a separate request therefor had been filed by each of  
39 these persons as herein authorized. If any deed of trust or mortgage  
40 with power of sale executed after September 19, 1939, except a

1 deed of trust or mortgage of any of the classes excepted from the  
2 provisions of Section 2924, does not contain a mailing address of  
3 the trustor or mortgagor therein named, and if no request for special  
4 notice by the trustor or mortgagor in substantially the form set  
5 forth in this section has subsequently been recorded, a copy of the  
6 notice of default shall be published once a week for at least four  
7 weeks in a newspaper of general circulation in the county in which  
8 the property is situated, the publication to commence within 10  
9 business days after the filing of the notice of default. In lieu of  
10 publication, a copy of the notice of default may be delivered  
11 personally to the trustor or mortgagor within the 10 business days  
12 or at any time before publication is completed, or by posting the  
13 notice of default in a conspicuous place on the property and mailing  
14 the notice to the last known address of the trustor or mortgagor.

15 (e) Any person required to mail a copy of a notice of default or  
16 notice of sale to each trustor or mortgagor pursuant to subdivision  
17 (b) or (c) by registered or certified mail shall simultaneously cause  
18 to be deposited in the United States mail, with postage prepaid and  
19 mailed by first-class mail, an envelope containing an additional  
20 copy of the required notice addressed to each trustor or mortgagor  
21 at the same address to which the notice is sent by registered or  
22 certified mail pursuant to subdivision (b) or (c). The person shall  
23 execute and retain an affidavit identifying the notice mailed,  
24 showing the name and residence or business address of that person,  
25 that he or she is over the age of 18 years, the date of deposit in the  
26 mail, the name and address of the trustor or mortgagor to whom  
27 sent, and that the envelope was sealed and deposited in the mail  
28 with postage fully prepaid. In the absence of fraud, the affidavit  
29 required by this subdivision shall establish a conclusive  
30 presumption of mailing.

31 (f) (1) Notwithstanding subdivision (a), with respect to separate  
32 interests governed by an association, as defined in Section 4080,  
33 the association may cause to be filed in the office of the recorder  
34 in the county in which the separate interests are situated a request  
35 that a mortgagee, trustee, or other person authorized to record a  
36 notice of default regarding any of those separate interests mail to  
37 the association a copy of any trustee's deed upon sale concerning  
38 a separate interest. The request shall include a legal description or  
39 the assessor's parcel number of all the separate interests. A request  
40 recorded pursuant to this subdivision shall include the name and

1 address of the association and a statement that it is a homeowners'  
2 association. Subsequent requests of an association shall supersede  
3 prior requests. A request pursuant to this subdivision shall be  
4 recorded before the filing of a notice of default. The mortgagee,  
5 trustee, or other authorized person shall mail the requested  
6 information to the association within 15 business days following  
7 the date the trustee's deed is recorded. Failure to mail the request,  
8 pursuant to this subdivision, shall not affect the title to real  
9 property.

10 (2) A request filed pursuant to paragraph (1) does not, for  
11 purposes of Section 27288.1 of the Government Code, constitute  
12 a document that either effects or evidences a transfer or  
13 encumbrance of an interest in real property or that releases or  
14 terminates any interest, right, or encumbrance of an interest in real  
15 property.

16 (g) No request for a copy of any notice filed for record pursuant  
17 to this section, no statement or allegation in the request, and no  
18 record thereof shall affect the title to real property or be deemed  
19 notice to any person that any person requesting copies of notice  
20 has or claims any right, title, or interest in, or lien or charge upon  
21 the property described in the deed of trust or mortgage referred to  
22 therein.

23 (h) "Business day," as used in this section, has the meaning  
24 specified in Section 9.

25 SEC. 40. Section 2929.5 of the Civil Code is amended to read:

26 2929.5. (a) A secured lender may enter and inspect the real  
27 property security for the purpose of determining the existence,  
28 location, nature, and magnitude of any past or present release or  
29 threatened release of any hazardous substance into, onto, beneath,  
30 or from the real property security on either of the following:

31 (1) Upon reasonable belief of the existence of a past or present  
32 release or threatened release of any hazardous substance into, onto,  
33 beneath, or from the real property security not previously disclosed  
34 in writing to the secured lender in conjunction with the making,  
35 renewal, or modification of a loan, extension of credit, guaranty,  
36 or other obligation involving the borrower.

37 (2) After the commencement of nonjudicial or judicial  
38 foreclosure proceedings against the real property security.

39 (b) The secured lender shall not abuse the right of entry and  
40 inspection or use it to harass the borrower or tenant of the property.

1 Except in case of an emergency, when the borrower or tenant of  
2 the property has abandoned the premises, or if it is impracticable  
3 to do so, the secured lender shall give the borrower or tenant of  
4 the property reasonable notice of the secured lender's intent to  
5 enter, and enter only during the borrower's or tenant's normal  
6 business hours. Twenty-four hours' notice shall be presumed to  
7 be reasonable notice in the absence of evidence to the contrary.

8 (c) The secured lender shall reimburse the borrower for the cost  
9 of repair of any physical injury to the real property security caused  
10 by the entry and inspection.

11 (d) If a secured lender is refused the right of entry and inspection  
12 by the borrower or tenant of the property, or is otherwise unable  
13 to enter and inspect the property without a breach of the peace,  
14 the secured lender may, upon petition, obtain an order from a court  
15 of competent jurisdiction to exercise the secured lender's rights  
16 under subdivision (a), and that action shall not constitute an action  
17 within the meaning of subdivision (a) of Section 726 of the Code  
18 of Civil Procedure.

19 (e) For purposes of this section:

20 (1) "Borrower" means the trustor under a deed of trust, or a  
21 mortgagor under a mortgage, where the deed of trust or mortgage  
22 encumbers real property security and secures the performance of  
23 the trustor or mortgagor under a loan, extension of credit, guaranty,  
24 or other obligation. The term includes any successor-in-interest of  
25 the trustor or mortgagor to the real property security before the  
26 deed of trust or mortgage has been discharged, reconveyed, or  
27 foreclosed upon.

28 (2) "Hazardous substance" includes all of the following:

29 (A) Any "hazardous substance" as defined in subdivision (h)  
30 of Section 25281 of the Health and Safety Code.

31 (B) Any "waste" as defined in subdivision (d) of Section 13050  
32 of the Water Code.

33 (C) Petroleum, including crude oil or any fraction thereof,  
34 natural gas, natural gas liquids, liquefied natural gas, or synthetic  
35 gas usable for fuel, or any mixture thereof.

36 (3) "Real property security" means any real property and  
37 improvements, other than a separate interest and any related interest  
38 in the common area of a residential common interest development,  
39 as the terms "separate interest," "common area," and "common  
40 interest development" are defined in Sections 4095, 4100, and

1 4185, or real property consisting of one acre or less which contains  
2 1 to 15 dwelling units.

3 (4) “Release” means any spilling, leaking, pumping, pouring,  
4 emitting, emptying, discharging, injecting, escaping, leaching,  
5 dumping, or disposing into the environment, including continuing  
6 migration, of hazardous substances into, onto, or through soil,  
7 surface water, or groundwater.

8 (5) “Secured lender” means the beneficiary under a deed of trust  
9 against the real property security, or the mortgagee under a  
10 mortgage against the real property security, and any  
11 successor-in-interest of the beneficiary or mortgagee to the deed  
12 of trust or mortgage.

13 SEC. 41. Section 2955.1 of the Civil Code is amended to read:

14 2955.1. (a) Any lender originating a loan secured by the  
15 borrower’s separate interest in a condominium project, as defined  
16 in Section 4125, which requires earthquake insurance or imposes  
17 a fee or any other condition in lieu thereof pursuant to an  
18 underwriting requirement imposed by an institutional third-party  
19 purchaser shall disclose all of the following to the potential  
20 borrower:

21 (1) That the lender or the institutional third party in question  
22 requires earthquake insurance or imposes a fee or any other  
23 condition in lieu thereof pursuant to an underwriting requirement  
24 imposed by an institutional third party purchaser.

25 (2) That not all lenders or institutional third parties require  
26 earthquake insurance or impose a fee or any other condition in lieu  
27 thereof pursuant to an underwriting requirement imposed by an  
28 institutional third party purchaser.

29 (3) Earthquake insurance may be required on the entire  
30 condominium project.

31 (4) That lenders or institutional third parties may also require  
32 that a condominium project maintain, or demonstrate an ability to  
33 maintain, financial reserves in the amount of the earthquake  
34 insurance deductible.

35 (b) For the purposes of this section, “institutional third party”  
36 means the Federal Home Loan Mortgage Corporation, the Federal  
37 National Mortgage Association, the Government National  
38 Mortgage Association, and other substantially similar institutions,  
39 whether public or private.

1 (c) The disclosure required by this section shall be made in  
2 writing by the lender as soon as reasonably practicable.

3 SEC. 42. Section 86 of the Code of Civil Procedure, as  
4 amended by Section 21 of Chapter 697 of the Statutes of 2010, is  
5 amended to read:

6 86. (a) The following civil cases and proceedings are limited  
7 civil cases:

8 (1) A case at law in which the demand, exclusive of interest, or  
9 the value of the property in controversy amounts to twenty-five  
10 thousand dollars (\$25,000) or less. This paragraph does not apply  
11 to a case that involves the legality of any tax, impost, assessment,  
12 toll, or municipal fine, except an action to enforce payment of  
13 delinquent unsecured personal property taxes if the legality of the  
14 tax is not contested by the defendant.

15 (2) An action for dissolution of partnership where the total assets  
16 of the partnership do not exceed twenty-five thousand dollars  
17 (\$25,000); an action of interpleader where the amount of money  
18 or the value of the property involved does not exceed twenty-five  
19 thousand dollars (\$25,000).

20 (3) An action to cancel or rescind a contract when the relief is  
21 sought in connection with an action to recover money not  
22 exceeding twenty-five thousand dollars (\$25,000) or property of  
23 a value not exceeding twenty-five thousand dollars (\$25,000), paid  
24 or delivered under, or in consideration of, the contract; an action  
25 to revise a contract where the relief is sought in an action upon the  
26 contract if the action otherwise is a limited civil case.

27 (4) A proceeding in forcible entry or forcible or unlawful  
28 detainer where the whole amount of damages claimed is  
29 twenty-five thousand dollars (\$25,000) or less.

30 (5) An action to enforce and foreclose a lien on personal  
31 property where the amount of the lien is twenty-five thousand  
32 dollars (\$25,000) or less.

33 (6) An action to enforce and foreclose, or a petition to release,  
34 a lien arising under the provisions of Chapter 4 (commencing with  
35 Section 8400) of Title 2 of Part 6 of Division 4 of the Civil Code,  
36 or to enforce and foreclose an assessment lien on a common interest  
37 development as defined in Section 4100 of the Civil Code, where  
38 the amount of the liens is twenty-five thousand dollars (\$25,000)  
39 or less. However, if an action to enforce the lien affects property  
40 that is also affected by a similar pending action that is not a limited

1 civil case, or if the total amount of liens sought to be foreclosed  
2 against the same property aggregates an amount in excess of  
3 twenty-five thousand dollars (\$25,000), the action is not a limited  
4 civil case.

5 (7) An action for declaratory relief when brought pursuant to  
6 either of the following:

7 (A) By way of cross-complaint as to a right of indemnity with  
8 respect to the relief demanded in the complaint or a cross-complaint  
9 in an action or proceeding that is otherwise a limited civil case.

10 (B) To conduct a trial after a nonbinding fee arbitration between  
11 an attorney and client, pursuant to Article 13 (commencing with  
12 Section 6200) of Chapter 4 of Division 3 of the Business and  
13 Professions Code, where the amount in controversy is twenty-five  
14 thousand dollars (\$25,000) or less.

15 (8) An action to issue a temporary restraining order or  
16 preliminary injunction; to take an account, where necessary to  
17 preserve the property or rights of any party to a limited civil case;  
18 to make any order or perform any act, pursuant to Title 9  
19 (commencing with Section 680.010) of Part 2 (enforcement of  
20 judgments) in a limited civil case; to appoint a receiver pursuant  
21 to Section 564 in a limited civil case; to determine title to personal  
22 property seized in a limited civil case.

23 (9) An action under Article 3 (commencing with Section  
24 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the  
25 recovery of an interest in personal property or to enforce the  
26 liability of the debtor of a judgment debtor where the interest  
27 claimed adversely is of a value not exceeding twenty-five thousand  
28 dollars (\$25,000) or the debt denied does not exceed twenty-five  
29 thousand dollars (\$25,000).

30 (10) An arbitration-related petition filed pursuant to either of  
31 the following:

32 (A) Article 2 (commencing with Section 1292) of Chapter 5 of  
33 Title 9 of Part 3, except for uninsured motorist arbitration  
34 proceedings in accordance with Section 11580.2 of the Insurance  
35 Code, if the petition is filed before the arbitration award becomes  
36 final and the matter to be resolved by arbitration is a limited civil  
37 case under paragraphs (1) to (9), inclusive, of subdivision (a) or  
38 if the petition is filed after the arbitration award becomes final and  
39 the amount of the award and all other rulings, pronouncements,

1 and decisions made in the award are within paragraphs (1) to (9),  
2 inclusive, of subdivision (a).

3 (B) To confirm, correct, or vacate a fee arbitration award  
4 between an attorney and client that is binding or has become  
5 binding, pursuant to Article 13 (commencing with Section 6200)  
6 of Chapter 4 of Division 3 of the Business and Professions Code,  
7 where the arbitration award is twenty-five thousand dollars  
8 (\$25,000) or less.

9 (b) The following cases in equity are limited civil cases:

10 (1) A case to try title to personal property when the amount  
11 involved is not more than twenty-five thousand dollars (\$25,000).

12 (2) A case when equity is pleaded as a defensive matter in any  
13 case that is otherwise a limited civil case.

14 (3) A case to vacate a judgment or order of the court obtained  
15 in a limited civil case through extrinsic fraud, mistake,  
16 inadvertence, or excusable neglect.

17 SEC. 43. Section 116.540 of the Code of Civil Procedure is  
18 amended to read:

19 116.540. (a) Except as permitted by this section, no individual  
20 other than the plaintiff and the defendant may take part in the  
21 conduct or defense of a small claims action.

22 (b) Except as additionally provided in subdivision (i), a  
23 corporation may appear and participate in a small claims action  
24 only through a regular employee, or a duly appointed or elected  
25 officer or director, who is employed, appointed, or elected for  
26 purposes other than solely representing the corporation in small  
27 claims court.

28 (c) A party who is not a corporation or a natural person may  
29 appear and participate in a small claims action only through a  
30 regular employee, or a duly appointed or elected officer or director,  
31 or in the case of a partnership, a partner, engaged for purposes  
32 other than solely representing the party in small claims court.

33 (d) If a party is an individual doing business as a sole  
34 proprietorship, the party may appear and participate in a small  
35 claims action by a representative and without personally appearing  
36 if both of the following conditions are met:

37 (1) The claim can be proved or disputed by evidence of an  
38 account that constitutes a business record as defined in Section  
39 1271 of the Evidence Code, and there is no other issue of fact in  
40 the case.

1 (2) The representative is a regular employee of the party for  
2 purposes other than solely representing the party in small claims  
3 actions and is qualified to testify to the identity and mode of  
4 preparation of the business record.

5 (e) A plaintiff is not required to personally appear, and may  
6 submit declarations to serve as evidence supporting his or her claim  
7 or allow another individual to appear and participate on his or her  
8 behalf, if (1) the plaintiff is serving on active duty in the United  
9 States Armed Forces outside this state, (2) the plaintiff was  
10 assigned to his or her duty station after his or her claim arose, (3)  
11 the assignment is for more than six months, (4) the representative  
12 is serving without compensation, and (5) the representative has  
13 appeared in small claims actions on behalf of others no more than  
14 four times during the calendar year. The defendant may file a claim  
15 in the same action in an amount not to exceed the jurisdictional  
16 limits stated in Sections 116.220, 116.221, and 116.231.

17 (f) A party incarcerated in a county jail, a Department of  
18 Corrections and Rehabilitation facility, or a Division of Juvenile  
19 Facilities facility is not required to personally appear, and may  
20 submit declarations to serve as evidence supporting his or her  
21 claim, or may authorize another individual to appear and participate  
22 on his or her behalf if that individual is serving without  
23 compensation and has appeared in small claims actions on behalf  
24 of others no more than four times during the calendar year.

25 (g) A defendant who is a nonresident owner of real property  
26 may defend against a claim relating to that property without  
27 personally appearing by (1) submitting written declarations to  
28 serve as evidence supporting his or her defense, (2) allowing  
29 another individual to appear and participate on his or her behalf if  
30 that individual is serving without compensation and has appeared  
31 in small claims actions on behalf of others no more than four times  
32 during the calendar year, or (3) taking the action described in both  
33 (1) and (2).

34 (h) A party who is an owner of rental real property may appear  
35 and participate in a small claims action through a property agent  
36 under contract with the owner to manage the rental of that property,  
37 if (1) the owner has retained the property agent principally to  
38 manage the rental of that property and not principally to represent  
39 the owner in small claims court, and (2) the claim relates to the  
40 rental property.

1 (i) A party that is an association created to manage a common  
2 interest development, as defined in Section 4100 of the Civil Code,  
3 may appear and participate in a small claims action through an  
4 agent, a management company representative, or bookkeeper who  
5 appears on behalf of that association.

6 (j) At the hearing of a small claims action, the court shall require  
7 any individual who is appearing as a representative of a party under  
8 subdivisions (b) to (i), inclusive, to file a declaration stating (1)  
9 that the individual is authorized to appear for the party, and (2)  
10 the basis for that authorization. If the representative is appearing  
11 under subdivision (b), (c), (d), (h), or (i), the declaration also shall  
12 state that the individual is not employed solely to represent the  
13 party in small claims court. If the representative is appearing under  
14 subdivision (e), (f), or (g), the declaration also shall state that the  
15 representative is serving without compensation, and has appeared  
16 in small claims actions on behalf of others no more than four times  
17 during the calendar year.

18 (k) A husband or wife who sues or who is sued with his or her  
19 spouse may appear and participate on behalf of his or her spouse  
20 if (1) the claim is a joint claim, (2) the represented spouse has  
21 given his or her consent, and (3) the court determines that the  
22 interests of justice would be served.

23 (l) If the court determines that a party cannot properly present  
24 his or her claim or defense and needs assistance, the court may in  
25 its discretion allow another individual to assist that party.

26 (m) Nothing in this section shall operate or be construed to  
27 authorize an attorney to participate in a small claims action except  
28 as expressly provided in Section 116.530.

29 SEC. 44. Section 564 of the Code of Civil Procedure is  
30 amended to read:

31 564. (a) A receiver may be appointed, in the manner provided  
32 in this chapter, by the court in which an action or proceeding is  
33 pending in any case in which the court is empowered by law to  
34 appoint a receiver.

35 (b) A receiver may be appointed by the court in which an action  
36 or proceeding is pending, or by a judge thereof, in the following  
37 cases:

38 (1) In an action by a vendor to vacate a fraudulent purchase of  
39 property, or by a creditor to subject any property or fund to the  
40 creditor's claim, or between partners or others jointly owning or

1 interested in any property or fund, on the application of the  
2 plaintiff, or of any party whose right to or interest in the property  
3 or fund, or the proceeds thereof, is probable, and where it is shown  
4 that the property or fund is in danger of being lost, removed, or  
5 materially injured.

6 (2) In an action by a secured lender for the foreclosure of a deed  
7 of trust or mortgage and sale of property upon which there is a lien  
8 under a deed of trust or mortgage, where it appears that the property  
9 is in danger of being lost, removed, or materially injured, or that  
10 the condition of the deed of trust or mortgage has not been  
11 performed, and that the property is probably insufficient to  
12 discharge the deed of trust or mortgage debt.

13 (3) After judgment, to carry the judgment into effect.

14 (4) After judgment, to dispose of the property according to the  
15 judgment, or to preserve it during the pendency of an appeal, or  
16 pursuant to the Enforcement of Judgments Law (Title 9  
17 (commencing with Section 680.010)), or after sale of real property  
18 pursuant to a decree of foreclosure, during the redemption period,  
19 to collect, expend, and disburse rents as directed by the court or  
20 otherwise provided by law.

21 (5) Where a corporation has been dissolved, as provided in  
22 Section 565.

23 (6) Where a corporation is insolvent, or in imminent danger of  
24 insolvency, or has forfeited its corporate rights.

25 (7) In an action of unlawful detainer.

26 (8) At the request of the Public Utilities Commission pursuant  
27 to Section 855 or 5259.5 of the Public Utilities Code.

28 (9) In all other cases where necessary to preserve the property  
29 or rights of any party.

30 (10) At the request of the Office of Statewide Health Planning  
31 and Development, or the Attorney General, pursuant to Section  
32 129173 of the Health and Safety Code.

33 (11) In an action by a secured lender for specific performance  
34 of an assignment of rents provision in a deed of trust, mortgage,  
35 or separate assignment document. The appointment may be  
36 continued after entry of a judgment for specific performance if  
37 appropriate to protect, operate, or maintain real property  
38 encumbered by a deed of trust or mortgage or to collect rents  
39 therefrom while a pending nonjudicial foreclosure under power  
40 of sale in a deed of trust or mortgage is being completed.

1 (12) In a case brought by an assignee under an assignment of  
2 leases, rents, issues, or profits pursuant to subdivision (g) of Section  
3 2938 of the Civil Code.

4 (c) A receiver may be appointed, in the manner provided in this  
5 chapter, including, but not limited to, Section 566, by the superior  
6 court in an action brought by a secured lender to enforce the rights  
7 provided in Section 2929.5 of the Civil Code, to enable the secured  
8 lender to enter and inspect the real property security for the purpose  
9 of determining the existence, location, nature, and magnitude of  
10 any past or present release or threatened release of any hazardous  
11 substance into, onto, beneath, or from the real property security.  
12 The secured lender shall not abuse the right of entry and inspection  
13 or use it to harass the borrower or tenant of the property. Except  
14 in case of an emergency, when the borrower or tenant of the  
15 property has abandoned the premises, or if it is impracticable to  
16 do so, the secured lender shall give the borrower or tenant of the  
17 property reasonable notice of the secured lender's intent to enter  
18 and shall enter only during the borrower's or tenant's normal  
19 business hours. Twenty-four hours' notice shall be presumed to  
20 be reasonable notice in the absence of evidence to the contrary.

21 (d) Any action by a secured lender to appoint a receiver pursuant  
22 to this section shall not constitute an action within the meaning of  
23 subdivision (a) of Section 726.

24 (e) For purposes of this section:

25 (1) "Borrower" means the trustor under a deed of trust, or a  
26 mortgagor under a mortgage, where the deed of trust or mortgage  
27 encumbers real property security and secures the performance of  
28 the trustor or mortgagor under a loan, extension of credit, guaranty,  
29 or other obligation. The term includes any successor in interest of  
30 the trustor or mortgagor to the real property security before the  
31 deed of trust or mortgage has been discharged, reconveyed, or  
32 foreclosed upon.

33 (2) "Hazardous substance" means any of the following:

34 (A) Any "hazardous substance" as defined in subdivision (h)  
35 of Section 25281 of the Health and Safety Code.

36 (B) Any "waste" as defined in subdivision (d) of Section 13050  
37 of the Water Code.

38 (C) Petroleum including crude oil or any fraction thereof, natural  
39 gas, natural gas liquids, liquefied natural gas, or synthetic gas  
40 usable for fuel, or any mixture thereof.

1 (3) “Real property security” means any real property and  
2 improvements, other than a separate interest and any related interest  
3 in the common area of a residential common interest development,  
4 as the terms “separate interest,” “common area,” and “common  
5 interest development” are defined in Section 4095, 4100, and 4185  
6 of the Civil Code, or real property consisting of one acre or less  
7 that contains 1 to 15 dwelling units.

8 (4) “Release” means any spilling, leaking, pumping, pouring,  
9 emitting, emptying, discharging, injecting, escaping, leaching,  
10 dumping, or disposing into the environment, including continuing  
11 migration, of hazardous substances into, onto, or through soil,  
12 surface water, or groundwater.

13 (5) “Secured lender” means the beneficiary under a deed of trust  
14 against the real property security, or the mortgagee under a  
15 mortgage against the real property security, and any successor in  
16 interest of the beneficiary or mortgagee to the deed of trust or  
17 mortgage.

18 SEC. 45. Section 726.5 of the Code of Civil Procedure is  
19 amended to read:

20 726.5. (a) Notwithstanding subdivision (a) of Section 726 or  
21 any other provision of law, except subdivision (d) of this section,  
22 a secured lender may elect between the following where the real  
23 property security is environmentally impaired and the borrower’s  
24 obligations to the secured lender are in default:

25 (1) (A) Waiver of its lien against (i) any parcel of real property  
26 security that is environmentally impaired or is an affected parcel,  
27 and (ii) all or any portion of the fixtures and personal property  
28 attached to the parcels; and

29 (B) Exercise of (i) the rights and remedies of an unsecured  
30 creditor, including reduction of its claim against the borrower to  
31 judgment, and (ii) any other rights and remedies permitted by law.

32 (2) Exercise of (i) the rights and remedies of a creditor secured  
33 by a deed of trust or mortgage and, if applicable, a lien against  
34 fixtures or personal property attached to the real property security,  
35 and (ii) any other rights and remedies permitted by law.

36 (b) Before the secured lender may waive its lien against any  
37 parcel of real property security pursuant to paragraph (1) of  
38 subdivision (a) on the basis of the environmental impairment  
39 contemplated by paragraph (3) of subdivision (e), (i) the secured  
40 lender shall provide written notice of the default to the borrower,

1 and (ii) the value of the subject real property security shall be  
2 established and its environmentally impaired status shall be  
3 confirmed by an order of a court of competent jurisdiction in an  
4 action brought by the secured lender against the borrower. The  
5 complaint for a valuation and confirmation action may include  
6 causes of action for a money judgment for all or part of the secured  
7 obligation, in which case the waiver of the secured lender's liens  
8 under paragraph (1) of subdivision (a) shall result only if and when  
9 a final money judgment is obtained against the borrower.

10 (c) If a secured lender elects the rights and remedies permitted  
11 by paragraph (1) of subdivision (a) and the borrower's obligations  
12 are also secured by other real property security, fixtures, or personal  
13 property, the secured lender shall first foreclose against the  
14 additional collateral to the extent required by applicable law in  
15 which case the amount of the judgment of the secured lender  
16 pursuant to paragraph (1) of subdivision (a) shall be limited to the  
17 extent Section 580a or 580d, or subdivision (b) of Section 726  
18 apply to the foreclosures of additional real property security. The  
19 borrower may waive or modify the foreclosure requirements of  
20 this subdivision provided that the waiver or modification is in  
21 writing and signed by the borrower after default.

22 (d) Subdivision (a) shall be inapplicable if all of the following  
23 are true:

24 (1) The release or threatened release was not knowingly or  
25 negligently caused or contributed to, or knowingly or willfully  
26 permitted or acquiesced to, by any of the following:

27 (A) The borrower or any related party.

28 (B) Any affiliate or agent of the borrower or any related party.

29 (2) In conjunction with the making, renewal, or modification  
30 of the loan, extension of credit, guaranty, or other obligation  
31 secured by the real property security, neither the borrower, any  
32 related party, nor any affiliate or agent of either the borrower or  
33 any related party had actual knowledge or notice of the release or  
34 threatened release, or if a person had knowledge or notice of the  
35 release or threatened release, the borrower made written disclosure  
36 thereof to the secured lender after the secured lender's written  
37 request for information concerning the environmental condition  
38 of the real property security, or the secured lender otherwise  
39 obtained actual knowledge thereof, prior to the making, renewal,  
40 or modification of the obligation.

1 (e) For purposes of this section:

2 (1) “Affected parcel” means any portion of a parcel of real  
3 property security that is (A) contiguous to the environmentally  
4 impaired parcel, even if separated by roads, streets, utility  
5 easements, or railroad rights-of-way, (B) part of an approved or  
6 proposed subdivision within the meaning of Section 66424 of the  
7 Government Code, of which the environmentally impaired parcel  
8 is also a part, or (C) within 2,000 feet of the environmentally  
9 impaired parcel.

10 (2) “Borrower” means the trustor under a deed of trust, or a  
11 mortgagor under a mortgage, where the deed of trust or mortgage  
12 encumbers real property security and secures the performance of  
13 the trustor or mortgagor under a loan, extension of credit, guaranty,  
14 or other obligation. The term includes any successor-in-interest of  
15 the trustor or mortgagor to the real property security before the  
16 deed of trust or mortgage has been discharged, reconveyed, or  
17 foreclosed upon.

18 (3) “Environmentally impaired” means that the estimated costs  
19 to clean up and remediate a past or present release or threatened  
20 release of any hazardous substance into, onto, beneath, or from  
21 the real property security, not disclosed in writing to, or otherwise  
22 actually known by, the secured lender prior to the making of the  
23 loan or extension of credit secured by the real property security,  
24 exceeds 25 percent of the higher of the aggregate fair market value  
25 of all security for the loan or extension of credit (A) at the time of  
26 the making of the loan or extension of credit, or (B) at the time of  
27 the discovery of the release or threatened release by the secured  
28 lender. For the purposes of this definition, the estimated cost to  
29 clean up and remediate the contamination caused by the release  
30 or threatened release shall include only those costs that would be  
31 incurred reasonably and in good faith, and fair market value shall  
32 be determined without giving consideration to the release or  
33 threatened release, and shall be exclusive of the amount of all liens  
34 and encumbrances against the security that are senior in priority  
35 to the lien of the secured lender. Notwithstanding the foregoing,  
36 the real property security for any loan or extension of credit secured  
37 by a single parcel of real property which is included in the National  
38 Priorities List pursuant to Section 9605 of Title 42 of the United  
39 States Code, or in any list published by the Department of Toxic  
40 Substances Control pursuant to subdivision (b) of Section 25356

1 of the Health and Safety Code, shall be deemed to be  
2 environmentally impaired.

3 (4) “Hazardous substance” means any of the following:

4 (A) Any “hazardous substance” as defined in subdivision (h)  
5 of Section 25281 of the Health and Safety Code.

6 (B) Any “waste” as defined in subdivision (d) of Section 13050  
7 of the Water Code.

8 (C) Petroleum, including crude oil or any fraction thereof,  
9 natural gas, natural gas liquids, liquefied natural gas, or synthetic  
10 gas usable for fuel, or any mixture thereof.

11 (5) “Real property security” means any real property and  
12 improvements, other than a separate interest and any related interest  
13 in the common area of a residential common interest development,  
14 as the terms “separate interest,” “common area,” and “common  
15 interest development” are defined in Sections 4095, 4100, and  
16 4185 of the Civil Code, or real property which contains only 1 to  
17 15 dwelling units, which in either case (A) is solely used (i) for  
18 residential purposes, or (ii) if reasonably contemplated by the  
19 parties to the deed of trust or mortgage, for residential purposes  
20 as well as limited agricultural or commercial purposes incidental  
21 thereto, and (B) is the subject of an issued certificate of occupancy  
22 unless the dwelling is to be owned and occupied by the borrower.

23 (6) “Related party” means any person who shares an ownership  
24 interest with the borrower in the real property security, or is a  
25 partner or joint venturer with the borrower in a partnership or joint  
26 venture, the business of which includes the acquisition,  
27 development, use, lease, or sale of the real property security.

28 (7) “Release” means any spilling, leaking, pumping, pouring,  
29 emitting, emptying, discharging, injecting, escaping, leaching,  
30 dumping, or disposing into the environment, including continuing  
31 migration, of hazardous substances into, onto, or through soil,  
32 surface water, or groundwater. The term does not include actions  
33 directly relating to the incorporation in a lawful manner of building  
34 materials into a permanent improvement to the real property  
35 security.

36 (8) “Secured lender” means the beneficiary under a deed of trust  
37 against the real property security, or the mortgagee under a  
38 mortgage against the real property security, and any  
39 successor-in-interest of the beneficiary or mortgagee to the deed  
40 of trust or mortgage.

1 (f) This section shall not be construed to invalidate or otherwise  
2 affect in any manner any rights or obligations arising under contract  
3 in connection with a loan or extension of credit, including, without  
4 limitation, provisions limiting recourse.

5 (g) This section shall only apply to loans, extensions of credit,  
6 guaranties, or other obligations secured by real property security  
7 made, renewed, or modified on or after January 1, 1992.

8 SEC. 46. Section 729.035 of the Code of Civil Procedure is  
9 amended to read:

10 729.035. Notwithstanding any provision of law to the contrary,  
11 the sale of a separate interest in a common interest development  
12 is subject to the right of redemption within 90 days after the sale  
13 if the sale arises from a foreclosure by the association of a common  
14 interest development pursuant to Sections 5700, 5710, and 5735  
15 of the Civil Code, subject to the conditions of Sections 5705, 5715,  
16 and 5720 of the Civil Code.

17 SEC. 47. Section 736 of the Code of Civil Procedure is  
18 amended to read:

19 736. (a) Notwithstanding any other provision of law, a secured  
20 lender may bring an action for breach of contract against a borrower  
21 for breach of any environmental provision made by the borrower  
22 relating to the real property security, for the recovery of damages,  
23 and for the enforcement of the environmental provision, and that  
24 action or failure to foreclose first against collateral shall not  
25 constitute an action within the meaning of subdivision (a) of  
26 Section 726, or constitute a money judgment for a deficiency or a  
27 deficiency judgment within the meaning of Section 580a, 580b,  
28 or 580d, or subdivision (b) of Section 726. No injunction for the  
29 enforcement of an environmental provision may be issued after  
30 (1) the obligation secured by the real property security has been  
31 fully satisfied, or (2) all of the borrower's rights, title, and interest  
32 in and to the real property security has been transferred in a bona  
33 fide transaction to an unaffiliated third party for fair value.

34 (b) The damages a secured lender may recover pursuant to  
35 subdivision (a) shall be limited to reimbursement or  
36 indemnification of the following:

37 (1) If not pursuant to an order of any federal, state, or local  
38 governmental agency relating to the cleanup, remediation, or other  
39 response action required by applicable law, those costs relating to  
40 a reasonable and good faith cleanup, remediation, or other response

1 action concerning a release or threatened release of hazardous  
2 substances which is anticipated by the environmental provision.

3 (2) If pursuant to an order of any federal, state, or local  
4 governmental agency relating to the cleanup, remediation, or other  
5 response action required by applicable law which is anticipated  
6 by the environmental provision, all amounts reasonably advanced  
7 in good faith by the secured lender in connection therewith,  
8 provided that the secured lender negotiated, or attempted to  
9 negotiate, in good faith to minimize the amounts it was required  
10 to advance under the order.

11 (3) Indemnification against all liabilities of the secured lender  
12 to any third party relating to the breach and not arising from acts,  
13 omissions, or other conduct which occur after the borrower is no  
14 longer an owner or operator of the real property security, and  
15 provided the secured lender is not responsible for the  
16 environmentally impaired condition of the real property security  
17 in accordance with the standards set forth in subdivision (d) of  
18 Section 726.5. For purposes of this paragraph, the term “owner or  
19 operator” means those persons described in Section 101(20)(A)  
20 of the Comprehensive Environmental Response, Compensation,  
21 and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et  
22 seq.).

23 (4) Attorneys’ fees and costs incurred by the secured lender  
24 relating to the breach.

25 The damages a secured lender may recover pursuant to  
26 subdivision (a) shall not include (i) any part of the principal amount  
27 or accrued interest of the secured obligation, except for any  
28 amounts advanced by the secured lender to cure or mitigate the  
29 breach of the environmental provision that are added to the  
30 principal amount, and contractual interest thereon, or (ii) amounts  
31 which relate to a release which was knowingly permitted, caused,  
32 or contributed to by the secured lender or any affiliate or agent of  
33 the secured lender.

34 (c) A secured lender may not recover damages against a  
35 borrower pursuant to subdivision (a) for amounts advanced or  
36 obligations incurred for the cleanup or other remediation of real  
37 property security, and related attorneys’ fees and costs, if all of  
38 the following are true:

1 (1) The original principal amount of, or commitment for, the  
2 loan or other obligation secured by the real property security did  
3 not exceed two hundred thousand dollars (\$200,000).

4 (2) In conjunction with the secured lender's acceptance of the  
5 environmental provision, the secured lender agreed in writing to  
6 accept the real property security on the basis of a completed  
7 environmental site assessment and other relevant information from  
8 the borrower.

9 (3) The borrower did not permit, cause, or contribute to the  
10 release or threatened release.

11 (4) The deed of trust or mortgage covering the real property  
12 security has not been discharged, reconveyed, or foreclosed upon.

13 (d) This section is not intended to establish, abrogate, modify,  
14 limit, or otherwise affect any cause of action other than that  
15 provided by subdivision (a) that a secured lender may have against  
16 a borrower under an environmental provision.

17 (e) This section shall apply only to environmental provisions  
18 contracted in conjunction with loans, extensions of credit,  
19 guaranties, or other obligations made, renewed, or modified on or  
20 after January 1, 1992. Notwithstanding the foregoing, this section  
21 shall not be construed to validate, invalidate, or otherwise affect  
22 in any manner the rights and obligations of the parties to, or the  
23 enforcement of, environmental provisions contracted before  
24 January 1, 1992.

25 (f) For purposes of this section:

26 (1) "Borrower" means the trustor under a deed of trust, or a  
27 mortgagor under a mortgage, where the deed of trust or mortgage  
28 encumbers real property security and secures the performance of  
29 the trustor or mortgagor under a loan, extension of credit, guaranty,  
30 or other obligation. The term includes any successor-in-interest of  
31 the trustor or mortgagor to the real property security before the  
32 deed of trust or mortgage has been discharged, reconveyed, or  
33 foreclosed upon.

34 (2) "Environmental provision" means any written representation,  
35 warranty, indemnity, promise, or covenant relating to the existence,  
36 location, nature, use, generation, manufacture, storage, disposal,  
37 handling, or past, present, or future release or threatened release,  
38 of any hazardous substance into, onto, beneath, or from the real  
39 property security, or to past, present, or future compliance with  
40 any law relating thereto, made by a borrower in conjunction with

1 the making, renewal, or modification of a loan, extension of credit,  
2 guaranty, or other obligation involving the borrower, whether or  
3 not the representation, warranty, indemnity, promise, or covenant  
4 is or was contained in or secured by the deed of trust or mortgage,  
5 and whether or not the deed of trust or mortgage has been  
6 discharged, reconveyed, or foreclosed upon.

7 (3) “Hazardous substance” means any of the following:

8 (A) Any “hazardous substance” as defined in subdivision (h)  
9 of Section 25281 of the Health and Safety Code.

10 (B) Any “waste” as defined in subdivision (d) of Section 13050  
11 of the Water Code.

12 (C) Petroleum, including crude oil or any fraction thereof,  
13 natural gas, natural gas liquids, liquefied natural gas, or synthetic  
14 gas usable for fuel, or any mixture thereof.

15 (4) “Real property security” means any real property and  
16 improvements, other than a separate interest and any related interest  
17 in the common area of a residential common interest development,  
18 as the terms “separate interest,” “common area,” and “common  
19 interest development” are defined in Sections 4095, 4100, and  
20 4185 of the Civil Code, or real property which contains only 1 to  
21 15 dwelling units, which in either case (A) is solely used (i) for  
22 residential purposes, or (ii) if reasonably contemplated by the  
23 parties to the deed of trust or mortgage, for residential purposes  
24 as well as limited agricultural or commercial purposes incidental  
25 thereto, and (B) is the subject of an issued certificate of occupancy  
26 unless the dwelling is to be owned and occupied by the borrower.

27 (5) “Release” means any spilling, leaking, pumping, pouring,  
28 emitting, emptying, discharging, injecting, escaping, leaching,  
29 dumping, or disposing into the environment, including continuing  
30 migration, of hazardous substances into, onto, or through soil,  
31 surface water, or groundwater. The term does not include actions  
32 directly relating to the incorporation in a lawful manner of building  
33 materials into a permanent improvement to the real property  
34 security.

35 (6) “Secured lender” means the beneficiary under a deed of trust  
36 against the real property security, or the mortgagee under a  
37 mortgage against the real property security, and any  
38 successor-in-interest of the beneficiary or mortgagee to the deed  
39 of trust or mortgage.

1 SEC. 48. Section 12191 of the Government Code is amended  
2 to read:

3 12191. The miscellaneous business entity filing fees are the  
4 following:

5 (a) Foreign Associations, as defined in Sections 170 and 171  
6 of the Corporations Code:

7 (1) Filing the statement and designation upon the qualification  
8 of a foreign association pursuant to Section 2105 of the  
9 Corporations Code: One hundred dollars (\$100).

10 (2) Filing an amended statement and designation by a foreign  
11 association pursuant to Section 2107 of the Corporations Code:  
12 Thirty dollars (\$30).

13 (3) Filing a certificate showing the surrender of the right of a  
14 foreign association to transact intrastate business pursuant to  
15 Section 2112 of the Corporations Code: No fee.

16 (b) Unincorporated Associations:

17 (1) Filing a statement in accordance with Section 24003 of the  
18 Corporations Code as to principal place of office or place for  
19 sending notices or designating agent for service: Twenty-five  
20 dollars (\$25).

21 (2) Insignia Registrations: Ten dollars (\$10).

22 (c) Community Associations and Common Interest  
23 Developments:

24 (1) Filing a statement by a community association in accordance  
25 with Section 5405 of the Civil Code to register the common interest  
26 development that it manages: An amount not to exceed thirty  
27 dollars (\$30).

28 (2) Filing an amended statement by a community association  
29 in accordance with Section 5405 of the Civil Code: No fee.

30 ~~SEC. 49. Section 12956.1 of the Government Code is amended~~  
31 ~~to read:~~

32 ~~12956.1. (a) As used in this section, “association,” “governing~~  
33 ~~documents,” and “declaration” have the same meanings as set forth~~  
34 ~~in Sections 4080, 4135, and 4150 of the Civil Code.~~

35 ~~(b) (1) A county recorder, title insurance company, escrow~~  
36 ~~company, real estate broker, real estate agent, or association that~~  
37 ~~provides a copy of a declaration, governing document, or deed to~~  
38 ~~any person shall place a cover page or stamp on the first page of~~  
39 ~~the previously recorded document or documents stating, in at least~~  
40 ~~14-point boldface type, the following:~~

1 ~~“If this document contains any restriction based on race, color,~~  
2 ~~religion, sex, sexual orientation, familial status, marital status,~~  
3 ~~disability, national origin, source of income as defined in~~  
4 ~~subdivision (p) of Section 12955, or ancestry, that restriction~~  
5 ~~violates state and federal fair housing laws and is void, and may~~  
6 ~~be removed pursuant to Section 12956.2 of the Government Code.~~  
7 ~~Lawful restrictions under state and federal law on the age of~~  
8 ~~occupants in senior housing or housing for older persons shall not~~  
9 ~~be construed as restrictions based on familial status.”~~

10 ~~(2) The requirements set forth in paragraph (1) shall not apply~~  
11 ~~to documents being submitted for recordation to a county recorder.~~

12 ~~(c) Any person who records a document for the express purpose~~  
13 ~~of adding a racially restrictive covenant is guilty of a misdemeanor.~~  
14 ~~The county recorder shall not incur any liability for recording the~~  
15 ~~document. Notwithstanding any other provision of law, a~~  
16 ~~prosecution for a violation of this subdivision shall commence~~  
17 ~~within three years after the discovery of the recording of the~~  
18 ~~document.~~

19 ~~SEC. 50. Section 12956.2 of the Government Code is amended~~  
20 ~~to read:~~

21 ~~12956.2. (a) A person who holds an ownership interest of~~  
22 ~~record in property that he or she believes is the subject of an~~  
23 ~~unlawfully restrictive covenant in violation of subdivision (l) of~~  
24 ~~Section 12955 may record a document titled Restrictive Covenant~~  
25 ~~Modification. The county recorder may choose to waive the fee~~  
26 ~~prescribed for recording and indexing instruments pursuant to~~  
27 ~~Section 27361 in the case of the modification document provided~~  
28 ~~for in this section. The modification document shall include a~~  
29 ~~complete copy of the original document containing the unlawfully~~  
30 ~~restrictive language with the unlawfully restrictive language~~  
31 ~~stricken.~~

32 ~~(b) Before recording the modification document, the county~~  
33 ~~recorder shall submit the modification document and the original~~  
34 ~~document to the county counsel who shall determine whether the~~  
35 ~~original document contains an unlawful restriction based on race,~~  
36 ~~color, religion, sex, sexual orientation, familial status, marital~~  
37 ~~status, disability, national origin, source of income as defined in~~  
38 ~~subdivision (p) of Section 12955, or ancestry. The county counsel~~  
39 ~~shall return the documents and inform the county recorder of its~~  
40 ~~determination. The county recorder shall refuse to record the~~

1 modification document if the county counsel finds that the original  
2 document does not contain an unlawful restriction as specified in  
3 this paragraph.

4 ~~(e) The modification document shall be indexed in the same  
5 manner as the original document being modified. It shall contain  
6 a recording reference to the original document in the form of a  
7 book and page or instrument number, and date of the recording.~~

8 ~~(d) Subject to covenants, conditions, and restrictions that were  
9 recorded after the recording of the original document that contains  
10 the unlawfully restrictive language and subject to covenants,  
11 conditions, and restrictions that will be recorded after the  
12 Restrictive Covenant Modification, the restrictions in the  
13 Restrictive Covenant Modification, once recorded, are the only  
14 restrictions having effect on the property. The effective date of the  
15 terms and conditions of the modification document shall be the  
16 same as the effective date of the original document.~~

17 ~~(e) The county recorder shall make available to the public  
18 Restrictive Covenant Modification forms.~~

19 ~~(f) If the holder of an ownership interest of record in property  
20 causes to be recorded a modified document pursuant to this section  
21 that contains modifications not authorized by this section, the  
22 county recorder shall not incur liability for recording the document.  
23 The liability that may result from the unauthorized recordation is  
24 the sole responsibility of the holder of the ownership interest of  
25 record who caused the modified recordation.~~

26 ~~(g) This section does not apply to persons holding an ownership  
27 interest in property that is part of a common interest development  
28 as defined in Section 4100 of the Civil Code if the board of  
29 directors of that common interest development is subject to the  
30 requirements of subdivision (b) of Section 4225 of the Civil Code.~~

31 *SEC. 49. Section 12956.1 of the Government Code is amended*  
32 *to read:*

33 12956.1. (a) As used in this section, “association,” “governing  
34 documents,” and “declaration” have the same meanings as set forth  
35 in ~~Section 1351~~ *Sections 4080, 4135, and 4150* of the Civil Code.

36 (b) (1) A county recorder, title insurance company, escrow  
37 company, real estate broker, real estate agent, or association that  
38 provides a copy of a declaration, governing document, or deed to  
39 any person shall place a cover page or stamp on the first page of

1 the previously recorded document or documents stating, in at least  
2 14-point boldface type, the following:

3 “If this document contains any restriction based on race, color,  
4 religion, sex, gender, gender identity, gender expression, sexual  
5 orientation, familial status, marital status, disability, genetic  
6 information, national origin, source of income as defined in  
7 subdivision (p) of Section 12955, or ancestry, that restriction  
8 violates state and federal fair housing laws and is void, and may  
9 be removed pursuant to Section 12956.2 of the Government Code.  
10 Lawful restrictions under state and federal law on the age of  
11 occupants in senior housing or housing for older persons shall not  
12 be construed as restrictions based on familial status.”

13 (2) The requirements set forth in paragraph (1) shall not apply  
14 to documents being submitted for recordation to a county recorder.

15 (c) Any person who records a document for the express purpose  
16 of adding a racially restrictive covenant is guilty of a misdemeanor.  
17 The county recorder shall not incur any liability for recording the  
18 document. Notwithstanding any other provision of law, a  
19 prosecution for a violation of this subdivision shall commence  
20 within three years after the discovery of the recording of the  
21 document.

22 *SEC. 50. Section 12956.2 of the Government Code is amended*  
23 *to read:*

24 12956.2. (a) A person who holds an ownership interest of  
25 record in property that he or she believes is the subject of an  
26 unlawfully restrictive covenant in violation of subdivision (l) of  
27 Section 12955 may record a document titled Restrictive Covenant  
28 Modification. The county recorder may choose to waive the fee  
29 prescribed for recording and indexing instruments pursuant to  
30 Section 27361 in the case of the modification document provided  
31 for in this section. The modification document shall include a  
32 complete copy of the original document containing the unlawfully  
33 restrictive language with the unlawfully restrictive language  
34 stricken.

35 (b) Before recording the modification document, the county  
36 recorder shall submit the modification document and the original  
37 document to the county counsel who shall determine whether the  
38 original document contains an unlawful restriction based on race,  
39 color, religion, sex, gender, gender identity, gender expression,  
40 sexual orientation, familial status, marital status, disability, national

1 origin, source of income as defined in subdivision (p) of Section  
2 12955, or ancestry. The county counsel shall return the documents  
3 and inform the county recorder of its determination. The county  
4 recorder shall refuse to record the modification document if the  
5 county counsel finds that the original document does not contain  
6 an unlawful restriction as specified in this paragraph.

7 (c) The modification document shall be indexed in the same  
8 manner as the original document being modified. It shall contain  
9 a recording reference to the original document in the form of a  
10 book and page or instrument number, and date of the recording.

11 (d) Subject to covenants, conditions, and restrictions that were  
12 recorded after the recording of the original document that contains  
13 the unlawfully restrictive language and subject to covenants,  
14 conditions, and restrictions that will be recorded after the  
15 Restrictive Covenant Modification, the restrictions in the  
16 Restrictive Covenant Modification, once recorded, are the only  
17 restrictions having effect on the property. The effective date of the  
18 terms and conditions of the modification document shall be the  
19 same as the effective date of the original document.

20 (e) The county recorder shall make available to the public  
21 Restrictive Covenant Modification forms.

22 (f) If the holder of an ownership interest of record in property  
23 causes to be recorded a modified document pursuant to this section  
24 that contains modifications not authorized by this section, the  
25 county recorder shall not incur liability for recording the document.  
26 The liability that may result from the unauthorized recordation is  
27 the sole responsibility of the holder of the ownership interest of  
28 record who caused the modified recordation.

29 (g) This section does not apply to persons holding an ownership  
30 interest in property that is part of a common interest development  
31 as defined in ~~subdivision (e) of Section 4100~~ of the Civil  
32 Code if the board of directors of that common interest development  
33 is subject to the requirements of subdivision (b) of Section ~~4225.5~~  
34 4225 of the Civil Code.

35 SEC. 51. Section 53341.5 of the Government Code is amended  
36 to read:

37 53341.5. (a) If a lot, parcel, or unit of a subdivision is subject  
38 to a special tax levied pursuant to this chapter, the subdivider, his  
39 or her agent, or representative, shall not sell, or lease for a term  
40 exceeding five years, or permit a prospective purchaser or lessor

1 to sign a contract of purchase or a deposit receipt or any  
 2 substantially equivalent document in the event of a lease with  
 3 respect to the lot, parcel, or unit, or cause it to be sold or leased  
 4 for a term exceeding five years, until the prospective purchaser or  
 5 lessee of the lot, parcel, or unit has been furnished with and has  
 6 signed a written notice as provided in this section. The notice shall  
 7 contain the heading "NOTICE OF SPECIAL TAX" in type no  
 8 smaller than 8-point type, and shall be in substantially the following  
 9 form. The form may be modified as needed to clearly and  
 10 accurately describe the tax structure and other characteristics of  
 11 districts created before January 1, 1993, or to clearly and accurately  
 12 consolidate information about the tax structure and other  
 13 characteristics of two or more districts that levy or are authorized  
 14 to levy special taxes with respect to the lot, parcel, or unit:

15  
 16                                   NOTICE OF SPECIAL TAX  
 17                   COMMUNITY FACILITIES DISTRICT NO. \_\_\_\_  
 18                   COUNTY OF \_\_\_\_, CALIFORNIA

19  
 20  
 21 TO: THE PROSPECTIVE PURCHASER OF THE REAL  
 22 PROPERTY KNOWN AS:

23  
 24 \_\_\_\_\_  
 25 \_\_\_\_\_

26  
 27  
 28 THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR  
 29 ENTERING INTO A CONTRACT TO PURCHASE THIS  
 30 PROPERTY. THE SELLER IS REQUIRED TO GIVE YOU THIS  
 31 NOTICE AND TO OBTAIN A COPY SIGNED BY YOU TO  
 32 INDICATE THAT YOU HAVE RECEIVED AND READ A  
 33 COPY OF THIS NOTICE.

34 (1) This property is subject to a special tax, that is in addition  
 35 to the regular property taxes and any other charges, fees, special  
 36 taxes, and benefit assessments on the parcel. It is imposed on this  
 37 property because it is a new development, and is not necessarily  
 38 imposed generally upon property outside of this new development.  
 39 If you fail to pay this tax when due each year, the property may  
 40 be foreclosed upon and sold. The tax is used to provide public

1 facilities or services that are likely to particularly benefit the  
2 property. YOU SHOULD TAKE THIS TAX AND THE  
3 BENEFITS FROM THE FACILITIES AND SERVICES FOR  
4 WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER  
5 TO BUY THIS PROPERTY.

6 (2) The maximum special tax that may be levied against this  
7 parcel to pay for public facilities is \$\_\_\_\_\_ during the \_\_\_\_-\_\_  
8 tax year. This amount will increase by \_\_ percent per year after  
9 that (if applicable). The special tax will be levied each year until  
10 all of the authorized facilities are built and all special tax bonds  
11 are repaid, but in any case not after the \_\_\_\_-\_\_ tax year. An  
12 additional special tax will be used to pay for ongoing service costs,  
13 if applicable. The maximum amount of this tax is \_\_\_\_\_ dollars  
14 (\$\_\_\_\_\_) during the \_\_\_\_-\_\_ tax year. This amount may increase  
15 by \_\_\_\_\_, if applicable, and that part may be levied until the  
16 \_\_\_\_-\_\_ tax year (or forever, as applicable).

17 (3) The authorized facilities that are being paid for by the special  
18 taxes, and by the money received from the sale of bonds that are  
19 being repaid by the special taxes, are:

20 These facilities may not yet have all been constructed or acquired  
21 and it is possible that some may never be constructed or acquired.

22 In addition, the special taxes may be used to pay for costs of the  
23 following services:

24 YOU MAY OBTAIN A COPY OF THE RESOLUTION OF  
25 FORMATION THAT AUTHORIZED CREATION OF THE  
26 COMMUNITY FACILITIES DISTRICT, AND THAT SPECIFIES  
27 MORE PRECISELY HOW THE SPECIAL TAX IS  
28 APPORTIONED AND HOW THE PROCEEDS OF THE TAX  
29 WILL BE USED, FROM THE \_\_\_\_ (name of jurisdiction) BY  
30 CALLING \_\_\_\_ (telephone number). THERE MAY BE A  
31 CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE  
32 REASONABLE COST OF PROVIDING THE DOCUMENT.

33 I (WE) ACKNOWLEDGE THAT I (WE) HAVE READ THIS  
34 NOTICE AND RECEIVED A COPY OF THIS NOTICE PRIOR  
35 TO ENTERING INTO A CONTRACT TO PURCHASE OR  
36 SIGNING A DEPOSIT RECEIPT WITH RESPECT TO THE  
37 ABOVE-REFERENCED PROPERTY. I (WE) UNDERSTAND  
38 THAT I (WE) MAY TERMINATE THE CONTRACT TO  
39 PURCHASE OR DEPOSIT RECEIPT WITHIN THREE DAYS  
40 AFTER RECEIVING THIS NOTICE IN PERSON OR WITHIN

1 FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY  
2 GIVING WRITTEN NOTICE OF THAT TERMINATION TO  
3 THE OWNER, SUBDIVIDER, OR AGENT SELLING THE  
4 PROPERTY.

5  
6 DATE: \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9

10 (b) "Subdivision," as used in subdivision (a), means improved  
11 or unimproved land that is divided or proposed to be divided for  
12 the purpose of sale, lease, or financing, whether immediate or  
13 future, into two or more lots, parcels, or units and includes a  
14 condominium project, as defined by Section 4125 of the Civil  
15 Code, a community apartment project, a stock cooperative, and a  
16 limited-equity housing cooperative, as defined in Sections 11004,  
17 11003.2, and 11003.4, respectively, of the Business and Professions  
18 Code.

19 (c) The buyer shall have three days after delivery in person or  
20 five days after delivery by deposit in the mail of any notice required  
21 by this section, to terminate his or her agreement by delivery of  
22 written notice of that termination to the owner, subdivider, or agent.

23 (d) The failure to furnish the notice to the buyer or lessee, and  
24 failure of the buyer or lessee to sign the notice of a special tax,  
25 shall not invalidate any grant, conveyance, lease, or encumbrance.

26 (e) Any person or entity who willfully violates the provisions  
27 of this section shall be liable to the purchaser of a lot or unit that  
28 is subject to the provisions of this section, for actual damages, and  
29 in addition thereto, shall be guilty of a public offense punishable  
30 by a fine in an amount not to exceed five hundred dollars (\$500).  
31 In an action to enforce a liability or fine, the prevailing party shall  
32 be awarded reasonable attorney's fees.

33 SEC. 52. Section 65008 of the Government Code is amended  
34 to read:

35 65008. (a) Any action pursuant to this title by any city, county,  
36 city and county, or other local governmental agency in this state  
37 is null and void if it denies to any individual or group of individuals  
38 the enjoyment of residence, landownership, tenancy, or any other  
39 land use in this state because of any of the following reasons:

1 (1) (A) The lawful occupation, age, or any characteristic of the  
2 individual or group of individuals listed in subdivision (a) or (d)  
3 of Section 12955, as those bases are defined in Sections 12926,  
4 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of  
5 Section 12955 and Section 12955.2.

6 (B) Notwithstanding subparagraph (A), with respect to familial  
7 status, subparagraph (A) shall not be construed to apply to housing  
8 for older persons, as defined in Section 12955.9. With respect to  
9 familial status, nothing in subparagraph (A) shall be construed to  
10 affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the  
11 Civil Code, relating to housing for senior citizens. Subdivision (d)  
12 of Section 51 and Section 4760 of the Civil Code and subdivisions  
13 (n), (o), and (p) of Section 12955 of this code shall apply to  
14 subparagraph (A).

15 (2) The method of financing of any residential development of  
16 the individual or group of individuals.

17 (3) The intended occupancy of any residential development by  
18 persons or families of very low, low, moderate, or middle income.

19 (b) (1) No city, county, city and county, or other local  
20 governmental agency shall, in the enactment or administration of  
21 ordinances pursuant to any law, including this title, prohibit or  
22 discriminate against any residential development or emergency  
23 shelter for any of the following reasons:

24 (A) Because of the method of financing.

25 (B) (i) Because of the lawful occupation, age, or any  
26 characteristic listed in subdivision (a) or (d) of Section 12955, as  
27 those characteristics are defined in Sections 12926, 12926.1,  
28 subdivision (m) and paragraph (1) of subdivision (p) of Section  
29 12955, and Section 12955.2 of the owners or intended occupants  
30 of the residential development or emergency shelter.

31 (ii) Notwithstanding clause (i), with respect to familial status,  
32 clause (i) shall not be construed to apply to housing for older  
33 persons, as defined in Section 12955.9. With respect to familial  
34 status, nothing in clause (i) shall be construed to affect Sections  
35 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating  
36 to housing for senior citizens. Subdivision (d) of Section 51 and  
37 Section 4760 of the Civil Code and subdivisions (n), (o), and (p)  
38 of Section 12955 of this code shall apply to clause (i).

39 (C) Because the development or shelter is intended for  
40 occupancy by persons and families of very low, low, or moderate

1 income, as defined in Section 50093 of the Health and Safety Code,  
2 or persons and families of middle income.

3 (D) Because the development consists of a multifamily  
4 residential project that is consistent with both the jurisdiction's  
5 zoning ordinance and general plan as they existed on the date the  
6 application was deemed complete, except that a project shall not  
7 be deemed to be inconsistent with the zoning designation for the  
8 site if that zoning designation is inconsistent with the general plan  
9 only because the project site has not been rezoned to conform with  
10 a more recently adopted general plan.

11 (2) The discrimination prohibited by this subdivision includes  
12 the denial or conditioning of a residential development or shelter  
13 because of, in whole or in part, either of the following:

14 (A) The method of financing.

15 (B) The occupancy of the development by persons protected by  
16 this subdivision, including, but not limited to, persons and families  
17 of very low, low, or moderate income.

18 (3) A city, county, city and county, or other local government  
19 agency may not, pursuant to subdivision (d) of Section 65589.5,  
20 disapprove a housing development project or condition approval  
21 of a housing development project in a manner that renders the  
22 project infeasible if the basis for the disapproval or conditional  
23 approval includes any of the reasons prohibited in paragraph (1)  
24 or (2).

25 (c) For the purposes of this section, "persons and families of  
26 middle income" means persons and families whose income does  
27 not exceed 150 percent of the median income for the county in  
28 which the persons or families reside.

29 (d) (1) No city, county, city and county, or other local  
30 governmental agency may impose different requirements on a  
31 residential development or emergency shelter that is subsidized,  
32 financed, insured, or otherwise assisted by the federal or state  
33 government or by a local public entity, as defined in Section 50079  
34 of the Health and Safety Code, than those imposed on nonassisted  
35 developments, except as provided in subdivision (e). The  
36 discrimination prohibited by this subdivision includes the denial  
37 or conditioning of a residential development or emergency shelter  
38 based in whole or in part on the fact that the development is  
39 subsidized, financed, insured, or otherwise assisted as described  
40 in this paragraph.

1 (2) (A) No city, county, city and county, or other local  
2 governmental agency may, because of the lawful occupation age,  
3 or any characteristic of the intended occupants listed in subdivision  
4 (a) or (d) of Section 12955, as those characteristics are defined in  
5 Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
6 subdivision (p) of Section 12955, and Section 12955.2 or because  
7 the development is intended for occupancy by persons and families  
8 of very low, low, moderate, or middle income, impose different  
9 requirements on these residential developments than those imposed  
10 on developments generally, except as provided in subdivision (e).

11 (B) Notwithstanding subparagraph (A), with respect to familial  
12 status, subparagraph (A) shall not be construed to apply to housing  
13 for older persons, as defined in Section 12955.9. With respect to  
14 familial status, nothing in subparagraph (A) shall be construed to  
15 affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the  
16 Civil Code, relating to housing for senior citizens. Subdivision (d)  
17 of Section 51 and Section 4760 of the Civil Code and subdivisions  
18 (n), (o), and (p) of Section 12955 of this code shall apply to  
19 subparagraph (A).

20 (e) Notwithstanding subdivisions (a) to (d), inclusive, this  
21 section and this title do not prohibit either of the following:

22 (1) The County of Riverside from enacting and enforcing zoning  
23 to provide housing for older persons, in accordance with state or  
24 federal law, if that zoning was enacted prior to January 1, 1995.

25 (2) Any city, county, or city and county from extending  
26 preferential treatment to residential developments or emergency  
27 shelters assisted by the federal or state government or by a local  
28 public entity, as defined in Section 50079 of the Health and Safety  
29 Code, or other residential developments or emergency shelters  
30 intended for occupancy by persons and families of low and  
31 moderate income, as defined in Section 50093 of the Health and  
32 Safety Code, or persons and families of middle income, or  
33 agricultural employees, as defined in subdivision (b) of Section  
34 1140.4 of the Labor Code, and their families. This preferential  
35 treatment may include, but need not be limited to, reduction or  
36 waiver of fees or changes in architectural requirements, site  
37 development and property line requirements, building setback  
38 requirements, or vehicle parking requirements that reduce  
39 development costs of these developments.

1 (f) “Residential development,” as used in this section, means a  
2 single-family residence or a multifamily residence, including  
3 manufactured homes, as defined in Section 18007 of the Health  
4 and Safety Code.

5 (g) This section shall apply to chartered cities.

6 (h) The Legislature finds and declares that discriminatory  
7 practices that inhibit the development of housing for persons and  
8 families of very low, low, moderate, and middle-income, ~~incomes,~~  
9 or emergency shelters for the homeless, are a matter of statewide  
10 concern.

11 SEC. 53. Section 65915 of the Government Code is amended  
12 to read:

13 65915. (a) When an applicant seeks a density bonus for a  
14 housing development within, or for the donation of land for housing  
15 within, the jurisdiction of a city, county, or city and county, that  
16 local government shall provide the applicant with incentives or  
17 concessions for the production of housing units and child care  
18 facilities as prescribed in this section. All cities, counties, or cities  
19 and counties shall adopt an ordinance that specifies how  
20 compliance with this section will be implemented. Failure to adopt  
21 an ordinance shall not relieve a city, county, or city and county  
22 from complying with this section.

23 (b) (1) A city, county, or city and county shall grant one density  
24 bonus, the amount of which shall be as specified in subdivision  
25 (f), and incentives or concessions, as described in subdivision (d),  
26 when an applicant for a housing development seeks and agrees to  
27 construct a housing development, excluding any units permitted  
28 by the density bonus awarded pursuant to this section, that will  
29 contain at least any one of the following:

30 (A) Ten percent of the total units of a housing development for  
31 lower income households, as defined in Section 50079.5 of the  
32 Health and Safety Code.

33 (B) Five percent of the total units of a housing development for  
34 very low income households, as defined in Section 50105 of the  
35 Health and Safety Code.

36 (C) A senior citizen housing development, as defined in Sections  
37 51.3 and 51.12 of the Civil Code, or mobilehome park that limits  
38 residency based on age requirements for housing for older persons  
39 pursuant to Section 798.76 or 799.5 of the Civil Code.

1 (D) Ten percent of the total dwelling units in a common interest  
2 development as defined in Section 4100 of the Civil Code for  
3 persons and families of moderate income, as defined in Section  
4 50093 of the Health and Safety Code, provided that all units in the  
5 development are offered to the public for purchase.

6 (2) For purposes of calculating the amount of the density bonus  
7 pursuant to subdivision (f), the applicant who requests a density  
8 bonus pursuant to this subdivision shall elect whether the bonus  
9 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)  
10 of paragraph (1).

11 (3) For the purposes of this section, “total units” or “total  
12 dwelling units” does not include units added by a density bonus  
13 awarded pursuant to this section or any local law granting a greater  
14 density bonus.

15 (c) (1) An applicant shall agree to, and the city, county, or city  
16 and county shall ensure, continued affordability of all low- and  
17 very low income units that qualified the applicant for the award  
18 of the density bonus for 30 years or a longer period of time if  
19 required by the construction or mortgage financing assistance  
20 program, mortgage insurance program, or rental subsidy program.  
21 Rents for the lower income density bonus units shall be set at an  
22 affordable rent as defined in Section 50053 of the Health and Safety  
23 Code. Owner-occupied units shall be available at an affordable  
24 housing cost as defined in Section 50052.5 of the Health and Safety  
25 Code.

26 (2) An applicant shall agree to, and the city, county, or city and  
27 county shall ensure that, the initial occupant of the  
28 moderate-income units that are directly related to the receipt of  
29 the density bonus in the common interest development, as defined  
30 in Section 4100 of the Civil Code, are persons and families of  
31 moderate income, as defined in Section 50093 of the Health and  
32 Safety Code, and that the units are offered at an affordable housing  
33 cost, as that cost is defined in Section 50052.5 of the Health and  
34 Safety Code. The local government shall enforce an equity sharing  
35 agreement, unless it is in conflict with the requirements of another  
36 public funding source or law. The following apply to the equity  
37 sharing agreement:

38 (A) Upon resale, the seller of the unit shall retain the value of  
39 any improvements, the downpayment, and the seller’s proportionate  
40 share of appreciation. The local government shall recapture any

1 initial subsidy, as defined in subparagraph (B), and its proportionate  
2 share of appreciation, as defined in subparagraph (C), which  
3 amount shall be used within five years for any of the purposes  
4 described in subdivision (e) of Section 33334.2 of the Health and  
5 Safety Code that promote home ownership.

6 (B) For purposes of this subdivision, the local government's  
7 initial subsidy shall be equal to the fair market value of the home  
8 at the time of initial sale minus the initial sale price to the  
9 moderate-income household, plus the amount of any downpayment  
10 assistance or mortgage assistance. If upon resale the market value  
11 is lower than the initial market value, then the value at the time of  
12 the resale shall be used as the initial market value.

13 (C) For purposes of this subdivision, the local government's  
14 proportionate share of appreciation shall be equal to the ratio of  
15 the local government's initial subsidy to the fair market value of  
16 the home at the time of initial sale.

17 (d) (1) An applicant for a density bonus pursuant to subdivision  
18 (b) may submit to a city, county, or city and county a proposal for  
19 the specific incentives or concessions that the applicant requests  
20 pursuant to this section, and may request a meeting with the city,  
21 county, or city and county. The city, county, or city and county  
22 shall grant the concession or incentive requested by the applicant  
23 unless the city, county, or city and county makes a written finding,  
24 based upon substantial evidence, of any of the following:

25 (A) The concession or incentive is not required in order to  
26 provide for affordable housing costs, as defined in Section 50052.5  
27 of the Health and Safety Code, or for rents for the targeted units  
28 to be set as specified in subdivision (c).

29 (B) The concession or incentive would have a specific adverse  
30 impact, as defined in paragraph (2) of subdivision (d) of Section  
31 65589.5, upon public health and safety or the physical environment  
32 or on any real property that is listed in the California Register of  
33 Historical Resources and for which there is no feasible method to  
34 satisfactorily mitigate or avoid the specific adverse impact without  
35 rendering the development unaffordable to low- and  
36 moderate-income households.

37 (C) The concession or incentive would be contrary to state or  
38 federal law.

39 (2) The applicant shall receive the following number of  
40 incentives or concessions:

1 (A) One incentive or concession for projects that include at least  
2 10 percent of the total units for lower income households, at least  
3 5 percent for very low income households, or at least 10 percent  
4 for persons and families of moderate income in a common interest  
5 development.

6 (B) Two incentives or concessions for projects that include at  
7 least 20 percent of the total units for lower income households, at  
8 least 10 percent for very low income households, or at least 20  
9 percent for persons and families of moderate income in a common  
10 interest development.

11 (C) Three incentives or concessions for projects that include at  
12 least 30 percent of the total units for lower income households, at  
13 least 15 percent for very low income households, or at least 30  
14 percent for persons and families of moderate income in a common  
15 interest development.

16 (3) The applicant may initiate judicial proceedings if the city,  
17 county, or city and county refuses to grant a requested density  
18 bonus, incentive, or concession. If a court finds that the refusal to  
19 grant a requested density bonus, incentive, or concession is in  
20 violation of this section, the court shall award the plaintiff  
21 reasonable attorney's fees and costs of suit. Nothing in this  
22 subdivision shall be interpreted to require a local government to  
23 grant an incentive or concession that has a specific, adverse impact,  
24 as defined in paragraph (2) of subdivision (d) of Section 65589.5,  
25 upon health, safety, or the physical environment, and for which  
26 there is no feasible method to satisfactorily mitigate or avoid the  
27 specific adverse impact. Nothing in this subdivision shall be  
28 interpreted to require a local government to grant an incentive or  
29 concession that would have an adverse impact on any real property  
30 that is listed in the California Register of Historical Resources.  
31 The city, county, or city and county shall establish procedures for  
32 carrying out this section, that shall include legislative body  
33 approval of the means of compliance with this section.

34 (e) (1) In no case may a city, county, or city and county apply  
35 any development standard that will have the effect of physically  
36 precluding the construction of a development meeting the criteria  
37 of subdivision (b) at the densities or with the concessions or  
38 incentives permitted by this section. An applicant may submit to  
39 a city, county, or city and county a proposal for the waiver or  
40 reduction of development standards that will have the effect of

1 physically precluding the construction of a development meeting  
 2 the criteria of subdivision (b) at the densities or with the  
 3 concessions or incentives permitted under this section, and may  
 4 request a meeting with the city, county, or city and county. If a  
 5 court finds that the refusal to grant a waiver or reduction of  
 6 development standards is in violation of this section, the court  
 7 shall award the plaintiff reasonable attorney’s fees and costs of  
 8 suit. Nothing in this subdivision shall be interpreted to require a  
 9 local government to waive or reduce development standards if the  
 10 waiver or reduction would have a specific, adverse impact, as  
 11 defined in paragraph (2) of subdivision (d) of Section 65589.5,  
 12 upon health, safety, or the physical environment, and for which  
 13 there is no feasible method to satisfactorily mitigate or avoid the  
 14 specific adverse impact. Nothing in this subdivision shall be  
 15 interpreted to require a local government to waive or reduce  
 16 development standards that would have an adverse impact on any  
 17 real property that is listed in the California Register of Historical  
 18 Resources, or to grant any waiver or reduction that would be  
 19 contrary to state or federal law.

20 (2) A proposal for the waiver or reduction of development  
 21 standards pursuant to this subdivision shall neither reduce nor  
 22 increase the number of incentives or concessions to which the  
 23 applicant is entitled pursuant to subdivision (d).

24 (f) For the purposes of this chapter, “density bonus” means a  
 25 density increase over the otherwise maximum allowable residential  
 26 density as of the date of application by the applicant to the city,  
 27 county, or city and county. The applicant may elect to accept a  
 28 lesser percentage of density bonus. The amount of density bonus  
 29 to which the applicant is entitled shall vary according to the amount  
 30 by which the percentage of affordable housing units exceeds the  
 31 percentage established in subdivision (b).

32 (1) For housing developments meeting the criteria of  
 33 subparagraph (A) of paragraph (1) of subdivision (b), the density  
 34 bonus shall be calculated as follows:

35	Percentage Low-Income Units	Percentage Density Bonus
36	10	20
37	11	21.5
38	12	23
39	13	24.5
40		

1	14	26
2	15	27.5
3	17	30.5
4	18	32
5	19	33.5
6	20	35

7  
8 (2) For housing developments meeting the criteria of  
9 subparagraph (B) of paragraph (1) of subdivision (b), the density  
10 bonus shall be calculated as follows:

11	Percentage Very Low Income Units	Percentage Density Bonus
12		
13	5	20
14	6	22.5
15	7	25
16	8	27.5
17	9	30
18	10	32.5
19	11	35

20  
21 (3) For housing developments meeting the criteria of  
22 subparagraph (C) of paragraph (1) of subdivision (b), the density  
23 bonus shall be 20 percent of the number of senior housing units.

24 (4) For housing developments meeting the criteria of  
25 subparagraph (D) of paragraph (1) of subdivision (b), the density  
26 bonus shall be calculated as follows:

27	Percentage Moderate-Income Units	Percentage Density Bonus
28		
29	10	5
30	11	6
31	12	7
32	13	8
33	14	9
34	15	10
35	16	11
36	17	12
37	18	13
38	19	14
39	20	15
40	21	16

1	22	17
2	23	18
3	24	19
4	25	20
5	26	21
6	27	22
7	28	23
8	29	24
9	30	25
10	31	26
11	32	27
12	33	28
13	34	29
14	35	30
15	36	31
16	37	32
17	38	33
18	39	34
19	40	35

21 (5) All density calculations resulting in fractional units shall be  
 22 rounded up to the next whole number. The granting of a density  
 23 bonus shall not be interpreted, in and of itself, to require a general  
 24 plan amendment, local coastal plan amendment, zoning change,  
 25 or other discretionary approval.

26 (g) (1) When an applicant for a tentative subdivision map,  
 27 parcel map, or other residential development approval donates  
 28 land to a city, county, or city and county in accordance with this  
 29 subdivision, the applicant shall be entitled to a 15-percent increase  
 30 above the otherwise maximum allowable residential density for  
 31 the entire development, as follows:

32	Percentage Very Low Income	Percentage Density Bonus
33		
34	10	15
35	11	16
36	12	17
37	13	18
38	14	19
39	15	20
40	16	21

1	17	22
2	18	23
3	19	24
4	20	25
5	21	26
6	22	27
7	23	28
8	24	29
9	25	30
10	26	31
11	27	32
12	28	33
13	29	34
14	30	35
15		

16 (2) This increase shall be in addition to any increase in density  
 17 mandated by subdivision (b), up to a maximum combined mandated  
 18 density increase of 35 percent if an applicant seeks an increase  
 19 pursuant to both this subdivision and subdivision (b). All density  
 20 calculations resulting in fractional units shall be rounded up to the  
 21 next whole number. Nothing in this subdivision shall be construed  
 22 to enlarge or diminish the authority of a city, county, or city and  
 23 county to require a developer to donate land as a condition of  
 24 development. An applicant shall be eligible for the increased  
 25 density bonus described in this subdivision if all of the following  
 26 conditions are met:

27 (A) The applicant donates and transfers the land no later than  
 28 the date of approval of the final subdivision map, parcel map, or  
 29 residential development application.

30 (B) The developable acreage and zoning classification of the  
 31 land being transferred are sufficient to permit construction of units  
 32 affordable to very low income households in an amount not less  
 33 than 10 percent of the number of residential units of the proposed  
 34 development.

35 (C) The transferred land is at least one acre in size or of  
 36 sufficient size to permit development of at least 40 units, has the  
 37 appropriate general plan designation, is appropriately zoned with  
 38 appropriate development standards for development at the density  
 39 described in paragraph (3) of subdivision (c) of Section 65583.2,

1 and is or will be served by adequate public facilities and  
2 infrastructure.

3 (D) The transferred land shall have all of the permits and  
4 approvals, other than building permits, necessary for the  
5 development of the very low income housing units on the  
6 transferred land, not later than the date of approval of the final  
7 subdivision map, parcel map, or residential development  
8 application, except that the local government may subject the  
9 proposed development to subsequent design review to the extent  
10 authorized by subdivision (i) of Section 65583.2 if the design is  
11 not reviewed by the local government prior to the time of transfer.

12 (E) The transferred land and the affordable units shall be subject  
13 to a deed restriction ensuring continued affordability of the units  
14 consistent with paragraphs (1) and (2) of subdivision (c), which  
15 shall be recorded on the property at the time of the transfer.

16 (F) The land is transferred to the local agency or to a housing  
17 developer approved by the local agency. The local agency may  
18 require the applicant to identify and transfer the land to the  
19 developer.

20 (G) The transferred land shall be within the boundary of the  
21 proposed development or, if the local agency agrees, within  
22 one-quarter mile of the boundary of the proposed development.

23 (H) A proposed source of funding for the very low income units  
24 shall be identified not later than the date of approval of the final  
25 subdivision map, parcel map, or residential development  
26 application.

27 (h) (1) When an applicant proposes to construct a housing  
28 development that conforms to the requirements of subdivision (b)  
29 and includes a child care facility that will be located on the  
30 premises of, as part of, or adjacent to, the project, the city, county,  
31 or city and county shall grant either of the following:

32 (A) An additional density bonus that is an amount of square  
33 feet of residential space that is equal to or greater than the amount  
34 of square feet in the child care facility.

35 (B) An additional concession or incentive that contributes  
36 significantly to the economic feasibility of the construction of the  
37 child care facility.

38 (2) The city, county, or city and county shall require, as a  
39 condition of approving the housing development, that the following  
40 occur:

1 (A) The child care facility shall remain in operation for a period  
2 of time that is as long as or longer than the period of time during  
3 which the density bonus units are required to remain affordable  
4 pursuant to subdivision (c).

5 (B) Of the children who attend the child care facility, the  
6 children of very low income households, lower income households,  
7 or families of moderate income shall equal a percentage that is  
8 equal to or greater than the percentage of dwelling units that are  
9 required for very low income households, lower income  
10 households, or families of moderate income pursuant to subdivision  
11 (b).

12 (3) Notwithstanding any requirement of this subdivision, a city,  
13 county, or a city and county shall not be required to provide a  
14 density bonus or concession for a child care facility if it finds,  
15 based upon substantial evidence, that the community has adequate  
16 child care facilities.

17 (4) “Child care facility,” as used in this section, means a child  
18 day care facility other than a family day care home, including, but  
19 not limited to, infant centers, preschools, extended day care  
20 facilities, and schoolage child care centers.

21 (i) “Housing development,” as used in this section, means a  
22 development project for five or more residential units. For the  
23 purposes of this section, “housing development” also includes a  
24 subdivision or common interest development, as defined in Section  
25 4100 of the Civil Code, approved by a city, county, or city and  
26 county and consists of residential units or unimproved residential  
27 lots and either a project to substantially rehabilitate and convert  
28 an existing commercial building to residential use or the substantial  
29 rehabilitation of an existing multifamily dwelling, as defined in  
30 subdivision (d) of Section 65863.4, where the result of the  
31 rehabilitation would be a net increase in available residential units.  
32 For the purpose of calculating a density bonus, the residential units  
33 shall be on contiguous sites that are the subject of one development  
34 application, but do not have to be based upon individual  
35 subdivision maps or parcels. The density bonus shall be permitted  
36 in geographic areas of the housing development other than the  
37 areas where the units for the lower income households are located.

38 (j) The granting of a concession or incentive shall not be  
39 interpreted, in and of itself, to require a general plan amendment,

1 local coastal plan amendment, zoning change, or other discretionary  
2 approval. This provision is declaratory of existing law.

3 (k) For the purposes of this chapter, concession or incentive  
4 means any of the following:

5 (1) A reduction in site development standards or a modification  
6 of zoning code requirements or architectural design requirements  
7 that exceed the minimum building standards approved by the  
8 California Building Standards Commission as provided in Part 2.5  
9 (commencing with Section 18901) of Division 13 of the Health  
10 and Safety Code, including, but not limited to, a reduction in  
11 setback and square footage requirements and in the ratio of  
12 vehicular parking spaces that would otherwise be required that  
13 results in identifiable, financially sufficient, and actual cost  
14 reductions.

15 (2) Approval of mixed use zoning in conjunction with the  
16 housing project if commercial, office, industrial, or other land uses  
17 will reduce the cost of the housing development and if the  
18 commercial, office, industrial, or other land uses are compatible  
19 with the housing project and the existing or planned development  
20 in the area where the proposed housing project will be located.

21 (3) Other regulatory incentives or concessions proposed by the  
22 developer or the city, county, or city and county that result in  
23 identifiable, financially sufficient, and actual cost reductions.

24 (l) Subdivision (k) does not limit or require the provision of  
25 direct financial incentives for the housing development, including  
26 the provision of publicly owned land, by the city, county, or city  
27 and county, or the waiver of fees or dedication requirements.

28 (m) Nothing in this section shall be construed to supersede or  
29 in any way alter or lessen the effect or application of the California  
30 Coastal Act (Division 20 (commencing with Section 30000) of  
31 the Public Resources Code).

32 (n) If permitted by local ordinance, nothing in this section shall  
33 be construed to prohibit a city, county, or city and county from  
34 granting a density bonus greater than what is described in this  
35 section for a development that meets the requirements of this  
36 section or from granting a proportionately lower density bonus  
37 than what is required by this section for developments that do not  
38 meet the requirements of this section.

39 (o) For purposes of this section, the following definitions shall  
40 apply:

1 (1) “Development standard” includes a site or construction  
 2 condition, including, but not limited to, a height limitation, a  
 3 setback requirement, a floor area ratio, an onsite open-space  
 4 requirement, or a parking ratio that applies to a residential  
 5 development pursuant to any ordinance, general plan element,  
 6 specific plan, charter, or other local condition, law, policy,  
 7 resolution, or regulation.

8 (2) “Maximum allowable residential density” means the density  
 9 allowed under the zoning ordinance and land use element of the  
 10 general plan, or if a range of density is permitted, means the  
 11 maximum allowable density for the specific zoning range and land  
 12 use element of the general plan applicable to the project. Where  
 13 the density allowed under the zoning ordinance is inconsistent  
 14 with the density allowed under the land use element of the general  
 15 plan, the general plan density shall prevail.

16 (p) (1) Upon the request of the developer, no city, county, or  
 17 city and county shall require a vehicular parking ratio, inclusive  
 18 of handicapped and guest parking, of a development meeting the  
 19 criteria of subdivision (b), that exceeds the following ratios:

- 20 (A) Zero to one bedroom: one onsite parking space.
- 21 (B) Two to three bedrooms: two onsite parking spaces.
- 22 (C) Four and more bedrooms: two and one-half parking spaces.

23 (2) If the total number of parking spaces required for a  
 24 development is other than a whole number, the number shall be  
 25 rounded up to the next whole number. For purposes of this  
 26 subdivision, a development may provide “onsite parking” through  
 27 tandem parking or uncovered parking, but not through onstreet  
 28 parking.

29 (3) This subdivision shall apply to a development that meets  
 30 the requirements of subdivision (b) but only at the request of the  
 31 applicant. An applicant may request parking incentives or  
 32 concessions beyond those provided in this subdivision pursuant  
 33 to subdivision (d).

34 SEC. 54. Section 65995.5 of the Government Code is amended  
 35 to read:

36 65995.5. (a) The governing board of a school district may  
 37 impose the amount calculated pursuant to this section as an  
 38 alternative to the amount that may be imposed on residential  
 39 construction calculated pursuant to subdivision (b) of Section  
 40 65995.

1 (b) To be eligible to impose the fee, charge, dedication, or other  
2 requirement up to the amount calculated pursuant to this section,  
3 a governing board shall do all of the following:

4 (1) Make a timely application to the State Allocation Board for  
5 new construction funding for which it is eligible and be determined  
6 by the board to meet the eligibility requirements for new  
7 construction funding set forth in Article 2 (commencing with  
8 Section 17071.10) and Article 3 (commencing with Section  
9 17071.75) of Chapter 12.5 of Part 10 of the Education Code. A  
10 governing board that submits an application to determine the  
11 district's eligibility for new construction funding shall be deemed  
12 eligible if the State Allocation Board fails to notify the district of  
13 the district's eligibility within 120 days of receipt of the  
14 application.

15 (2) Conduct and adopt a school facility needs analysis pursuant  
16 to Section 65995.6.

17 (3) Until January 1, 2000, satisfy at least one of the requirements  
18 set forth in subparagraphs (A) to (D), inclusive, and, on and after  
19 January 1, 2000, satisfy at least two of the requirements set forth  
20 in subparagraphs (A) to (D), inclusive:

21 (A) The district is a unified or elementary school district that  
22 has a substantial enrollment of its elementary school pupils on a  
23 multitrack year-round schedule. "Substantial enrollment" for  
24 purposes of this paragraph means at least 30 percent of district  
25 pupils in kindergarten and grades 1 to 6, inclusive, in the high  
26 school attendance area in which all or some of the new residential  
27 units identified in the needs analysis are planned for construction.  
28 A high school district shall be deemed to have met the requirements  
29 of this paragraph if either of the following apply:

30 (i) At least 30 percent of the high school district's pupils are on  
31 a multitrack year-round schedule.

32 (ii) At least 40 percent of the pupils enrolled in public schools  
33 in kindergarten and grades 1 to 12, inclusive, within the boundaries  
34 of the high school attendance area for which the school district is  
35 applying for new facilities are enrolled in multitrack year-round  
36 schools.

37 (B) The district has placed on the ballot in the previous four  
38 years a local general obligation bond to finance school facilities  
39 and the measure received at least 50 percent plus one of the votes  
40 cast.

1 (C) The district meets one of the following:

2 (i) The district has issued debt or incurred obligations for capital  
3 outlay in an amount equivalent to 15 percent of the district's local  
4 bonding capacity, including indebtedness that is repaid from  
5 property taxes, parcel taxes, the district's general fund, special  
6 taxes levied pursuant to Section 4 of Article XIII A of the California  
7 Constitution, special taxes levied pursuant to Chapter 2.5  
8 (commencing with Section 53311) of Division 2 of Title 5 that are  
9 approved by a vote of registered voters, special taxes levied  
10 pursuant to Chapter 2.5 (commencing with Section 53311) of  
11 Division 2 of Title 5 that are approved by a vote of landowners  
12 prior to November 4, 1998, and revenues received pursuant to the  
13 Community Redevelopment Law (Part 1 (commencing with  
14 Section 33000) of Division 24 of the Health and Safety Code).  
15 Indebtedness or other obligation to finance school facilities to be  
16 owned, leased, or used by the district, that is incurred by another  
17 public agency, shall be counted for the purpose of calculating  
18 whether the district has met the debt percentage requirement  
19 contained herein.

20 (ii) The district has issued debt or incurred obligations for capital  
21 outlay in an amount equivalent to 30 percent of the district's local  
22 bonding capacity, including indebtedness that is repaid from  
23 property taxes, parcel taxes, the district's general fund, special  
24 taxes levied pursuant to Section 4 of Article XIII A of the California  
25 Constitution, special taxes levied pursuant to Chapter 2.5  
26 (commencing with Section 53311) of Division 2 of Title 5 that are  
27 approved by a vote of registered voters, special taxes levied  
28 pursuant to Chapter 2.5 (commencing with Section 53311) of  
29 Division 2 of Title 5 that are approved by a vote of landowners  
30 after November 4, 1998, and revenues received pursuant to the  
31 Community Redevelopment Law (Part 1 (commencing with  
32 Section 33000) of Division 24 of the Health and Safety Code).  
33 Indebtedness or other obligation to finance school facilities to be  
34 owned, leased, or used by the district, that is incurred by another  
35 public agency, shall be counted for the purpose of calculating  
36 whether the district has met the debt percentage requirement  
37 contained herein.

38 (D) At least 20 percent of the teaching stations within the district  
39 are relocatable classrooms.

1 (c) The maximum square foot fee, charge, dedication, or other  
2 requirement authorized by this section that may be collected in  
3 accordance with Chapter 6 (commencing with Section 17620) of  
4 Part 10.5 of the Education Code shall be calculated by a governing  
5 board of a school district, as follows:

6 (1) The number of unhoused pupils identified in the school  
7 facilities needs analysis shall be multiplied by the appropriate  
8 amounts provided in subdivision (a) of Section 17072.10. This  
9 sum shall be added to the site acquisition and development cost  
10 determined pursuant to subdivision (h).

11 (2) The full amount of local funds the governing board has  
12 dedicated to facilities necessitated by new construction shall be  
13 subtracted from the amount determined pursuant to paragraph (1).  
14 Local funds include fees, charges, dedications, or other  
15 requirements imposed on commercial or industrial construction.

16 (3) The resulting amount determined pursuant to paragraph (2)  
17 shall be divided by the projected total square footage of assessable  
18 space of residential units anticipated to be constructed during the  
19 next five-year period in the school district or the city and county  
20 in which the school district is located. The estimate of the projected  
21 total square footage shall be based on information available from  
22 the city or county within which the residential units are anticipated  
23 to be constructed or a market report prepared by an independent  
24 third party.

25 (d) A school district that has a common territorial jurisdiction  
26 with a district that imposes the fee, charge, dedication, or other  
27 requirement up to the amount calculated pursuant to this section  
28 or Section 65995.7, may not impose a fee, charge, dedication, or  
29 other requirement on residential construction that exceeds the limit  
30 set forth in subdivision (b) of Section 65995 less the portion of  
31 that amount it would be required to share pursuant to Section 17623  
32 of the Education Code, unless that district is eligible to impose the  
33 fee, charge, dedication, or other requirement up to the amount  
34 calculated pursuant to this section or Section 65995.7.

35 (e) Nothing in this section is intended to limit or discourage the  
36 joint use of school facilities or to limit the ability of a school district  
37 to construct school facilities that exceed the amount of funds  
38 authorized by Section 17620 of the Education Code and provided  
39 by the state grant program, if the additional costs are funded solely

1 by local revenue sources other than fees, charges, dedications, or  
2 other requirements imposed on new construction.

3 (f) Except as provided in paragraph (5) of subdivision (a) of  
4 Section 17620 of the Education Code, a fee, charge, dedication,  
5 or other requirement authorized under this section and Section  
6 65995.7 shall be expended solely on the school facilities identified  
7 in the needs analysis as being attributable to projected enrollment  
8 growth from the construction of new residential units. This  
9 subdivision does not preclude the expenditure of a fee, charge,  
10 dedication, or other requirement, authorized pursuant to  
11 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
12 17620, on school facilities identified in the needs analysis as  
13 necessary due to projected enrollment growth attributable to the  
14 new residential units.

15 (g) “Residential units” and “residences” as used in this section  
16 and in Sections 65995.6 and 65995.7 means the development of  
17 single-family detached housing units, single-family attached  
18 housing units, manufactured homes and mobilehomes, as defined  
19 in subdivision (f) of Section 17625 of the Education Code,  
20 condominiums, and multifamily housing units, including  
21 apartments, residential hotels, as defined in paragraph (1) of  
22 subdivision (b) of Section 50519 of the Health and Safety Code,  
23 and stock cooperatives, as defined in Section 4190 of the Civil  
24 Code.

25 (h) Site acquisition costs shall not exceed half of the amount  
26 determined by multiplying the land acreage determined to be  
27 necessary under the guidelines of the State Department of  
28 Education, as published in the “School Site Analysis and  
29 Development Handbook,” as that handbook read as of January 1,  
30 1998, by the estimated cost determined pursuant to Section  
31 17072.12 of the Education Code. Site development costs shall not  
32 exceed the estimated amount that would be funded by the State  
33 Allocation Board pursuant to its regulations governing grants for  
34 site development costs.

35 SEC. 55. Section 66411 of the Government Code is amended  
36 to read:

37 66411. Regulation and control of the design and improvement  
38 of subdivisions are vested in the legislative bodies of local  
39 agencies. Each local agency shall, by ordinance, regulate and  
40 control the initial design and improvement of common interest

1 developments as defined in Section 4100 of the Civil Code and  
2 subdivisions for which this division requires a tentative and final  
3 or parcel map. In the development, adoption, revision, and  
4 application of this type of ordinance, the local agency shall comply  
5 with the provisions of Section 65913.2. The ordinance shall  
6 specifically provide for proper grading and erosion control,  
7 including the prevention of sedimentation or damage to offsite  
8 property. Each local agency may by ordinance regulate and control  
9 other subdivisions, provided that the regulations are not more  
10 restrictive than the regulations for those subdivisions for which a  
11 tentative and final or parcel map are required by this division, and  
12 provided further that the regulations shall not be applied to  
13 short-term leases (terminable by either party on not more than 30  
14 days' notice in writing) of a portion of the operating right-of-way  
15 of a railroad corporation as defined by Section 230 of the Public  
16 Utilities Code unless a showing is made in individual cases, under  
17 substantial evidence, that public policy necessitates the application  
18 of the regulations to those short-term leases in individual cases.

19 SEC. 56. Section 66412 of the Government Code is amended  
20 to read:

21 66412. This division shall be inapplicable to any of the  
22 following:

23 (a) The financing or leasing of apartments, offices, stores, or  
24 similar space within apartment buildings, industrial buildings,  
25 commercial buildings, mobilehome parks, or trailer parks.

26 (b) Mineral, oil, or gas leases.

27 (c) Land dedicated for cemetery purposes under the Health and  
28 Safety Code.

29 (d) A lot line adjustment between four or fewer existing  
30 adjoining parcels, where the land taken from one parcel is added  
31 to an adjoining parcel, and where a greater number of parcels than  
32 originally existed is not thereby created, if the lot line adjustment  
33 is approved by the local agency, or advisory agency. A local agency  
34 or advisory agency shall limit its review and approval to a  
35 determination of whether or not the parcels resulting from the lot  
36 line adjustment will conform to the local general plan, any  
37 applicable specific plan, any applicable coastal plan, and zoning  
38 and building ordinances. An advisory agency or local agency shall  
39 not impose conditions or exactions on its approval of a lot line  
40 adjustment except to conform to the local general plan, any

1 applicable specific plan, any applicable coastal plan, and zoning  
2 and building ordinances, to require the prepayment of real property  
3 taxes prior to the approval of the lot line adjustment, or to facilitate  
4 the relocation of existing utilities, infrastructure, or easements. No  
5 tentative map, parcel map, or final map shall be required as a  
6 condition to the approval of a lot line adjustment. The lot line  
7 adjustment shall be reflected in a deed, which shall be recorded.  
8 No record of survey shall be required for a lot line adjustment  
9 unless required by Section 8762 of the Business and Professions  
10 Code. A local agency shall approve or disapprove a lot line  
11 adjustment pursuant to the Permit Streamlining Act (Chapter 4.5  
12 (commencing with Section 65920) of Division 1).

13 (e) Boundary line or exchange agreements to which the State  
14 Lands Commission or a local agency holding a trust grant of tide  
15 and submerged lands is a party.

16 (f) Any separate assessment under Section 2188.7 of the  
17 Revenue and Taxation Code.

18 (g) The conversion of a community apartment project, as defined  
19 in Section 4105 of the Civil Code, to a condominium, as defined  
20 in Section 783 of the Civil Code, but only if all of the following  
21 requirements are met:

22 (1) The property was subdivided before January 1, 1982, as  
23 evidenced by a recorded deed creating the community apartment  
24 project.

25 (2) Subject to compliance with Sections 4290 and 4295 of the  
26 Civil Code, all conveyances and other documents necessary to  
27 effectuate the conversion shall be executed by the required number  
28 of owners in the project as specified in the bylaws or other  
29 organizational documents. If the bylaws or other organizational  
30 documents do not expressly specify the number of owners  
31 necessary to execute the conveyances and other documents, a  
32 majority of owners in the project shall be required to execute the  
33 conveyances or other documents. Conveyances and other  
34 documents executed under the foregoing provisions shall be  
35 binding upon and affect the interests of all parties in the project.

36 (3) If subdivision, as defined in Section 66424, of the property  
37 occurred after January 1, 1964, both of the following requirements  
38 are met:

1 (A) A final or parcel map of that subdivision was approved by  
2 the local agency and recorded, with all of the conditions of that  
3 map remaining in effect after the conversion.

4 (B) No more than 49 percent of the units in the project were  
5 owned by any one person as defined in Section 17, including an  
6 incorporator or director of the community apartment project, on  
7 January 1, 1982.

8 (4) The local agency certifies that the above requirements were  
9 satisfied if the local agency, by ordinance, provides for that  
10 certification.

11 (h) The conversion of a stock cooperative, as defined in Section  
12 4190 of the Civil Code, to a condominium, as defined in Section  
13 783 of the Civil Code, but only if all of the following requirements  
14 are met:

15 (1) The property was subdivided before January 1, 1982, as  
16 evidenced by a recorded deed creating the stock cooperative, an  
17 assignment of lease, or issuance of shares to a stockholder.

18 (2) A person renting a unit in a cooperative shall be entitled at  
19 the time of conversion to all tenant rights in state or local law,  
20 including, but not limited to, rights respecting first refusal, notice,  
21 and displacement and relocation benefits.

22 (3) Subject to compliance with Sections 4290 and 4295 of the  
23 Civil Code, all conveyances and other documents necessary to  
24 effectuate the conversion shall be executed by the required number  
25 of owners in the cooperative as specified in the bylaws or other  
26 organizational documents. If the bylaws or other organizational  
27 documents do not expressly specify the number of owners  
28 necessary to execute the conveyances and other documents, a  
29 majority of owners in the cooperative shall be required to execute  
30 the conveyances or other documents. Conveyances and other  
31 documents executed under the foregoing provisions shall be  
32 binding upon and affect the interests of all parties in the  
33 cooperative.

34 (4) If subdivision, as defined in Section 66424, of the property  
35 occurred after January 1, 1980, both of the following requirements  
36 are met:

37 (A) A final or parcel map of that subdivision was approved by  
38 the local agency and recorded, with all of the conditions of that  
39 map remaining in effect after the conversion.

1 (B) No more than 49 percent of the shares in the project were  
2 owned by any one person as defined in Section 17, including an  
3 incorporator or director of the cooperative, on January 1, 1982.

4 (5) The local agency certifies that the above requirements were  
5 satisfied if the local agency, by ordinance, provides for that  
6 certification.

7 (i) The leasing of, or the granting of an easement to, a parcel of  
8 land, or any portion or portions thereof, in conjunction with the  
9 financing, erection, and sale or lease of a ~~windpowered~~ *wind*  
10 *powered* electrical generation device on the land, if the project is  
11 subject to discretionary action by the advisory agency or legislative  
12 body.

13 (j) The leasing or licensing of a portion of a parcel, or the  
14 granting of an easement, use permit, or similar right on a portion  
15 of a parcel, to a telephone corporation as defined in Section 234  
16 of the Public Utilities Code, exclusively for the placement and  
17 operation of cellular radio transmission facilities, including, but  
18 not limited to, antennae support structures, microwave dishes,  
19 structures to house cellular communications transmission  
20 equipment, power sources, and other equipment incidental to the  
21 transmission of cellular communications, if the project is subject  
22 to discretionary action by the advisory agency or legislative body.

23 (k) Leases of agricultural land for agricultural purposes. As used  
24 in this subdivision, “agricultural purposes” means the cultivation  
25 of food or fiber, or the grazing or pasturing of livestock.

26 (l) The leasing of, or the granting of an easement to, a parcel of  
27 land, or any portion or portions thereof, in conjunction with the  
28 financing, erection, and sale or lease of a solar electrical generation  
29 device on the land, if the project is subject to review under other  
30 local agency ordinances regulating design and improvement or, if  
31 the project is subject to other discretionary action by the advisory  
32 agency or legislative body.

33 (m) The leasing of, or the granting of an easement to, a parcel  
34 of land or any portion or portions of the land in conjunction with  
35 a biogas project that uses, as part of its operation, agricultural waste  
36 or byproducts from the land where the project is located and  
37 reduces overall emissions of greenhouse gases from agricultural  
38 operations on the land if the project is subject to review under  
39 other local agency ordinances regulating design and improvement

1 or if the project is subject to discretionary action by the advisory  
2 agency or legislative body.

3 SEC. 57. Section 66424 of the Government Code is amended  
4 to read:

5 66424. "Subdivision" means the division, by any subdivider,  
6 of any unit or units of improved or unimproved land, or any portion  
7 thereof, shown on the latest equalized county assessment roll as a  
8 unit or as contiguous units, for the purpose of sale, lease, or  
9 financing, whether immediate or future. Property shall be  
10 considered as contiguous units, even if it is separated by roads,  
11 streets, utility easement, or railroad rights-of-way. "Subdivision"  
12 includes a condominium project, as defined in Section 4125 of the  
13 Civil Code, a community apartment project, as defined in Section  
14 4105 of the Civil Code, or the conversion of five or more existing  
15 dwelling units to a stock cooperative, as defined in of Section 4190  
16 of the Civil Code.

17 SEC. 58. Section 66427 of the Government Code is amended  
18 to read:

19 66427. (a) A map of a condominium project, a community  
20 apartment project, or of the conversion of five or more existing  
21 dwelling units to a stock cooperative project need not show the  
22 buildings or the manner in which the buildings or the airspace  
23 above the property shown on the map are to be divided, nor shall  
24 the governing body have the right to refuse approval of a parcel,  
25 tentative, or final map of the project on account of the design or  
26 the location of buildings on the property shown on the map that  
27 are not violative of local ordinances or on account of the manner  
28 in which airspace is to be divided in conveying the condominium.

29 (b) A map need not include a condominium plan or plans, as  
30 defined in Section 4120 of the Civil Code, and the governing body  
31 may not refuse approval of a parcel, tentative, or final map of the  
32 project on account of the absence of a condominium plan.

33 (c) Fees and lot design requirements shall be computed and  
34 imposed with respect to those maps on the basis of parcels or lots  
35 of the surface of the land shown thereon as included in the project.

36 (d) Nothing herein shall be deemed to limit the power of the  
37 legislative body to regulate the design or location of buildings in  
38 a project by or pursuant to local ordinances.

39 (e) If the governing body has approved a parcel map or final  
40 map for the establishment of condominiums on property pursuant

1 to the requirements of this division, the separation of a  
2 three-dimensional portion or portions of the property from the  
3 remainder of the property or the division of that three-dimensional  
4 portion or portions into condominiums shall not constitute a further  
5 subdivision as defined in Section 66424, provided each of the  
6 following conditions has been satisfied:

7 (1) The total number of condominiums established is not  
8 increased above the number authorized by the local agency in  
9 approving the parcel map or final map.

10 (2) A perpetual estate or an estate for years in the remainder of  
11 the property is held by the condominium owners in undivided  
12 interests in common, or by an association as defined in Section  
13 4100 of the Civil Code, and the duration of the estate in the  
14 remainder of the property is the same as the duration of the estate  
15 in the condominiums.

16 (3) The three-dimensional portion or portions of property are  
17 described on a condominium plan or plans, as defined in Section  
18 4120 of the Civil Code.

19 SEC. 59. Section 66452.10 of the Government Code is amended  
20 to read:

21 66452.10. A stock cooperative, as defined in Section 11003.2  
22 of the Business and Professions Code, or a community apartment  
23 project, as defined in Section 11004 of the Business and  
24 Professions Code, shall not be converted to a condominium, as  
25 defined in Section 783 of the Civil Code, unless the required  
26 number of (1) owners and (2) trustees or beneficiaries of each  
27 recorded deed of trust and mortgagees of each recorded mortgage  
28 in the cooperative or project, as specified in the bylaws, or other  
29 organizational documents, have voted in favor of the conversion.  
30 If the bylaws or other organizational documents do not expressly  
31 specify the number of votes required to approve the conversion,  
32 a majority vote of the (1) owners and (2) trustees or beneficiaries  
33 of each recorded deed of trust and mortgagees of each recorded  
34 mortgage in the cooperative or project shall be required. Upon  
35 approval of the conversion as set forth above and in compliance  
36 with Sections 4290 and 4295 of the Civil Code, all conveyances  
37 and other documents necessary to effectuate the conversion shall  
38 be executed by the required number of owners in the cooperative  
39 or project as specified in the bylaws or other organizational  
40 documents. If the bylaws or other organizational documents do

1 not expressly specify the number of owners necessary to execute  
2 the conveyances or other documents, a majority of owners in the  
3 cooperative or project shall be required to execute the conveyances  
4 and other documents. Conveyances and other documents executed  
5 under the foregoing provisions shall be binding upon and affect  
6 the interests of all parties in the cooperative or project. The  
7 provisions of Section 66499.31 shall not apply to a violation of  
8 this section.

9 SEC. 60. Section 66475.2 of the Government Code is amended  
10 to read:

11 66475.2. (a) There may be imposed by local ordinance a  
12 requirement of a dedication or an irrevocable offer of dedication  
13 of land within the subdivision for local transit facilities such as  
14 bus turnouts, benches, shelters, landing pads, and similar items  
15 that directly benefit the residents of a subdivision. The irrevocable  
16 offers may be terminated as provided in subdivisions (c) and (d)  
17 of Section 66477.2.

18 (b) Only the payment of fees in lieu of the dedication of land  
19 may be required in subdivisions that consist of the subdivision of  
20 airspace in existing buildings into condominium projects, stock  
21 cooperatives, or community apartment projects, as those terms are  
22 defined in Sections 4105, 4125, and 4190 of the Civil Code.

23 SEC. 61. Section 66477 of the Government Code is amended  
24 to read:

25 66477. (a) The legislative body of a city or county may, by  
26 ordinance, require the dedication of land or impose a requirement  
27 of the payment of fees in lieu thereof, or a combination of both,  
28 for park or recreational purposes as a condition to the approval of  
29 a tentative map or parcel map, if all of the following requirements  
30 are met:

31 (1) The ordinance has been in effect for a period of 30 days  
32 prior to the filing of the tentative map of the subdivision or parcel  
33 map.

34 (2) The ordinance includes definite standards for determining  
35 the proportion of a subdivision to be dedicated and the amount of  
36 any fee to be paid in lieu thereof. The amount of land dedicated  
37 or fees paid shall be based upon the residential density, which shall  
38 be determined on the basis of the approved or conditionally  
39 approved tentative map or parcel map and the average number of  
40 persons per household. There shall be a rebuttable presumption

1 that the average number of persons per household by units in a  
2 structure is the same as that disclosed by the most recent available  
3 federal census or a census taken pursuant to Chapter 17  
4 (commencing with Section 40200) of Part 2 of Division 3 of Title  
5 4. However, the dedication of land, or the payment of fees, or both,  
6 shall not exceed the proportionate amount necessary to provide  
7 three acres of park area per 1,000 persons residing within a  
8 subdivision subject to this section, unless the amount of existing  
9 neighborhood and community park area, as calculated pursuant to  
10 this subdivision, exceeds that limit, in which case the legislative  
11 body may adopt the calculated amount as a higher standard not to  
12 exceed five acres per 1,000 persons residing within a subdivision  
13 subject to this section.

14 (A) The park area per 1,000 members of the population of the  
15 city, county, or local public agency shall be derived from the ratio  
16 that the amount of neighborhood and community park acreage  
17 bears to the total population of the city, county, or local public  
18 agency as shown in the most recent available federal census. The  
19 amount of neighborhood and community park acreage shall be the  
20 actual acreage of existing neighborhood and community parks of  
21 the city, county, or local public agency as shown on its records,  
22 plans, recreational element, maps, or reports as of the date of the  
23 most recent available federal census.

24 (B) For cities incorporated after the date of the most recent  
25 available federal census, the park area per 1,000 members of the  
26 population of the city shall be derived from the ratio that the  
27 amount of neighborhood and community park acreage shown on  
28 the records, maps, or reports of the county in which the newly  
29 incorporated city is located bears to the total population of the new  
30 city as determined pursuant to Section 11005 of the Revenue and  
31 Taxation Code. In making any subsequent calculations pursuant  
32 to this section, the county in which the newly incorporated city is  
33 located shall not include the figures pertaining to the new city  
34 which were calculated pursuant to this paragraph. Fees shall be  
35 payable at the time of the recording of the final map or parcel map  
36 or at a later time as may be prescribed by local ordinance.

37 (3) The land, fees, or combination thereof are to be used only  
38 for the purpose of developing new or rehabilitating existing  
39 neighborhood or community park or recreational facilities to serve  
40 the subdivision.

1 (4) The legislative body has adopted a general plan or specific  
2 plan containing policies and standards for parks and recreation  
3 facilities, and the park and recreational facilities are in accordance  
4 with definite principles and standards.

5 (5) The amount and location of land to be dedicated or the fees  
6 to be paid shall bear a reasonable relationship to the use of the  
7 park and recreational facilities by the future inhabitants of the  
8 subdivision.

9 (6) The city, county, or other local public agency to which the  
10 land or fees are conveyed or paid shall develop a schedule  
11 specifying how, when, and where it will use the land or fees, or  
12 both, to develop park or recreational facilities to serve the residents  
13 of the subdivision. Any fees collected under the ordinance shall  
14 be committed within five years after the payment of the fees or  
15 the issuance of building permits on one-half of the lots created by  
16 the subdivision, whichever occurs later. If the fees are not  
17 committed, they, without any deductions, shall be distributed and  
18 paid to the then record owners of the subdivision in the same  
19 proportion that the size of their lot bears to the total area of all lots  
20 within the subdivision.

21 (7) Only the payment of fees may be required in subdivisions  
22 containing 50 parcels or less, except that when a condominium  
23 project, stock cooperative, or community apartment project, as  
24 those terms are defined in Sections 4105, 4125, and 4190 of the  
25 Civil Code, exceeds 50 dwelling units, dedication of land may be  
26 required notwithstanding that the number of parcels may be less  
27 than 50.

28 (8) Subdivisions containing less than five parcels and not used  
29 for residential purposes shall be exempted from the requirements  
30 of this section. However, in that event, a condition may be placed  
31 on the approval of a parcel map that if a building permit is  
32 requested for construction of a residential structure or structures  
33 on one or more of the parcels within four years, the fee may be  
34 required to be paid by the owner of each parcel as a condition of  
35 the issuance of the permit.

36 (9) If the subdivider provides park and recreational  
37 improvements to the dedicated land, the value of the improvements  
38 together with any equipment located thereon shall be a credit  
39 against the payment of fees or dedication of land required by the  
40 ordinance.

1 (b) Land or fees required under this section shall be conveyed  
 2 or paid directly to the local public agency which provides park  
 3 and recreational services on a communitywide level and to the  
 4 area within which the proposed development will be located, if  
 5 that agency elects to accept the land or fee. The local agency  
 6 accepting the land or funds shall develop the land or use the funds  
 7 in the manner provided in this section.

8 (c) If park and recreational services and facilities are provided  
 9 by a public agency other than a city or a county, the amount and  
 10 location of land to be dedicated or fees to be paid shall, subject to  
 11 paragraph (2) of subdivision (a), be jointly determined by the city  
 12 or county having jurisdiction and that other public agency.

13 (d) This section does not apply to commercial or industrial  
 14 subdivisions or to condominium projects or stock cooperatives  
 15 that consist of the subdivision of airspace in an existing apartment  
 16 building that is more than five years old when no new dwelling  
 17 units are added.

18 (e) Common interest developments, as defined in Section 1351  
 19 of the Civil Code, shall be eligible to receive a credit, as determined  
 20 by the legislative body, against the amount of land required to be  
 21 dedicated, or the amount of the fee imposed, pursuant to this  
 22 section, for the value of private open space within the development  
 23 which is usable for active recreational uses.

24 (f) Park and recreation purposes shall include land and facilities  
 25 for the activity of “recreational community gardening,” which  
 26 activity consists of the cultivation by persons other than, or in  
 27 addition to, the owner of the land, of plant material not for sale.

28 (g) This section shall be known and may be cited as the Quimby  
 29 Act.

30 SEC. 62. Section 1597.531 of the Health and Safety Code is  
 31 amended to read:

32 1597.531. (a) All family day care homes for children shall  
 33 maintain in force either liability insurance covering injury to clients  
 34 and guests in the amount of at least one hundred thousand dollars  
 35 (\$100,000) per occurrence and three hundred thousand dollars  
 36 (\$300,000) in the total annual aggregate, sustained on account of  
 37 the negligence of the licensee or its employees, or a bond in the  
 38 aggregate amount of three hundred thousand dollars (\$300,000).  
 39 In lieu of the liability insurance or the bond, the family day care  
 40 home may maintain a file of affidavits signed by each parent with

1 a child enrolled in the home which meets the requirements of this  
2 subdivision. The affidavit shall state that the parent has been  
3 informed that the family day care home does not carry liability  
4 insurance or a bond according to standards established by the state.  
5 If the provider does not own the premises used as the family day  
6 care home, the affidavit shall also state that the parent has been  
7 informed that the liability insurance, if any, of the owner of the  
8 property or the homeowners' association, as appropriate, may not  
9 provide coverage for losses arising out of, or in connection with,  
10 the operation of the family day care home, except to the extent  
11 that the losses are caused by, or result from, an action or omission  
12 by the owner of the property or the homeowners' association, for  
13 which the owner of the property or the homeowners' association  
14 would otherwise be liable under the law. These affidavits shall be  
15 on a form provided by the department and shall be reviewed at  
16 each licensing inspection.

17 (b) A family day care home that maintains liability insurance  
18 or a bond pursuant to this section, and that provides care in  
19 premises that are rented or leased or uses premises which share  
20 common space governed by a homeowners' association, shall name  
21 the owner of the property or the homeowners' association, as  
22 appropriate, as an additional insured party on the liability insurance  
23 policy or bond if all of the following conditions are met:

24 (1) The owner of the property or governing body of the  
25 homeowners' association makes a written request to be added as  
26 an additional insured party.

27 (2) The addition of the owner of the property or the  
28 homeowners' association does not result in cancellation or  
29 nonrenewal of the insurance policy or bond carried by the family  
30 day care home.

31 (3) Any additional premium assessed for this coverage is paid  
32 by the owner of the property or the homeowners' association.

33 (c) As used in this section, "homeowners' association" means  
34 an association of a common interest development, as defined in  
35 Sections 4080 and 4100 of the Civil Code.

36 SEC. 63. Section 13132.7 of the Health and Safety Code is  
37 amended to read:

38 13132.7. (a) Within a very high fire hazard severity zone  
39 designated by the Director of Forestry and Fire Protection pursuant  
40 to Article 9 (commencing with Section 4201) of Chapter 1 of Part

1 2 of Division 4 of the Public Resources Code and within a very  
2 high hazard severity zone designated by a local agency pursuant  
3 to Chapter 6.8 (commencing with Section 51175) of Part 1 of  
4 Division 1 of Title 5 of the Government Code, the entire roof  
5 covering of every existing structure where more than 50 percent  
6 of the total roof area is replaced within any one-year period, every  
7 new structure, and any roof covering applied in the alteration,  
8 repair, or replacement of the roof of every existing structure, shall  
9 be a fire retardant roof covering that is at least class B as defined  
10 in the Uniform Building Code, as adopted and amended by the  
11 State Building Standards Commission.

12 (b) In all other areas, the entire roof covering of every existing  
13 structure where more than 50 percent of the total roof area is  
14 replaced within any one-year period, every new structure, and any  
15 roof covering applied in the alteration, repair, or replacement of  
16 the roof of every existing structure, shall be a fire retardant roof  
17 covering that is at least class C as defined in the Uniform Building  
18 Code, as adopted and amended by the State Building Standards  
19 Commission.

20 (c) Notwithstanding subdivision (b), within state responsibility  
21 areas classified by the State Board of Forestry and Fire Protection  
22 pursuant to Article 3 (commencing with Section 4125) of Chapter  
23 1 of Part 2 of Division 4 of the Public Resources Code, except for  
24 those state responsibility areas designated as moderate fire hazard  
25 responsibility zones, the entire roof covering of every existing  
26 structure where more than 50 percent of the total roof area is  
27 replaced within any one-year period, every new structure, and any  
28 roof covering applied in the alteration, repair, or replacement of  
29 the roof of every existing structure, shall be a fire retardant roof  
30 covering that is at least class B as defined in the Uniform Building  
31 Code, as adopted and amended by the State Building Standards  
32 Commission.

33 (d) (1) Notwithstanding subdivision (a), (b), or (c), within very  
34 high fire hazard severity zones designated by the Director of  
35 Forestry and Fire Protection pursuant to Article 9 (commencing  
36 with Section 4201) of Chapter 1 of Part 2 of Division 4 of the  
37 Public Resources Code or by a local agency pursuant to Chapter  
38 6.8 (commencing with Section 51175) of Part 1 of Division 1 of  
39 Title 5 of the Government Code, the entire roof covering of every  
40 existing structure where more than 50 percent of the total roof area

1 is replaced within any one-year period, every new structure, and  
2 any roof covering applied in the alteration, repair, or replacement  
3 of the roof of every existing structure, shall be a fire retardant roof  
4 covering that is at least class A as defined in the Uniform Building  
5 Code, as adopted and amended by the State Building Standards  
6 Commission.

7 (2) Paragraph (1) does not apply to any jurisdiction containing  
8 a very high fire hazard severity zone if the jurisdiction fulfills both  
9 of the following requirements:

10 (A) Adopts the model ordinance approved by the State Fire  
11 Marshal pursuant to Section 51189 of the Government Code or an  
12 ordinance that substantially conforms to the model ordinance of  
13 the State Fire Marshal.

14 (B) Transmits, upon adoption, a copy of the ordinance to the  
15 State Fire Marshal.

16 (e) The State Building Standards Commission shall incorporate  
17 the requirements set forth in subdivisions (a), (b), and (c) by  
18 publishing them as an amendment to the California Building  
19 Standards Code in accordance with Chapter 4 (commencing with  
20 Section 18935) of Part 2.5 of Division 13.

21 (f) Nothing in this section shall limit the authority of a city,  
22 county, city and county, or fire protection district in establishing  
23 more restrictive requirements, in accordance with current law, than  
24 those specified in this section.

25 (g) This section shall not affect the validity of an ordinance,  
26 adopted prior to the effective date for the relevant roofing standard  
27 specified in subdivisions (a) and (b), by a city, county, city and  
28 county, or fire protection district, unless the ordinance mandates  
29 a standard that is less stringent than the standards set forth in  
30 subdivision (a), in which case the ordinance shall not be valid on  
31 or after the effective date for the relevant roofing standard specified  
32 in subdivisions (a) and (b).

33 (h) Any qualified historical building or structure as defined in  
34 Section 18955 may, on a case-by-case basis, utilize alternative  
35 roof constructions as provided by the State Historical Building  
36 Code.

37 (i) The installer of the roof covering shall provide certification  
38 of the roof covering classification, as provided by the manufacturer  
39 or supplier, to the building owner and, when requested, to the  
40 agency responsible for enforcement of this part. The installer shall

1 also install the roof covering in accordance with the manufacturer’s  
2 listing.

3 (j) No wood roof covering materials shall be sold or applied in  
4 this state unless both of the following conditions are met:

5 (1) The materials have been approved and listed by the State  
6 Fire Marshal as complying with the requirements of this section.

7 (2) The materials have passed at least five years of the 10-year  
8 natural weathering test. The 10-year natural weathering test  
9 required by this subdivision shall be conducted in accordance with  
10 standard 15-2 of the 1994 edition of the Uniform Building Code  
11 at a testing facility recognized by the State Fire Marshal.

12 (k) The Insurance Commissioner shall accept the use of fire  
13 retardant wood roof covering material that complies with the  
14 requirements of this section, used in the partial repair or  
15 replacement of nonfire retardant wood roof covering material, as  
16 complying with the requirement in Section 2695.9 of Title 10 of  
17 the California Code of Regulations relative to matching  
18 replacement items in quality, color, and size.

19 (l) No common interest development, as defined in Section 4100  
20 of the Civil Code, may require a homeowner to install or repair a  
21 roof in a manner that is in violation of this section. The governing  
22 documents, as defined in Section 4150 of the Civil Code, of a  
23 common interest development within a very high fire severity zone  
24 shall allow for at least one type of fire retardant roof covering  
25 material that meets the requirements of this section.

26 SEC. 64. Section 19850 of the Health and Safety Code is  
27 amended to read:

28 19850. The building department of every city or county shall  
29 maintain an official copy, which may be on microfilm or other  
30 type of photographic copy, of the plans of every building, during  
31 the life of the building, for which the department issued a building  
32 permit.

33 “Building department” means the department, bureau, or officer  
34 charged with the enforcement of laws or ordinances regulating the  
35 erection, construction, or alteration of buildings.

36 Except for plans of a common interest development as defined  
37 in Section 4100 of the Civil Code, plans need not be filed for:

38 (a) Single or multiple dwellings not more than two stories and  
39 basement in height.

1 (b) Garages and other structures appurtenant to buildings  
2 described under subdivision (a).

3 (c) Farm or ranch buildings.

4 (d) Any one-story building where the span between bearing  
5 walls does not exceed 25 feet. The exemption in this subdivision  
6 does not, however, apply to a steel frame or concrete building.

7 SEC. 65. Section 25400.22 of the Health and Safety Code is  
8 amended to read:

9 25400.22. (a) No later than 10 working days after the date  
10 when a local health officer determines that property is contaminated  
11 pursuant to subdivision (b) of Section 25400.20, the local health  
12 officer shall do all of the following:

13 (1) Except as provided in paragraph (2), if the property is real  
14 property, record with the county recorder a lien on the property.  
15 The lien shall specify all of the following:

16 (A) The name of the agency on whose behalf the lien is imposed.

17 (B) The date on which the property is determined to be  
18 contaminated.

19 (C) The legal description of the real property and the assessor's  
20 parcel number.

21 (D) The record owner of the property.

22 (E) The amount of the lien, which shall be the greater of two  
23 hundred dollars (\$200) or the costs incurred by the local health  
24 officer in compliance with this chapter, including, but not limited  
25 to, the cost of inspection performed pursuant to Section 25400.19  
26 and the county recorder's fee.

27 (2) (A) If the property is a mobilehome or manufactured home  
28 specified in paragraph (2) of subdivision (t) of Section 25400.11,  
29 amend the permanent record with a restraint on the mobilehome,  
30 or manufactured home with the Department of Housing and  
31 Community Development, in the form prescribed by that  
32 department, providing notice of the determination that the property  
33 is contaminated.

34 (B) If the property is a recreational vehicle specified in  
35 paragraph (2) of subdivision (t) of Section 25400.11, perfect by  
36 filing with the Department of Motor Vehicles a vehicle license  
37 stop on the recreational vehicle in the form prescribed by that  
38 department, providing notice of the determination that the property  
39 is contaminated.

1 (C) If the property is a mobilehome or manufactured home, not  
2 subject to paragraph (2) of subdivision (t) of Section 25400.11, is  
3 located on real property, and is not attached to that real property,  
4 the local health officer shall record a lien for the real property with  
5 the county recorder, and the Department of Housing and  
6 Community Development shall amend the permanent record with  
7 a restraint for the mobilehome or manufactured home, in the form  
8 and with the contents prescribed by that department.

9 (3) A lien, restraint, or vehicle license stop issued pursuant to  
10 paragraph (2) shall specify all of the following:

11 (A) The name of the agency on whose behalf the lien, restraint,  
12 or vehicle license stop is imposed.

13 (B) The date on which the property is determined to be  
14 contaminated.

15 (C) The legal description of the real property and the assessor's  
16 parcel number, and the mailing and street address or space number  
17 of the manufactured home, mobilehome, or recreational vehicle  
18 or the vehicle identification number of the recreational vehicle, if  
19 applicable.

20 (D) The registered owner of the mobilehome, manufactured  
21 home, or recreational vehicle, if applicable, or the name of the  
22 owner of the real property as indicated in the official county  
23 records.

24 (E) The amount of the lien, if applicable, which shall be the  
25 greater of two hundred dollars (\$200) or the costs incurred by the  
26 local health officer in compliance with this chapter, including, but  
27 not limited to, the cost of inspection performed pursuant to Section  
28 25400.19 and the fee charged by the Department of Housing and  
29 Community Development and the Department of Motor Vehicles  
30 pursuant to paragraph (2) of subdivision (b).

31 (F) Other information required by the county recorder for the  
32 lien, the Department of Housing and Community Development  
33 for the restraint, or the Department of Motor Vehicles for the  
34 vehicle license stop.

35 (4) Issue to persons specified in subdivisions (d), (e), and (f) an  
36 order prohibiting the use or occupancy of the contaminated portions  
37 of the property.

38 (b) (1) The county recorder's fees for recording and indexing  
39 documents provided for in this section shall be in the amount

1 specified in Article 5 (commencing with Section 27360) of Chapter  
2 6 of Part 3 of Title 3 of the Government Code.

3 (2) The Department of Housing and Community Development  
4 and the Department of Motor Vehicles may charge a fee to cover  
5 its administrative costs for recording and indexing documents  
6 provided for in paragraph (2) of subdivision (a).

7 (c) (1) A lien recorded pursuant to subdivision (a) shall have  
8 the force, effect, and priority of a judgment lien. The restraint  
9 amending the permanent record pursuant to subdivision (a) shall  
10 be displayed on any manufactured home or mobilehome title search  
11 until the restraint is released. The vehicle license stop shall remain  
12 in effect until it is released.

13 (2) The local health officer shall not authorize the release of a  
14 lien, restraint, or vehicle license stop made pursuant to subdivision  
15 (a), until one of the following occurs:

16 (A) The property owner satisfies the real property lien, or the  
17 contamination in the mobilehome, manufactured home, or  
18 recreational vehicle is abated to the satisfaction of the local health  
19 officer consistent with the notice in the restraint, or vehicle license  
20 stop and the local health officer issues a release pursuant to Section  
21 25400.27.

22 (B) For a manufactured home or mobilehome, the local health  
23 officer determines that the unit will be destroyed or permanently  
24 salvaged. For the purposes of this paragraph, the unit shall not be  
25 reregistered after this determination is made unless the local health  
26 officer issues a release pursuant to Section 25400.27.

27 (C) The lien, restraint, or vehicle license stop is extinguished  
28 by a senior lien in a foreclosure sale.

29 (d) Except as otherwise specified in this section, an order issued  
30 pursuant to this section shall be served, either personally or by  
31 certified mail, return receipt requested, in the following manner:

32 (1) For real property, to all known occupants of the property  
33 and to all persons who have an interest in the property, as contained  
34 in the records of the recorder's office of the county in which the  
35 property is located.

36 (2) In the case of a mobilehome or manufactured home, the  
37 order shall be served to the legal owner, as defined in Section  
38 18005.8, each junior lienholder, as defined in Section 18005.3,  
39 and the registered owner, as defined in Section 18009.5.

1 (3) In the case of a recreational vehicle, the order shall be served  
 2 on the legal owner, as defined in Section 370 of the Vehicle Code,  
 3 and the registered owner, as defined in Section 505 of the Vehicle  
 4 Code.

5 (e) If the whereabouts of the person described in subdivision  
 6 (d) are unknown and cannot be ascertained by the local health  
 7 officer, in the exercise of reasonable diligence, and the local health  
 8 officer makes an affidavit to that effect, the local health officer  
 9 shall serve the order by personal service or by mailing a copy of  
 10 the order by certified mail, postage prepaid, return receipt  
 11 requested, as follows:

12 (1) The order related to real property shall be served to each  
 13 person at the address appearing on the last equalized tax assessment  
 14 roll of the county where the property is located, and to all occupants  
 15 of the affected unit.

16 (2) In the case of a mobilehome or manufactured home, the  
 17 order shall be served to the legal owner, as defined in Section  
 18 18005.8, each junior lienholder, as defined in Section 18005.3,  
 19 and the registered owner, as defined in Section 18009.5, at the  
 20 address appearing on the permanent record and all occupants of  
 21 the affected unit at the mobilehome park space.

22 (3) In the case of a recreational vehicle, the order shall be served  
 23 on the legal owner, as defined in Section 370 of the Vehicle Code,  
 24 and the registered owner, as defined in Section 505 of the Vehicle  
 25 Code, at the address appearing on the permanent record and all  
 26 occupants of the affected vehicle at the mobilehome park or special  
 27 occupancy park space.

28 (f) (1) The local health officer shall also mail a copy of the  
 29 order required by this section to the address of each person or party  
 30 having a recorded right, title, estate, lien, or interest in the property  
 31 and to the association of a common interest development, as  
 32 defined in Sections 4080 and 4100 of the Civil Code.

33 (2) In addition to the requirements of paragraph (1), if the  
 34 affected property is a mobilehome, manufactured home, or  
 35 recreational vehicle, specified in paragraph (2) of subdivision (t)  
 36 of Section 25400.11, the order issued by the local health officer  
 37 shall also be served, either personally or by certified mail, return  
 38 receipt requested, to the owner of the mobilehome park or special  
 39 occupancy park.

1 (g) The order issued pursuant to this section shall include all of  
2 the following information:

3 (1) A description of the property.

4 (2) The parcel identification number, address, or space number,  
5 if applicable.

6 (3) The vehicle identification number, if applicable.

7 (4) A description of the local health officer's intended course  
8 of action.

9 (5) A specification of the penalties for noncompliance with the  
10 order.

11 (6) A prohibition on the use of all or portions of the property  
12 that are contaminated.

13 (7) A description of the measures the property owner is required  
14 to take to decontaminate the property.

15 (8) An indication of the potential health hazards involved.

16 (9) A statement that a property owner who fails to provide a  
17 notice or disclosure that is required by this chapter is subject to a  
18 civil penalty of up to five thousand dollars (\$5,000).

19 (h) The local health officer shall provide a copy of the order to  
20 the local building or code enforcement agency or other appropriate  
21 agency responsible for the enforcement of the State Housing Law  
22 (Part 1.5 (commencing with Section 17910) of Division 13).

23 (i) The local health officer shall post the order in a conspicuous  
24 place on the property within one working day of the date that the  
25 order is issued.

26 SEC. 66. Section 25915.2 of the Health and Safety Code is  
27 amended to read:

28 25915.2. (a) Notice provided pursuant to this chapter shall be  
29 provided in writing to each individual employee, and shall be  
30 mailed to other owners designated to receive the notice pursuant  
31 to subdivision (a) of Section 25915.5, within 15 days of the first  
32 receipt by the owner of information identifying the presence or  
33 location of asbestos-containing construction materials in the  
34 building. This notice shall be provided annually thereafter. In  
35 addition, if new information regarding those items specified in  
36 paragraphs (1) to (5), inclusive, of subdivision (a) of Section 25915  
37 has been obtained within 90 days after the notice required by this  
38 subdivision is provided or any subsequent 90-day period, then a  
39 supplemental notice shall be provided within 15 days of the close  
40 of that 90-day period.

1 (b) Notice provided pursuant to this chapter shall be provided  
2 to new employees within 15 days of commencement of work in  
3 the building.

4 (c) Notice provided pursuant to this chapter shall be mailed to  
5 any new owner designated to receive the notice pursuant to  
6 subdivision (a) of Section 25915.5 within 15 days of the effective  
7 date of the agreement under which a person becomes a new owner.

8 (d) Subdivisions (a) and (c) shall not be construed to require  
9 owners of a building or part of a building within a residential  
10 common interest development to mail written notification to other  
11 owners of a building or part of a building within the residential  
12 common interest development, if all the following conditions are  
13 met:

14 (1) The association conspicuously posts, in each building or  
15 part of a building known to contain asbestos-containing materials,  
16 a large sign in a prominent location that fully informs persons  
17 entering each building or part of a building within the common  
18 interest development that the association knows the building  
19 contains asbestos-containing materials.

20 The sign shall also inform persons of the location where further  
21 information, as required by this chapter, is available about the  
22 asbestos-containing materials known to be located in the building.

23 (2) The owners or association disclose, as soon as practicable  
24 before the transfer of title of a separate interest in the common  
25 interest development, to a transferee the existence of  
26 asbestos-containing material in a building or part of a building  
27 within the common interest development.

28 Failure to comply with this section shall not invalidate the  
29 transfer of title of real property. This paragraph shall only apply  
30 to transfers of title of separate interests in the common interest  
31 development of which the owners have knowledge. As used in  
32 this section, “association” and “common interest development”  
33 are defined in Sections 4080 and 4100 of the Civil Code.

34 (e) If a person contracting with an owner receives notice  
35 pursuant to this chapter, that contractor shall provide a copy of the  
36 notice to his or her employees or contractors working within the  
37 building.

38 (f) If the asbestos-containing construction material in the  
39 building is limited to an area or areas within the building that meet  
40 all the following criteria:

1 (1) Are unique and physically defined.

2 (2) Contain asbestos-containing construction materials in  
3 structural, mechanical, or building materials which are not  
4 replicated throughout the building.

5 (3) Are not connected to other areas through a common  
6 ventilation system; then, an owner required to give notice to his  
7 or her employees pursuant to subdivision (a) of Section 25915 or  
8 25915.1 may provide that notice only to the employees working  
9 within or entering that area or those areas of the building meeting  
10 the conditions above.

11 (g) If the asbestos-containing construction material in the  
12 building is limited to an area or areas within the building that meet  
13 all the following criteria:

14 (1) Are accessed only by building maintenance employees or  
15 contractors and are not accessed by tenants or employees in the  
16 building, other than on an incidental basis.

17 (2) Contain asbestos-containing construction materials in  
18 structural, mechanical, or building materials which are not  
19 replicated in areas of the building which are accessed by tenants  
20 and employees.

21 (3) The owner knows that no asbestos fibers are being released  
22 or have the reasonable possibility to be released from the material;  
23 then, as to that asbestos-containing construction material, an owner  
24 required to give notice to his or her employees pursuant to  
25 subdivision (a) of Section 25915 or Section 25915.1 may provide  
26 that notice only to its building maintenance employees and  
27 contractors who have access to that area or those areas of the  
28 building meeting the conditions above.

29 (h) In those areas of a building where the asbestos-containing  
30 construction material is composed only of asbestos fibers which  
31 are completely encapsulated, if the owner knows that no asbestos  
32 fibers are being released or have the reasonable possibility to be  
33 released from that material in its present condition and has no  
34 knowledge that other asbestos-containing material is present, then  
35 an owner required to give notice pursuant to subdivision (a) of  
36 Section 25915 shall provide the information required in paragraph  
37 (2) of subdivision (a) of Section 25915 and may substitute the  
38 following notice for the requirements of paragraphs (1), (3), (4),  
39 and (5) of subdivision (a) of Section 25915:

1 (1) The existence of, conclusions from, and a description or list  
2 of the contents of, that portion of any survey conducted to  
3 determine the existence and location of asbestos-containing  
4 construction materials within the building that refers to the ~~asbestos~~  
5 *asbestos-containing* materials described in this subdivision, and  
6 information describing when and where the results of the survey  
7 are available pursuant to Section 25917.

8 (2) Information to convey that moving, drilling, boring, or  
9 otherwise disturbing the asbestos-containing construction material  
10 identified may present a health risk and, consequently, should not  
11 be attempted by an unqualified employee. The notice shall identify  
12 the appropriate person the employee is required to contact if the  
13 condition of the asbestos-containing construction material  
14 deteriorates.

15 SEC. 67. Section 25915.5 of the Health and Safety Code is  
16 amended to read:

17 25915.5. (a) An owner required to give notice to employees  
18 pursuant to this chapter, in addition to notifying his or her  
19 employees, shall mail, in accordance with this subdivision, a copy  
20 of that notice to all other persons who are owners of the building  
21 or part of the building, with whom the owner has privity of  
22 contract. Receipt of a notice pursuant to this section by an owner,  
23 lessee, or operator shall constitute knowledge that the building  
24 contains asbestos-containing construction materials for purposes  
25 of this chapter. Notice to an owner shall be delivered by first-class  
26 mail addressed to the person and at the address designated for the  
27 receipt of notices under the lease, rental agreement, or contract  
28 with the owner.

29 (b) The delivery of notice under this section or negligent failure  
30 to provide that notice shall not constitute a breach of any covenant  
31 under the lease or rental agreement, and nothing in this chapter  
32 enlarges or diminishes any rights or duties respecting constructive  
33 eviction.

34 (c) No owner who, in good faith, complies with the provisions  
35 of this section shall be liable to any other owner for any damages  
36 alleged to have resulted from his or her compliance with the  
37 provisions of this section.

38 (d) This section shall not be construed to apply to owners of a  
39 building or part of a building within a residential common interest  
40 development or association, if the owners comply with the

1 provisions of subdivision (d) of Section 25915.2. For purposes of  
2 this section, “association” and “common interest development”  
3 are defined in Sections 4080 and 4100 of the Civil Code.

4 SEC. 68. Section 33050 of the Health and Safety Code is  
5 amended to read:

6 33050. (a) It is hereby declared to be the policy of the state  
7 that in undertaking community redevelopment projects under this  
8 part there shall be no discrimination because of any basis listed in  
9 subdivision (a) or (d) of Section 12955 of the Government Code,  
10 as those bases are defined in Sections 12926, 12926.1, subdivision  
11 (m) and paragraph (1) of subdivision (p) of Section 12955, and  
12 Section 12955.2 of the Government Code.

13 (b) Notwithstanding subdivision (a), with respect to familial  
14 status, subdivision (a) shall not be construed to apply to housing  
15 for older persons, as defined in Section 12955.9 of the Government  
16 Code. With respect to familial status, nothing in subdivision (a)  
17 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
18 and 799.5 of the Civil Code, relating to housing for senior citizens.  
19 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
20 and subdivisions (n), (o), and (p) of Section 12955 of the  
21 Government Code shall apply to subdivision (a).

22 SEC. 69. Section 33435 of the Health and Safety Code is  
23 amended to read:

24 33435. (a) Agencies shall obligate lessees and purchasers of  
25 real property acquired in redevelopment projects and owners of  
26 property improved as a part of a redevelopment project to refrain  
27 from restricting the rental, sale, or lease of the property on any  
28 basis listed in subdivision (a) or (d) of Section 12955 of the  
29 Government Code, as those bases are defined in Sections 12926,  
30 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of  
31 Section 12955, and Section 12955.2 of the Government Code. All  
32 deeds, leases, or contracts for the sale, lease, sublease, or other  
33 transfer of any land in a redevelopment project shall contain or be  
34 subject to the nondiscrimination or nonsegregation clauses hereafter  
35 prescribed.

36 (b) Notwithstanding subdivision (a), with respect to familial  
37 status, subdivision (a) shall not be construed to apply to housing  
38 for older persons, as defined in Section 12955.9 of the Government  
39 Code. With respect to familial status, nothing in subdivision (a)  
40 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,

1 and 799.5 of the Civil Code, relating to housing for senior citizens.  
2 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
3 and subdivisions (n), (o), and (p) of Section 12955 of the  
4 Government Code shall apply to subdivision (a).

5 SEC. 70. Section 33436 of the Health and Safety Code is  
6 amended to read:

7 33436. Express provisions shall be included in all deeds, leases,  
8 and contracts that the agency proposes to enter into with respect  
9 to the sale, lease, sublease, transfer, use, occupancy, tenure, or  
10 enjoyment of any land in a redevelopment project in substantially  
11 the following form:

12 (a) (1) In deeds the following language shall appear—“The  
13 grantee herein covenants by and for himself or herself, his or her  
14 heirs, executors, administrators, and assigns, and all persons  
15 claiming under or through them, that there shall be no  
16 discrimination against or segregation of, any person or group of  
17 persons on account of any basis listed in subdivision (a) or (d) of  
18 Section 12955 of the Government Code, as those bases are defined  
19 in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
20 subdivision (p) of Section 12955, and Section 12955.2 of the  
21 Government Code, in the sale, lease, sublease, transfer, use,  
22 occupancy, tenure, or enjoyment of the premises herein conveyed,  
23 nor shall the grantee or any person claiming under or through him  
24 or her, establish or permit any practice or practices of  
25 discrimination or segregation with reference to the selection,  
26 location, number, use, or occupancy of tenants, lessees, subtenants,  
27 sublessees, or vendees in the premises herein conveyed. The  
28 foregoing covenants shall run with the land.”

29 (2) Notwithstanding paragraph (1), with respect to familial  
30 status, paragraph (1) shall not be construed to apply to housing for  
31 older persons, as defined in Section 12955.9 of the Government  
32 Code. With respect to familial status, nothing in paragraph (1)  
33 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
34 and 799.5 of the Civil Code, relating to housing for senior citizens.  
35 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
36 and subdivisions (n), (o), and (p) of Section 12955 of the  
37 Government Code shall apply to paragraph (1).

38 (b) (1) In leases the following language shall appear—“The  
39 lessee herein covenants by and for himself or herself, his or her  
40 heirs, executors, administrators, and assigns, and all persons

1 claiming under or through him or her, and this lease is made and  
2 accepted upon and subject to the following conditions:

3 That there shall be no discrimination against or segregation of  
4 any person or group of persons, on account of any basis listed in  
5 subdivision (a) or (d) of Section 12955 of the Government Code,  
6 as those bases are defined in Sections 12926, 12926.1, subdivision  
7 (m) and paragraph (1) of subdivision (p) of Section 12955, and  
8 Section 12955.2 of the Government Code, in the leasing,  
9 subleasing, transferring, use, occupancy, tenure, or enjoyment of  
10 the premises herein leased nor shall the lessee himself or herself,  
11 or any person claiming under or through him or her, establish or  
12 permit any such practice or practices of discrimination or  
13 segregation with reference to the selection, location, number, use,  
14 or occupancy, of tenants, lessees, sublessees, subtenants, or vendees  
15 in the premises herein leased.”

16 (2) Notwithstanding paragraph (1), with respect to familial  
17 status, paragraph (1) shall not be construed to apply to housing for  
18 older persons, as defined in Section 12955.9 of the Government  
19 Code. With respect to familial status, nothing in paragraph (1)  
20 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
21 and 799.5 of the Civil Code, relating to housing for senior citizens.  
22 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
23 and subdivisions (n), (o), and (p) of Section 12955 of the  
24 Government Code shall apply to paragraph (1).

25 (c) In contracts entered into by the agency relating to the sale,  
26 transfer, or leasing of land or any interest therein acquired by the  
27 agency within any survey area or redevelopment project the  
28 foregoing provisions in substantially the forms set forth shall be  
29 included and the contracts shall further provide that the foregoing  
30 provisions shall be binding upon and shall obligate the contracting  
31 party or parties and any subcontracting party or parties, or other  
32 transferees under the instrument.

33 SEC. 71. Section 33769 of the Health and Safety Code is  
34 amended to read:

35 33769. (a) An agency shall require that any residence that is  
36 constructed with financing obtained under this chapter shall be  
37 open, upon sale or rental of any portion thereof, to all regardless  
38 of any basis listed in subdivision (a) or (d) of Section 12955 of the  
39 Government Code, as those bases are defined in Sections 12926,  
40 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of

1 Section 12955, and Section 12955.2 of the Government Code. The  
2 agency shall also require that contractors and subcontractors  
3 engaged in residential construction financed under this chapter  
4 shall provide equal opportunity for employment, without  
5 discrimination as to any basis listed in subdivision (a) of Section  
6 12940 of the Government Code, as those bases are defined in  
7 Sections 12926 and 12926.1 of the Government Code, and except  
8 as otherwise provided in Section 12940 of the Government Code.  
9 All contracts and subcontracts for residential construction financed  
10 under this chapter shall be let without discrimination as to any  
11 basis listed in subdivision (a) of Section 12940 of the Government  
12 Code, as those bases are defined in Sections 12926 and 12926.1  
13 of the Government Code and except as otherwise provided in  
14 Section 12940 of the Government Code. It shall be the policy of  
15 an agency financing residential construction under this chapter to  
16 encourage participation by minority contractors, and the agency  
17 shall adopt rules and regulations to implement this section.

18 (b) Notwithstanding subdivision (a), with respect to familial  
19 status, subdivision (a) shall not be construed to apply to housing  
20 for older persons, as defined in Section 12955.9 of the Government  
21 Code. With respect to familial status, nothing in subdivision (a)  
22 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
23 and 799.5 of the Civil Code, relating to housing for senior citizens.  
24 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
25 and subdivisions (n), (o), and (p) of Section 12955 of the  
26 Government Code shall apply to subdivision (a).

27 SEC. 72. Section 35811 of the Health and Safety Code is  
28 amended to read:

29 35811. (a) No financial institution shall discriminate in the  
30 availability of, or in the provision of, financial assistance for the  
31 purpose of purchasing, constructing, rehabilitating, improving, or  
32 refinancing housing accommodations due, in whole or in part, to  
33 the consideration of any basis listed in subdivision (a) or (d) of  
34 Section 12955 of the Government Code, as those bases are defined  
35 in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
36 subdivision (p) of Section 12955, and Section 12955.2 of the  
37 Government Code.

38 (b) Notwithstanding subdivision (a), with respect to familial  
39 status, subdivision (a) shall not be construed to apply to housing  
40 for older persons, as defined in Section 12955.9 of the Government

1 Code. With respect to familial status, nothing in subdivision (a)  
2 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
3 and 799.5 of the Civil Code, relating to housing for senior citizens.  
4 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
5 and subdivisions (n), (o), and (p) of Section 12955 of the  
6 Government Code shall apply to subdivision (a).

7 SEC. 73. Section 37630 of the Health and Safety Code is  
8 amended to read:

9 37630. (a) The local agency shall require that any property  
10 that is rehabilitated with financing obtained under this part shall  
11 be open, upon sale or rental of any portion thereof, to all regardless  
12 of any basis listed in subdivision (a) or (d) of Section 12955 of the  
13 Government Code, as those bases are defined in Sections 12926,  
14 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of  
15 Section 12955, and Section 12955.2 of the Government Code. The  
16 local agency shall also require that contractors and subcontractors  
17 engaged in historical rehabilitation financed under this part provide  
18 equal opportunity for employment, without discrimination as to  
19 any basis listed in subdivision (a) of Section 12940 of the  
20 Government Code, as those bases are defined in Sections 12926  
21 and 12926.1 of the Government Code, and except as otherwise  
22 provided in Section 12940 of the Government Code. All contracts  
23 and subcontracts for historical rehabilitation financed under this  
24 part shall be let without discrimination as to any basis listed in  
25 subdivision (a) of Section 12940 of the Government Code, as those  
26 bases are defined in Sections 12926 and 12926.1 of the  
27 Government Code, and except as otherwise provided in Section  
28 12940 of the Government Code.

29 (b) Notwithstanding subdivision (a), with respect to familial  
30 status, subdivision (a) shall not be construed to apply to housing  
31 for older persons, as defined in Section 12955.9 of the Government  
32 Code. With respect to familial status, nothing in subdivision (a)  
33 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
34 and 799.5 of the Civil Code, relating to housing for senior citizens.  
35 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
36 and subdivisions (n), (o), and (p) of Section 12955 of the  
37 Government Code shall apply to subdivision (a).

38 SEC. 74. Section 37923 of the Health and Safety Code is  
39 amended to read:

1 37923. (a) The local agency shall require that any residence  
2 that is rehabilitated, constructed, or acquired with financing  
3 obtained under this part shall be open, upon sale or rental of any  
4 portion thereof, to all regardless of any basis listed in subdivision  
5 (a) or (d) of Section 12955 of the Government Code, as those bases  
6 are defined in Sections 12926, 12926.1, subdivision (m) and  
7 paragraph (1) of subdivision (p) of Section 12955, and Section  
8 12955.2 of the Government Code. The local agency shall also  
9 require that contractors and subcontractors engaged in residential  
10 rehabilitation financed under this part provide equal opportunity  
11 for employment, without discrimination as to any basis listed in  
12 subdivision (a) of Section 12940 of the Government Code, as those  
13 bases are defined in Sections 12926 and 12926.1 of the  
14 Government Code, and except as otherwise provided in Section  
15 12940 of the Government Code. All contracts and subcontracts  
16 for residential rehabilitation financed under this part shall be let  
17 without discrimination as to any basis listed in subdivision (a) of  
18 Section 12940 of the Government Code, as those bases are defined  
19 in Sections 12926 and 12926.1 of the Government Code, and  
20 except as otherwise provided in Section 12940 of the Government  
21 Code. It shall be the policy of the local agency financing residential  
22 rehabilitation under this part to encourage participation by minority  
23 contractors, and the local agency shall adopt rules and regulations  
24 to implement this section.

25 (b) Notwithstanding subdivision (a), with respect to familial  
26 status, subdivision (a) shall not be construed to apply to housing  
27 for older persons, as defined in Section 12955.9 of the Government  
28 Code. With respect to familial status, nothing in subdivision (a)  
29 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
30 and 799.5 of the Civil Code, relating to housing for senior citizens.  
31 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
32 and subdivisions (n), (o), and (p) of Section 12955 of the  
33 Government Code shall apply to subdivision (a).

34 SEC. 75. Section 50955 of the Health and Safety Code is  
35 amended to read:

36 50955. (a) The agency and every housing sponsor shall require  
37 that occupancy of housing developments assisted under this part  
38 shall be open to all regardless of any basis listed in subdivision (a)  
39 or (d) of Section 12955 of the Government Code, as those bases  
40 are defined in Sections 12926, 12926.1, subdivision (m) and

1 paragraph (1) of subdivision (p) of Section 12955, and Section  
2 12955.2 of the Government Code, that contractors and  
3 subcontractors engaged in the construction of housing  
4 developments shall provide an equal opportunity for employment,  
5 without discrimination as to any basis listed in subdivision (a) of  
6 Section 12940 of the Government Code, as those bases are defined  
7 in Sections 12926 and 12926.1 of the Government Code, and  
8 except as otherwise provided in Section 12940 of the Government  
9 Code, and that contractors and subcontractors shall submit and  
10 receive approval of an affirmative action program prior to the  
11 commencement of construction or rehabilitation. Affirmative action  
12 requirements respecting apprenticeship shall be consistent with  
13 Chapter 4 (commencing with Section 3070) of Division 3 of the  
14 Labor Code.

15 All contracts for the management, construction, or rehabilitation  
16 of housing developments, and contracts let by housing sponsors,  
17 contractors, and subcontractors in the performance of management,  
18 construction, or rehabilitation, shall be let without discrimination  
19 as to any basis listed in subdivision (a) of Section 12940 of the  
20 Government Code, as those bases are defined in Sections 12926  
21 and 12926.1 of the Government Code, except as otherwise provided  
22 in Section 12940 of the Government Code, and pursuant to an  
23 affirmative action program, which shall be at not less than the  
24 Federal Housing Administration affirmative action standards unless  
25 the board makes a specific finding that the particular requirement  
26 would be unworkable. The agency shall periodically review  
27 implementation of affirmative action programs required by this  
28 section.

29 It shall be the policy of the agency and housing sponsors to  
30 encourage participation with respect to all projects by minority  
31 developers, builders, and entrepreneurs in all levels of construction,  
32 planning, financing, and management of housing developments.  
33 In areas of minority concentration the agency shall require  
34 significant participation of minorities in the sponsorship,  
35 construction, planning, financing, and management of housing  
36 developments. The agency shall (1) require that, to the greatest  
37 extent feasible, opportunities for training and employment arising  
38 in connection with the planning, construction, rehabilitation, and  
39 operation of housing developments financed pursuant to this part  
40 be given to persons of low income residing in the area of that

1 housing, and (2) determine and implement means to secure the  
2 participation of small businesses in the performance of contracts  
3 for work on housing developments and to develop the capabilities  
4 of these small businesses to more efficiently and competently  
5 participate in the economic mainstream. In order to achieve this  
6 participation by small businesses, the agency may, among other  
7 things, waive retention requirements otherwise imposed on  
8 contractors or subcontractors by regulation of the agency and may  
9 authorize or make advance payments for work to be performed.  
10 The agency shall develop relevant selection criteria for the  
11 participation of small businesses to ensure that, to the greatest  
12 extent feasible, the participants possess the necessary nonfinancial  
13 capabilities. The agency may, with respect to these small  
14 businesses, waive bond requirements otherwise imposed upon  
15 contractors or subcontractors by regulation of the agency, but the  
16 agency shall in that case substantially reduce the risk through (1)  
17 a pooled-risk bonding program, (2) a bond program in cooperation  
18 with other federal or state agencies, or (3) development of a  
19 self-insured bonding program with adequate reserves.

20 The agency shall adopt rules and regulations to implement this  
21 section.

22 Prior to commitment of a mortgage loan, the agency shall require  
23 each housing sponsor, except with respect to mutual self-help  
24 housing, to submit an affirmative marketing program that meets  
25 standards set forth in regulations of the agency. The agency shall  
26 require each housing sponsor to conduct the affirmative marketing  
27 program so approved. Additionally, the agency shall supplement  
28 the efforts of individual housing sponsors by conducting affirmative  
29 marketing programs with respect to housing at the state level.

30 (b) Notwithstanding subdivision (a), with respect to familial  
31 status, subdivision (a) shall not be construed to apply to housing  
32 for older persons, as defined in Section 12955.9 of the Government  
33 Code. With respect to familial status, nothing in subdivision (a)  
34 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
35 and 799.5 of the Civil Code, relating to housing for senior citizens.  
36 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
37 and subdivisions (n), (o), and (p) of Section 12955 of the  
38 Government Code shall apply to subdivision (a).

39 SEC. 76. Section 51602 of the Health and Safety Code is  
40 amended to read:

1 51602. (a) The agency shall require that occupancy of housing  
2 for which a loan is insured pursuant to this part shall be open to  
3 all regardless of any basis listed in subdivision (a) or (d) of Section  
4 12955 of the Government Code, as those bases are defined in  
5 Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
6 subdivision (p) of Section 12955, and Section 12955.2 of the  
7 Government Code, and that contractors and subcontractors engaged  
8 in the construction or rehabilitation of housing funded by a loan  
9 insured pursuant to this part shall provide an equal opportunity for  
10 employment without discrimination as to any basis listed in  
11 subdivision (a) of Section 12940 of the Government Code, as those  
12 bases are defined in Sections 12926 and 12926.1 of the  
13 Government Code, and except as otherwise provided in Section  
14 12940 of the Government Code.

15 (b) Notwithstanding subdivision (a), with respect to familial  
16 status, subdivision (a) shall not be construed to apply to housing  
17 for older persons, as defined in Section 12955.9 of the Government  
18 Code. With respect to familial status, nothing in subdivision (a)  
19 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
20 and 799.5 of the Civil Code, relating to housing for senior citizens.  
21 Subdivision (d) of Section 51 and Section 4760 of the Civil Code  
22 and subdivisions (n), (o), and (p) of Section 12955 of the  
23 Government Code shall apply to subdivision (a).

24 (c) A qualified developer shall certify compliance with this  
25 section and Section 50955 according to requirements specified by  
26 the pertinent criteria of the agency.

27 SEC. 77. Section 116048 of the Health and Safety Code is  
28 amended to read:

29 116048. (a) On or after January 1, 1987, for public swimming  
30 pools in any common interest development, as defined in Section  
31 4100 of the Civil Code, that consists of fewer than 25 separate  
32 interests, as defined in Section 4185 of the Civil Code, the person  
33 operating each pool open for use shall be required to keep a record  
34 of the information required by subdivision (a) of Section 65523  
35 of Title 22 of the California Administrative Code, except that the  
36 information shall be recorded at least two times per week and at  
37 intervals no greater than four days apart.

38 (b) On or after January 1, 1987, any rule or regulation of the  
39 department that is in conflict with subdivision (a) is invalid.

1 SEC. 78. Section 790.031 of the Insurance Code is amended  
2 to read:

3 790.031. The requirements of subdivision (b) of Section  
4 790.034, and Sections 2071.1 and 10082.3 shall apply only to  
5 policies of residential property insurance as defined in Section  
6 10087, policies and endorsements containing those coverages  
7 prescribed in Chapter 8.5 (commencing with Section 10081) of  
8 Part 1 of Division 2, policies issued by the California Earthquake  
9 Authority pursuant to Chapter 8.6 (commencing with Section  
10 10089.5) of Part 1 of Division 2, policies and endorsements that  
11 insure against property damage and are issued to common interest  
12 developments or to associations managing common interest  
13 developments, as those terms are defined in Sections 4080 and  
14 4100 of the Civil Code, and to policies issued pursuant to Section  
15 120 that insure against property damage to residential units or  
16 contents thereof owned by one or more persons located in this  
17 state.

18 SEC. 79. Section 2188.6 of the Revenue and Taxation Code  
19 is amended to read:

20 2188.6. (a) Unless a request for exemption has been recorded  
21 pursuant to subdivision (d), prior to the creation of a condominium  
22 as defined in Section 783 of the Civil Code, the county assessor  
23 may separately assess each individual unit which is shown on the  
24 condominium plan of a proposed condominium project when all  
25 of the following documents have been recorded as required by  
26 law:

27 (1) A subdivision final map or parcel map, as described in  
28 Sections 66434 and 66445, respectively, of the Government Code.

29 (2) A condominium plan, as defined in Section 4120 of the Civil  
30 Code.

31 (3) A declaration, as defined Section 4135 of the Civil Code.

32 (b) The tax due on each individual unit shall constitute a lien  
33 solely on that unit.

34 (c) The lien created pursuant to this section shall be a lien on  
35 an undivided interest in a portion of real property coupled with a  
36 separate interest in space called a unit as described in Section 4125  
37 of the Civil Code.

38 (d) The record owner of the real property may record with the  
39 condominium plan a request that the real property be exempt from  
40 separate assessment pursuant to this section. If a request for

1 exemption is recorded, separate assessment of a condominium unit  
2 shall be made only in accordance with Section 2188.3.

3 (e) This section shall become operative on January 1, 1990, and  
4 shall apply to condominium projects for which a condominium  
5 plan is recorded after that date.

6 SEC. 80. Section 21107.7 of the Vehicle Code is amended to  
7 read:

8 21107.7. (a) Any city or county may, by ordinance or  
9 resolution, find and declare that there are privately owned and  
10 maintained roads as described in the ordinance or resolution within  
11 the city or county that are not generally held open for use of the  
12 public for purposes of vehicular travel but, by reason of their  
13 proximity to or connection with highways, the interests of any  
14 residents residing along the roads and the motoring public will  
15 best be served by application of the provisions of this code to those  
16 roads. No ordinance or resolution shall be enacted unless there is  
17 first filed with the city or county a petition requesting it by a  
18 majority of the owners of any privately owned and maintained  
19 road, or by at least a majority of the board of directors of a common  
20 interest development, as defined by Section 4100 of the Civil Code,  
21 that is responsible for maintaining the road, and without a public  
22 hearing thereon and 10 days' prior written notice to all owners of  
23 the road or all of the owners in the development. Upon enactment  
24 of the ordinance or resolution, the provisions of this code shall  
25 apply to the privately owned and maintained road if appropriate  
26 signs are erected at the entrance to the road of the size, shape, and  
27 color as to be readily legible during daylight hours from a distance  
28 of 100 feet, to the effect that the road is subject to the provisions  
29 of this code. The city or county may impose reasonable conditions  
30 and may authorize the owners, or board of directors of the common  
31 interest development, to erect traffic signs, signals, markings, and  
32 devices which conform to the uniform standards and specifications  
33 adopted by the Department of Transportation.

34 (b) The department shall not be required to provide patrol or  
35 enforce any provisions of this code on any privately owned and  
36 maintained road subjected to the provisions of this code under this  
37 section, except those provisions applicable to private property  
38 other than by action under this section.

39 (c) As used in this section, "privately owned and maintained  
40 roads" includes roads owned and maintained by a city, county, or

1 district that are not dedicated to use by the public or are not  
2 generally held open for use of the public for purposes of vehicular  
3 travel.

4 ~~SEC. 81. Section 22651 of the Vehicle Code is amended to~~  
5 ~~read:~~

6 ~~22651. A peace officer, as defined in Chapter 4.5 (commencing~~  
7 ~~with Section 830) of Title 3 of Part 2 of the Penal Code, or a~~  
8 ~~regularly employed and salaried employee, who is engaged in~~  
9 ~~directing traffic or enforcing parking laws and regulations, of a~~  
10 ~~city, county, or jurisdiction of a state agency in which a vehicle is~~  
11 ~~located, may remove a vehicle located within the territorial limits~~  
12 ~~in which the officer or employee may act, under the following~~  
13 ~~circumstances:~~

14 ~~(a) When a vehicle is left unattended upon a bridge, viaduct, or~~  
15 ~~causeway or in a tube or tunnel where the vehicle constitutes an~~  
16 ~~obstruction to traffic:~~

17 ~~(b) When a vehicle is parked or left standing upon a highway~~  
18 ~~in a position so as to obstruct the normal movement of traffic or~~  
19 ~~in a condition so as to create a hazard to other traffic upon the~~  
20 ~~highway:~~

21 ~~(c) When a vehicle is found upon a highway or public land and~~  
22 ~~a report has previously been made that the vehicle is stolen or a~~  
23 ~~complaint has been filed and a warrant thereon is issued charging~~  
24 ~~that the vehicle was embezzled:~~

25 ~~(d) When a vehicle is illegally parked so as to block the entrance~~  
26 ~~to a private driveway and it is impractical to move the vehicle from~~  
27 ~~in front of the driveway to another point on the highway:~~

28 ~~(e) When a vehicle is illegally parked so as to prevent access~~  
29 ~~by firefighting equipment to a fire hydrant and it is impracticable~~  
30 ~~to move the vehicle from in front of the fire hydrant to another~~  
31 ~~point on the highway:~~

32 ~~(f) When a vehicle, except highway maintenance or construction~~  
33 ~~equipment, is stopped, parked, or left standing for more than four~~  
34 ~~hours upon the right-of-way of a freeway that has full control of~~  
35 ~~access and no crossings at grade and the driver, if present, cannot~~  
36 ~~move the vehicle under its own power:~~

37 ~~(g) When the person in charge of a vehicle upon a highway or~~  
38 ~~public land is, by reason of physical injuries or illness,~~  
39 ~~incapacitated to an extent so as to be unable to provide for its~~  
40 ~~custody or removal:~~

1 ~~(h) (1) When an officer arrests a person driving or in control~~  
2 ~~of a vehicle for an alleged offense and the officer is, by this code~~  
3 ~~or other law, required or permitted to take, and does take, the~~  
4 ~~person into custody.~~

5 ~~(2) When an officer serves a notice of an order of suspension~~  
6 ~~or revocation pursuant to Section 13388 or 13389.~~

7 ~~(i) (1) When a vehicle, other than a rented vehicle, is found~~  
8 ~~upon a highway or public land, or is removed pursuant to this code,~~  
9 ~~and it is known that the vehicle has been issued five or more notices~~  
10 ~~of parking violations to which the owner or person in control of~~  
11 ~~the vehicle has not responded within 21 calendar days of notice~~  
12 ~~of citation issuance or citation issuance or 14 calendar days of the~~  
13 ~~mailing of a notice of delinquent parking violation to the agency~~  
14 ~~responsible for processing notices of parking violations, or the~~  
15 ~~registered owner of the vehicle is known to have been issued five~~  
16 ~~or more notices for failure to pay or failure to appear in court for~~  
17 ~~traffic violations for which a certificate has not been issued by the~~  
18 ~~magistrate or clerk of the court hearing the case showing that the~~  
19 ~~case has been adjudicated or concerning which the registered~~  
20 ~~owner's record has not been cleared pursuant to Chapter 6~~  
21 ~~(commencing with Section 41500) of Division 17, the vehicle may~~  
22 ~~be impounded until that person furnishes to the impounding law~~  
23 ~~enforcement agency all of the following:~~

24 ~~(A) Evidence of his or her identity.~~

25 ~~(B) An address within this state at which he or she can be~~  
26 ~~located.~~

27 ~~(C) Satisfactory evidence that all parking penalties due for the~~  
28 ~~vehicle and all other vehicles registered to the registered owner of~~  
29 ~~the impounded vehicle, and all traffic violations of the registered~~  
30 ~~owner, have been cleared.~~

31 ~~(2) The requirements in subparagraph (C) of paragraph (1) shall~~  
32 ~~be fully enforced by the impounding law enforcement agency on~~  
33 ~~and after the time that the Department of Motor Vehicles is able~~  
34 ~~to provide access to the necessary records.~~

35 ~~(3) A notice of parking violation issued for an unlawfully parked~~  
36 ~~vehicle shall be accompanied by a warning that repeated violations~~  
37 ~~may result in the impounding of the vehicle. In lieu of furnishing~~  
38 ~~satisfactory evidence that the full amount of parking penalties or~~  
39 ~~bail has been deposited, that person may demand to be taken~~  
40 ~~without unnecessary delay before a magistrate, for traffic offenses;~~

1 or a hearing examiner, for parking offenses, within the county in  
2 which the offenses charged are alleged to have been committed  
3 and who has jurisdiction of the offenses and is nearest or most  
4 accessible with reference to the place where the vehicle is  
5 impounded. Evidence of current registration shall be produced  
6 after a vehicle has been impounded, or, at the discretion of the  
7 impounding law enforcement agency, a notice to appear for  
8 violation of subdivision (a) of Section 4000 shall be issued to that  
9 person.

10 (4) A vehicle shall be released to the legal owner, as defined in  
11 Section 370, if the legal owner does all of the following:

12 (A) Pays the cost of towing and storing the vehicle.

13 (B) Submits evidence of payment of fees as provided in Section  
14 9561.

15 (C) Completes an affidavit in a form acceptable to the  
16 impounding law enforcement agency stating that the vehicle was  
17 not in possession of the legal owner at the time of occurrence of  
18 the offenses relating to standing or parking. A vehicle released to  
19 a legal owner under this subdivision is a repossessed vehicle for  
20 purposes of disposition or sale. The impounding agency shall have  
21 a lien on any surplus that remains upon sale of the vehicle to which  
22 the registered owner is or may be entitled, as security for the full  
23 amount of the parking penalties for all notices of parking violations  
24 issued for the vehicle and for all local administrative charges  
25 imposed pursuant to Section 22850.5. The legal owner shall  
26 promptly remit to, and deposit with, the agency responsible for  
27 processing notices of parking violations from that surplus, on  
28 receipt of that surplus, the full amount of the parking penalties for  
29 all notices of parking violations issued for the vehicle and for all  
30 local administrative charges imposed pursuant to Section 22850.5.

31 (5) The impounding agency that has a lien on the surplus that  
32 remains upon the sale of a vehicle to which a registered owner is  
33 entitled pursuant to paragraph (4) has a deficiency claim against  
34 the registered owner for the full amount of the parking penalties  
35 for all notices of parking violations issued for the vehicle and for  
36 all local administrative charges imposed pursuant to Section  
37 22850.5, less the amount received from the sale of the vehicle.

38 (j) When a vehicle is found illegally parked and there are no  
39 license plates or other evidence of registration displayed, the  
40 vehicle may be impounded until the owner or person in control of

1 the vehicle furnishes the impounding law enforcement agency  
2 evidence of his or her identity and an address within this state at  
3 which he or she can be located.

4 (k) ~~When a vehicle is parked or left standing upon a highway  
5 for 72 or more consecutive hours in violation of a local ordinance  
6 authorizing removal.~~

7 (l) ~~When a vehicle is illegally parked on a highway in violation  
8 of a local ordinance forbidding standing or parking and the use of  
9 a highway, or a portion thereof, is necessary for the cleaning,  
10 repair, or construction of the highway, or for the installation of  
11 underground utilities, and signs giving notice that the vehicle may  
12 be removed are erected or placed at least 24 hours prior to the  
13 removal by a local authority pursuant to the ordinance.~~

14 (m) ~~When the use of the highway, or a portion of the highway,  
15 is authorized by a local authority for a purpose other than the  
16 normal flow of traffic or for the movement of equipment, articles,  
17 or structures of unusual size, and the parking of a vehicle would  
18 prohibit or interfere with that use or movement, and signs giving  
19 notice that the vehicle may be removed are erected or placed at  
20 least 24 hours prior to the removal by a local authority pursuant  
21 to the ordinance.~~

22 (n) ~~Whenever a vehicle is parked or left standing where local  
23 authorities, by resolution or ordinance, have prohibited parking  
24 and have authorized the removal of vehicles. Except as provided  
25 in subdivision (v), a vehicle shall not be removed unless signs are  
26 posted giving notice of the removal.~~

27 (o) (1) ~~When a vehicle is found or operated upon a highway,  
28 public land, or an offstreet parking facility under the following  
29 circumstances:~~

30 (A) ~~With a registration expiration date in excess of six months  
31 before the date it is found or operated on the highway, public lands,  
32 or the offstreet parking facility.~~

33 (B) ~~Displaying in, or upon, the vehicle, a registration card,  
34 identification card, temporary receipt, license plate, special plate,  
35 registration sticker, device issued pursuant to Section 4853, or  
36 permit that was not issued for that vehicle, or is not otherwise  
37 lawfully used on that vehicle under this code.~~

38 (C) ~~Displaying in, or upon, the vehicle, an altered, forged,  
39 counterfeit, or falsified registration card, identification card,~~

1 temporary receipt, license plate, special plate, registration sticker,  
2 device issued pursuant to Section 4853, or permit.

3 ~~(2) When a vehicle described in paragraph (1) is occupied, only~~  
4 ~~a peace officer, as defined in Chapter 4.5 (commencing with~~  
5 ~~Section 830) of Title 3 of Part 2 of the Penal Code, may remove~~  
6 ~~the vehicle.~~

7 ~~(3) For the purposes of this subdivision, the vehicle shall be~~  
8 ~~released to the owner or person in control of the vehicle only after~~  
9 ~~the owner or person furnishes the storing law enforcement agency~~  
10 ~~with proof of current registration and a currently valid driver's~~  
11 ~~license to operate the vehicle.~~

12 ~~(4) As used in this subdivision, "offstreet parking facility" means~~  
13 ~~an offstreet facility held open for use by the public for parking~~  
14 ~~vehicles and includes a publicly owned facility for offstreet~~  
15 ~~parking, and a privately owned facility for offstreet parking if a~~  
16 ~~fee is not charged for the privilege to park and it is held open for~~  
17 ~~the common public use of retail customers.~~

18 ~~(p) When the peace officer issues the driver of a vehicle a notice~~  
19 ~~to appear for a violation of Section 12500, 14601, 14601.1,~~  
20 ~~14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is~~  
21 ~~not impounded pursuant to Section 22655.5. A vehicle so removed~~  
22 ~~from the highway or public land, or from private property after~~  
23 ~~having been on a highway or public land, shall not be released to~~  
24 ~~the registered owner or his or her agent, except upon presentation~~  
25 ~~of the registered owner's or his or her agent's currently valid~~  
26 ~~driver's license to operate the vehicle and proof of current vehicle~~  
27 ~~registration, or upon order of a court.~~

28 ~~(q) When a vehicle is parked for more than 24 hours on a portion~~  
29 ~~of highway that is located within the boundaries of a common~~  
30 ~~interest development, as defined in Section 4100 of the Civil Code,~~  
31 ~~and signs, as required by paragraph (1) of subdivision (a) of Section~~  
32 ~~22658 of this code, have been posted on that portion of highway~~  
33 ~~providing notice to drivers that vehicles parked thereon for more~~  
34 ~~than 24 hours will be removed at the owner's expense, pursuant~~  
35 ~~to a resolution or ordinance adopted by the local authority.~~

36 ~~(r) When a vehicle is illegally parked and blocks the movement~~  
37 ~~of a legally parked vehicle.~~

38 ~~(s) (1) When a vehicle, except highway maintenance or~~  
39 ~~construction equipment, an authorized emergency vehicle, or a~~  
40 ~~vehicle that is properly permitted or otherwise authorized by the~~

1 Department of Transportation, is stopped, parked, or left standing  
2 for more than eight hours within a roadside rest area or viewpoint.

3 ~~(2) Notwithstanding paragraph (1), when a commercial motor~~  
4 ~~vehicle, as defined in paragraph (1) of subdivision (b) of Section~~  
5 ~~15210, is stopped, parked, or left standing for more than 10 hours~~  
6 ~~within a roadside rest area or viewpoint.~~

7 ~~(3) For purposes of this subdivision, a roadside rest area or~~  
8 ~~viewpoint is a publicly maintained vehicle parking area, adjacent~~  
9 ~~to a highway, utilized for the convenient, safe stopping of a vehicle~~  
10 ~~to enable motorists to rest or to view the scenery. If two or more~~  
11 ~~roadside rest areas are located on opposite sides of the highway,~~  
12 ~~or upon the center divider, within seven miles of each other, then~~  
13 ~~that combination of rest areas is considered to be the same rest~~  
14 ~~area.~~

15 ~~(t) When a peace officer issues a notice to appear for a violation~~  
16 ~~of Section 25279.~~

17 ~~(u) When a peace officer issues a citation for a violation of~~  
18 ~~Section 11700 and the vehicle is being offered for sale.~~

19 ~~(v) (1) When a vehicle is a mobile billboard advertising display,~~  
20 ~~as defined in Section 395.5, and is parked or left standing in~~  
21 ~~violation of a local resolution or ordinance adopted pursuant to~~  
22 ~~subdivision (m) of Section 21100, if the registered owner of the~~  
23 ~~vehicle was previously issued a warning citation for the same~~  
24 ~~offense, pursuant to paragraph (2).~~

25 ~~(2) Notwithstanding subdivision (a) of Section 22507, a city or~~  
26 ~~county, in lieu of posting signs noticing a local ordinance~~  
27 ~~prohibiting mobile billboard advertising displays adopted pursuant~~  
28 ~~to subdivision (m) of Section 21100, may provide notice by issuing~~  
29 ~~a warning citation advising the registered owner of the vehicle that~~  
30 ~~he or she may be subject to penalties upon a subsequent violation~~  
31 ~~of the ordinance, that may include the removal of the vehicle as~~  
32 ~~provided in paragraph (1). A city or county is not required to~~  
33 ~~provide further notice for a subsequent violation prior to the~~  
34 ~~enforcement of penalties for a violation of the ordinance.~~

35 *SEC. 81. Section 22651 of the Vehicle Code is amended to*  
36 *read:*

37 22651. A peace officer, as defined in Chapter 4.5 (commencing  
38 with Section 830) of Title 3 of Part 2 of the Penal Code, or a  
39 regularly employed and salaried employee, who is engaged in  
40 directing traffic or enforcing parking laws and regulations, of a

1 city, county, or jurisdiction of a state agency in which a vehicle is  
2 located, may remove a vehicle located within the territorial limits  
3 in which the officer or employee may act, under the following  
4 circumstances:

5 (a) When a vehicle is left unattended upon a bridge, viaduct, or  
6 causeway or in a tube or tunnel where the vehicle constitutes an  
7 obstruction to traffic.

8 (b) When a vehicle is parked or left standing upon a highway  
9 in a position so as to obstruct the normal movement of traffic or  
10 in a condition so as to create a hazard to other traffic upon the  
11 highway.

12 (c) When a vehicle is found upon a highway or public land and  
13 a report has previously been made that the vehicle is stolen or a  
14 complaint has been filed and a warrant thereon is issued charging  
15 that the vehicle was embezzled.

16 (d) When a vehicle is illegally parked so as to block the entrance  
17 to a private driveway and it is impractical to move the vehicle from  
18 in front of the driveway to another point on the highway.

19 (e) When a vehicle is illegally parked so as to prevent access  
20 by firefighting equipment to a fire hydrant and it is impracticable  
21 to move the vehicle from in front of the fire hydrant to another  
22 point on the highway.

23 (f) When a vehicle, except highway maintenance or construction  
24 equipment, is stopped, parked, or left standing for more than four  
25 hours upon the right-of-way of a freeway that has full control of  
26 access and no crossings at grade and the driver, if present, cannot  
27 move the vehicle under its own power.

28 (g) When the person in charge of a vehicle upon a highway or  
29 public land is, by reason of physical injuries or illness,  
30 incapacitated to an extent so as to be unable to provide for its  
31 custody or removal.

32 (h) (1) When an officer arrests a person driving or in control  
33 of a vehicle for an alleged offense and the officer is, by this code  
34 or other law, required or permitted to take, and does take, the  
35 person into custody.

36 (2) When an officer serves a notice of an order of suspension  
37 or revocation pursuant to Section 13388 or 13389.

38 (i) (1) When a vehicle, other than a rented vehicle, is found  
39 upon a highway or public land, or is removed pursuant to this code,  
40 and it is known that the vehicle has been issued five or more notices

1 of parking violations to which the owner or person in control of  
2 the vehicle has not responded within 21 calendar days of notice  
3 of citation issuance or citation issuance or 14 calendar days of the  
4 mailing of a notice of delinquent parking violation to the agency  
5 responsible for processing notices of parking violations, or the  
6 registered owner of the vehicle is known to have been issued five  
7 or more notices for failure to pay or failure to appear in court for  
8 traffic violations for which a certificate has not been issued by the  
9 magistrate or clerk of the court hearing the case showing that the  
10 case has been adjudicated or concerning which the registered  
11 owner's record has not been cleared pursuant to Chapter 6  
12 (commencing with Section 41500) of Division 17, the vehicle may  
13 be impounded until that person furnishes to the impounding law  
14 enforcement agency all of the following:

- 15 (A) Evidence of his or her identity.
- 16 (B) An address within this state at which he or she can be  
17 located.
- 18 (C) Satisfactory evidence that all parking penalties due for the  
19 vehicle and all other vehicles registered to the registered owner of  
20 the impounded vehicle, and all traffic violations of the registered  
21 owner, have been cleared.

22 (2) The requirements in subparagraph (C) of paragraph (1) shall  
23 be fully enforced by the impounding law enforcement agency on  
24 and after the time that the Department of Motor Vehicles is able  
25 to provide access to the necessary records.

26 (3) A notice of parking violation issued for an unlawfully parked  
27 vehicle shall be accompanied by a warning that repeated violations  
28 may result in the impounding of the vehicle. In lieu of furnishing  
29 satisfactory evidence that the full amount of parking penalties or  
30 bail has been deposited, that person may demand to be taken  
31 without unnecessary delay before a magistrate, for traffic offenses,  
32 or a hearing examiner, for parking offenses, within the county in  
33 which the offenses charged are alleged to have been committed  
34 and who has jurisdiction of the offenses and is nearest or most  
35 accessible with reference to the place where the vehicle is  
36 impounded. Evidence of current registration shall be produced  
37 after a vehicle has been impounded, or, at the discretion of the  
38 impounding law enforcement agency, a notice to appear for  
39 violation of subdivision (a) of Section 4000 shall be issued to that  
40 person.

1 (4) A vehicle shall be released to the legal owner, as defined in  
2 Section 370, if the legal owner does all of the following:

3 (A) Pays the cost of towing and storing the vehicle.

4 (B) Submits evidence of payment of fees as provided in Section  
5 9561.

6 (C) Completes an affidavit in a form acceptable to the  
7 impounding law enforcement agency stating that the vehicle was  
8 not in possession of the legal owner at the time of occurrence of  
9 the offenses relating to standing or parking. A vehicle released to  
10 a legal owner under this subdivision is a repossessed vehicle for  
11 purposes of disposition or sale. The impounding agency shall have  
12 a lien on any surplus that remains upon sale of the vehicle to which  
13 the registered owner is or may be entitled, as security for the full  
14 amount of the parking penalties for all notices of parking violations  
15 issued for the vehicle and for all local administrative charges  
16 imposed pursuant to Section 22850.5. The legal owner shall  
17 promptly remit to, and deposit with, the agency responsible for  
18 processing notices of parking violations from that surplus, on  
19 receipt of that surplus, the full amount of the parking penalties for  
20 all notices of parking violations issued for the vehicle and for all  
21 local administrative charges imposed pursuant to Section 22850.5.

22 (5) The impounding agency that has a lien on the surplus that  
23 remains upon the sale of a vehicle to which a registered owner is  
24 entitled pursuant to paragraph (4) has a deficiency claim against  
25 the registered owner for the full amount of the parking penalties  
26 for all notices of parking violations issued for the vehicle and for  
27 all local administrative charges imposed pursuant to Section  
28 22850.5, less the amount received from the sale of the vehicle.

29 (j) When a vehicle is found illegally parked and there are no  
30 license plates or other evidence of registration displayed, the  
31 vehicle may be impounded until the owner or person in control of  
32 the vehicle furnishes the impounding law enforcement agency  
33 evidence of his or her identity and an address within this state at  
34 which he or she can be located.

35 (k) When a vehicle is parked or left standing upon a highway  
36 for 72 or more consecutive hours in violation of a local ordinance  
37 authorizing removal.

38 (l) When a vehicle is illegally parked on a highway in violation  
39 of a local ordinance forbidding standing or parking and the use of  
40 a highway, or a portion thereof, is necessary for the cleaning,

1 repair, or construction of the highway, or for the installation of  
2 underground utilities, and signs giving notice that the vehicle may  
3 be removed are erected or placed at least 24 hours prior to the  
4 removal by a local authority pursuant to the ordinance.

5 (m) When the use of the highway, or a portion of the highway,  
6 is authorized by a local authority for a purpose other than the  
7 normal flow of traffic or for the movement of equipment, articles,  
8 or structures of unusual size, and the parking of a vehicle would  
9 prohibit or interfere with that use or movement, and signs giving  
10 notice that the vehicle may be removed are erected or placed at  
11 least 24 hours prior to the removal by a local authority pursuant  
12 to the ordinance.

13 (n) Whenever a vehicle is parked or left standing where local  
14 authorities, by resolution or ordinance, have prohibited parking  
15 and have authorized the removal of vehicles. Except as provided  
16 in subdivisions (v) and (w), a vehicle shall not be removed unless  
17 signs are posted giving notice of the removal.

18 (o) (1) When a vehicle is found or operated upon a highway,  
19 public land, or an offstreet parking facility under the following  
20 circumstances:

21 (A) With a registration expiration date in excess of six months  
22 before the date it is found or operated on the highway, public lands,  
23 or the offstreet parking facility.

24 (B) Displaying in, or upon, the vehicle, a registration card,  
25 identification card, temporary receipt, license plate, special plate,  
26 registration sticker, device issued pursuant to Section 4853, or  
27 permit that was not issued for that vehicle, or is not otherwise  
28 lawfully used on that vehicle under this code.

29 (C) Displaying in, or upon, the vehicle, an altered, forged,  
30 counterfeit, or falsified registration card, identification card,  
31 temporary receipt, license plate, special plate, registration sticker,  
32 device issued pursuant to Section 4853, or permit.

33 (2) When a vehicle described in paragraph (1) is occupied, only  
34 a peace officer, as defined in Chapter 4.5 (commencing with  
35 Section 830) of Title 3 of Part 2 of the Penal Code, may remove  
36 the vehicle.

37 (3) For the purposes of this subdivision, the vehicle shall be  
38 released under either of the following circumstances:

39 (A) To the registered owner or person in control of the vehicle  
40 only after the owner or person furnishes the storing law

1 enforcement agency with proof of current registration and a  
2 currently valid driver's license to operate the vehicle.

3 (B) To the legal owner or the legal owner's agency, without  
4 payment of any fees, fines, or penalties for parking tickets or  
5 registration and without proof of current registration, if the vehicle  
6 will only be transported pursuant to the exemption specified in  
7 Section 4022 and if the legal owner does all of the following:

8 (i) Pays the cost of towing and storing the vehicle.

9 (ii) Completes an affidavit in a form acceptable to the  
10 impounding law enforcement agency stating that the vehicle was  
11 not in possession of the legal owner at the time of occurrence of  
12 an offense relating to standing or parking. A vehicle released to a  
13 legal owner under this subdivision is a repossessed vehicle for  
14 purposes of disposition or sale. The impounding agency has a lien  
15 on any surplus that remains upon sale of the vehicle to which the  
16 registered owner is or may be entitled, as security for the full  
17 amount of parking penalties for any notices of parking violations  
18 issued for the vehicle and for all local administrative charges  
19 imposed pursuant to Section 22850.5. Upon receipt of any surplus,  
20 the legal owner shall promptly remit to, and deposit with, the  
21 agency responsible for processing notices of parking violations  
22 from that surplus, the full amount of the parking penalties for all  
23 notices of parking violations issued for the vehicle and for all local  
24 administrative charges imposed pursuant to Section 22850.5.

25 (4) The impounding agency that has a lien on the surplus that  
26 remains upon the sale of a vehicle to which a registered owner is  
27 entitled has a deficiency claim against the registered owner for the  
28 full amount of parking penalties for any notices of parking  
29 violations issued for the vehicle and for all local administrative  
30 charges imposed pursuant to Section 22850.5, less the amount  
31 received from the sale of the vehicle.

32 (5) As used in this subdivision, "offstreet parking facility" means  
33 an offstreet facility held open for use by the public for parking  
34 vehicles and includes a publicly owned facility for offstreet  
35 parking, and a privately owned facility for offstreet parking if a  
36 fee is not charged for the privilege to park and it is held open for  
37 the common public use of retail customers.

38 (p) When the peace officer issues the driver of a vehicle a notice  
39 to appear for a violation of Section 12500, 14601, 14601.1,  
40 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is

1 not impounded pursuant to Section 22655.5. A vehicle so removed  
2 from the highway or public land, or from private property after  
3 having been on a highway or public land, shall not be released to  
4 the registered owner or his or her agent, except upon presentation  
5 of the registered owner's or his or her agent's currently valid  
6 driver's license to operate the vehicle and proof of current vehicle  
7 registration, or upon order of a court.

8 (q) When a vehicle is parked for more than 24 hours on a portion  
9 of highway that is located within the boundaries of a common  
10 interest development, as defined in ~~subdivision (e) of Section 4354-~~  
11 *4100* of the Civil Code, and signs, as required by paragraph (1) of  
12 subdivision (a) of Section 22658 of this code, have been posted  
13 on that portion of highway providing notice to drivers that vehicles  
14 parked thereon for more than 24 hours will be removed at the  
15 owner's expense, pursuant to a resolution or ordinance adopted  
16 by the local authority.

17 (r) When a vehicle is illegally parked and blocks the movement  
18 of a legally parked vehicle.

19 (s) (1) When a vehicle, except highway maintenance or  
20 construction equipment, an authorized emergency vehicle, or a  
21 vehicle that is properly permitted or otherwise authorized by the  
22 Department of Transportation, is stopped, parked, or left standing  
23 for more than eight hours within a roadside rest area or viewpoint.

24 (2) Notwithstanding paragraph (1), when a commercial motor  
25 vehicle, as defined in paragraph (1) of subdivision (b) of Section  
26 15210, is stopped, parked, or left standing for more than 10 hours  
27 within a roadside rest area or viewpoint.

28 (3) For purposes of this subdivision, a roadside rest area or  
29 viewpoint is a publicly maintained vehicle parking area, adjacent  
30 to a highway, utilized for the convenient, safe stopping of a vehicle  
31 to enable motorists to rest or to view the scenery. If two or more  
32 roadside rest areas are located on opposite sides of the highway,  
33 or upon the center divider, within seven miles of each other, then  
34 that combination of rest areas is considered to be the same rest  
35 area.

36 (t) When a peace officer issues a notice to appear for a violation  
37 of Section 25279.

38 (u) When a peace officer issues a citation for a violation of  
39 Section 11700 and the vehicle is being offered for sale.

1 (v) (1) When a vehicle is a mobile billboard advertising display,  
 2 as defined in Section 395.5, and is parked or left standing in  
 3 violation of a local resolution or ordinance adopted pursuant to  
 4 subdivision (m) of Section 21100, if the registered owner of the  
 5 vehicle was previously issued a warning citation for the same  
 6 offense, pursuant to paragraph (2).

7 (2) Notwithstanding subdivision (a) of Section 22507, a city or  
 8 county, in lieu of posting signs noticing a local ordinance  
 9 prohibiting mobile billboard advertising displays adopted pursuant  
 10 to subdivision (m) of Section 21100, may provide notice by issuing  
 11 a warning citation advising the registered owner of the vehicle that  
 12 he or she may be subject to penalties upon a subsequent violation  
 13 of the ordinance, that may include the removal of the vehicle as  
 14 provided in paragraph (1). A city or county is not required to  
 15 provide further notice for a subsequent violation prior to the  
 16 enforcement of penalties for a violation of the ordinance.

17 (w) (1) When a vehicle is parked or left standing in violation  
 18 of a local ordinance or resolution adopted pursuant to subdivision  
 19 (p) of Section 21100, if the registered owner of the vehicle was  
 20 previously issued a warning citation for the same offense, pursuant  
 21 to paragraph (2).

22 (2) Notwithstanding subdivision (a) of Section 22507, a city or  
 23 county, in lieu of posting signs noticing a local ordinance regulating  
 24 advertising signs adopted pursuant to subdivision (p) of Section  
 25 21100, may provide notice by issuing a warning citation advising  
 26 the registered owner of the vehicle that he or she may be subject  
 27 to penalties upon a subsequent violation of the ordinance that may  
 28 include the removal of the vehicle as provided in paragraph (1).  
 29 A city or county is not required to provide further notice for a  
 30 subsequent violation prior to the enforcement of penalties for a  
 31 violation of the ordinance.

32 SEC. 82. Section 22651.05 of the Vehicle Code is amended to  
 33 read:

34 22651.05. (a) A trained volunteer of a state or local law  
 35 enforcement agency, who is engaged in directing traffic or  
 36 enforcing parking laws and regulations, of a city, county, or  
 37 jurisdiction of a state agency in which a vehicle is located, may  
 38 remove or authorize the removal of a vehicle located within the  
 39 territorial limits in which an officer or employee of that agency  
 40 may act, under any of the following circumstances:

1 (1) When a vehicle is parked or left standing upon a highway  
2 for 72 or more consecutive hours in violation of a local ordinance  
3 authorizing the removal.

4 (2) When a vehicle is illegally parked or left standing on a  
5 highway in violation of a local ordinance forbidding standing or  
6 parking and the use of a highway, or a portion thereof, is necessary  
7 for the cleaning, repair, or construction of the highway, or for the  
8 installation of underground utilities, and signs giving notice that  
9 the vehicle may be removed are erected or placed at least 24 hours  
10 prior to the removal by local authorities pursuant to the ordinance.

11 (3) Wherever the use of the highway, or a portion thereof, is  
12 authorized by local authorities for a purpose other than the normal  
13 flow of traffic or for the movement of equipment, articles, or  
14 structures of unusual size, and the parking of a vehicle would  
15 prohibit or interfere with that use or movement, and signs giving  
16 notice that the vehicle may be removed are erected or placed at  
17 least 24 hours prior to the removal by local authorities pursuant  
18 to the ordinance.

19 (4) Whenever a vehicle is parked or left standing where local  
20 authorities, by resolution or ordinance, have prohibited parking  
21 and have authorized the removal of vehicles. A vehicle may not  
22 be removed unless signs are posted giving notice of the removal.

23 (5) Whenever a vehicle is parked for more than 24 hours on a  
24 portion of highway that is located within the boundaries of a  
25 common interest development, as defined in Section 4100 of the  
26 Civil Code, and signs, as required by Section 22658.2, have been  
27 posted on that portion of highway providing notice to drivers that  
28 vehicles parked thereon for more than 24 hours will be removed  
29 at the owner's expense, pursuant to a resolution or ordinance  
30 adopted by the local authority.

31 (b) The provisions of this chapter that apply to a vehicle  
32 removed pursuant to Section 22651 apply to a vehicle removed  
33 pursuant to subdivision (a).

34 (c) For purposes of subdivision (a), a "trained volunteer" is a  
35 person who, of his or her own free will, provides services, without  
36 any financial gain, to a local or state law enforcement agency, and  
37 who is duly trained and certified to remove a vehicle by a local or  
38 state law enforcement agency.

39 SEC. 83. Section 22658 of the Vehicle Code is amended to  
40 read:

1 22658. (a) The owner or person in lawful possession of private  
2 property, including an association of a common interest  
3 development as defined in Sections 4080 and 4100 of the Civil  
4 Code, may cause the removal of a vehicle parked on the property  
5 to a storage facility that meets the requirements of subdivision (n)  
6 under any of the following circumstances:

7 (1) There is displayed, in plain view at all entrances to the  
8 property, a sign not less than 17 inches by 22 inches in size, with  
9 lettering not less than one inch in height, prohibiting public parking  
10 and indicating that vehicles will be removed at the owner's  
11 expense, and containing the telephone number of the local traffic  
12 law enforcement agency and the name and telephone number of  
13 each towing company that is a party to a written general towing  
14 authorization agreement with the owner or person in lawful  
15 possession of the property. The sign may also indicate that a  
16 citation may also be issued for the violation.

17 (2) The vehicle has been issued a notice of parking violation,  
18 and 96 hours have elapsed since the issuance of that notice.

19 (3) The vehicle is on private property and lacks an engine,  
20 transmission, wheels, tires, doors, windshield, or any other major  
21 part or equipment necessary to operate safely on the highways,  
22 the owner or person in lawful possession of the private property  
23 has notified the local traffic law enforcement agency, and 24 hours  
24 have elapsed since that notification.

25 (4) The lot or parcel upon which the vehicle is parked is  
26 improved with a single-family dwelling.

27 (b) The tow truck operator removing the vehicle, if the operator  
28 knows or is able to ascertain from the property owner, person in  
29 lawful possession of the property, or the registration records of  
30 the Department of Motor Vehicles the name and address of the  
31 registered and legal owner of the vehicle, shall immediately give,  
32 or cause to be given, notice in writing to the registered and legal  
33 owner of the fact of the removal, the grounds for the removal, and  
34 indicate the place to which the vehicle has been removed. If the  
35 vehicle is stored in a storage facility, a copy of the notice shall be  
36 given to the proprietor of the storage facility. The notice provided  
37 for in this section shall include the amount of mileage on the  
38 vehicle at the time of removal and the time of the removal from  
39 the property. If the tow truck operator does not know and is not  
40 able to ascertain the name of the owner or for any other reason is

1 unable to give the notice to the owner as provided in this section,  
2 the tow truck operator shall comply with the requirements of  
3 subdivision (c) of Section 22853 relating to notice in the same  
4 manner as applicable to an officer removing a vehicle from private  
5 property.

6 (c) This section does not limit or affect any right or remedy that  
7 the owner or person in lawful possession of private property may  
8 have by virtue of other provisions of law authorizing the removal  
9 of a vehicle parked upon private property.

10 (d) The owner of a vehicle removed from private property  
11 pursuant to subdivision (a) may recover for any damage to the  
12 vehicle resulting from any intentional or negligent act of a person  
13 causing the removal of, or removing, the vehicle.

14 (e) (1) An owner or person in lawful possession of private  
15 property, or an association of a common interest development,  
16 causing the removal of a vehicle parked on that property is liable  
17 for double the storage or towing charges whenever there has been  
18 a failure to comply with paragraph (1), (2), or (3) of subdivision  
19 (a) or to state the grounds for the removal of the vehicle if requested  
20 by the legal or registered owner of the vehicle as required by  
21 subdivision (f).

22 (2) A property owner or owner's agent or lessee who causes the  
23 removal of a vehicle parked on that property pursuant to the  
24 exemption set forth in subparagraph (A) of paragraph (1) of  
25 subdivision (l) and fails to comply with that subdivision is guilty  
26 of an infraction, punishable by a fine of one thousand dollars  
27 (\$1,000).

28 (f) An owner or person in lawful possession of private property,  
29 or an association of a common interest development, causing the  
30 removal of a vehicle parked on that property shall notify by  
31 telephone or, if impractical, by the most expeditious means  
32 available, the local traffic law enforcement agency within one hour  
33 after authorizing the tow. An owner or person in lawful possession  
34 of private property, an association of a common interest  
35 development, causing the removal of a vehicle parked on that  
36 property, or the tow truck operator who removes the vehicle, shall  
37 state the grounds for the removal of the vehicle if requested by the  
38 legal or registered owner of that vehicle. A towing company that  
39 removes a vehicle from private property in compliance with  
40 subdivision (l) is not responsible in a situation relating to the

1 validity of the removal. A towing company that removes the  
2 vehicle under this section shall be responsible for the following:

3 (1) Damage to the vehicle in the transit and subsequent storage  
4 of the vehicle.

5 (2) The removal of a vehicle other than the vehicle specified by  
6 the owner or other person in lawful possession of the private  
7 property.

8 (g) (1) (A) Possession of a vehicle under this section shall be  
9 deemed to arise when a vehicle is removed from private property  
10 and is in transit.

11 (B) Upon the request of the owner of the vehicle or that owner's  
12 agent, the towing company or its driver shall immediately and  
13 unconditionally release a vehicle that is not yet removed from the  
14 private property and in transit.

15 (C) A person failing to comply with subparagraph (B) is guilty  
16 of a misdemeanor.

17 (2) If a vehicle is released to a person in compliance with  
18 subparagraph (B) of paragraph (1), the vehicle owner or authorized  
19 agent shall immediately move that vehicle to a lawful location.

20 (h) A towing company may impose a charge of not more than  
21 one-half of the regular towing charge for the towing of a vehicle  
22 at the request of the owner, the owner's agent, or the person in  
23 lawful possession of the private property pursuant to this section  
24 if the owner of the vehicle or the vehicle owner's agent returns to  
25 the vehicle after the vehicle is coupled to the tow truck by means  
26 of a regular hitch, coupling device, drawbar, portable dolly, or is  
27 lifted off the ground by means of a conventional trailer, and before  
28 it is removed from the private property. The regular towing charge  
29 may only be imposed after the vehicle has been removed from the  
30 property and is in transit.

31 (i) (1) (A) A charge for towing or storage, or both, of a vehicle  
32 under this section is excessive if the charge exceeds the greater of  
33 the following:

34 (i) That which would have been charged for that towing or  
35 storage, or both, made at the request of a law enforcement agency  
36 under an agreement between a towing company and the law  
37 enforcement agency that exercises primary jurisdiction in the city  
38 in which is located the private property from which the vehicle  
39 was, or was attempted to be, removed, or if the private property  
40 is not located within a city, then the law enforcement agency that

1 exercises primary jurisdiction in the county in which the private  
2 property is located.

3 (ii) That which would have been charged for that towing or  
4 storage, or both, under the rate approved for that towing operator  
5 by the *Department of the California Highway Patrol* for the  
6 jurisdiction in which the private property is located and from which  
7 the vehicle was, or was attempted to be, removed.

8 (B) A towing operator shall make available for inspection and  
9 copying his or her rate approved by the California Highway Patrol,  
10 if any, within 24 hours of a request without a warrant to law  
11 enforcement, the Attorney General, district attorney, or city  
12 attorney.

13 (2) If a vehicle is released within 24 hours from the time the  
14 vehicle is brought into the storage facility, regardless of the  
15 calendar date, the storage charge shall be for only one day. Not  
16 more than one day's storage charge may be required for a vehicle  
17 released the same day that it is stored.

18 (3) If a request to release a vehicle is made and the appropriate  
19 fees are tendered and documentation establishing that the person  
20 requesting release is entitled to possession of the vehicle, or is the  
21 owner's insurance representative, is presented within the initial  
22 24 hours of storage, and the storage facility fails to comply with  
23 the request to release the vehicle or is not open for business during  
24 normal business hours, then only one day's storage charge may  
25 be required to be paid until after the first business day. A business  
26 day is any day in which the lienholder is open for business to the  
27 public for at least eight hours. If a request is made more than 24  
28 hours after the vehicle is placed in storage, charges may be imposed  
29 on a full calendar day basis for each day, or part thereof, that the  
30 vehicle is in storage.

31 (j) (1) A person who charges a vehicle owner a towing, service,  
32 or storage charge at an excessive rate, as described in subdivision  
33 (h) or (i), is civilly liable to the vehicle owner for four times the  
34 amount charged.

35 (2) A person who knowingly charges a vehicle owner a towing,  
36 service, or storage charge at an excessive rate, as described in  
37 subdivision (h) or (i), or who fails to make available his or her rate  
38 as required in subparagraph (B) of paragraph (1) of subdivision  
39 (i), is guilty of a misdemeanor, punishable by a fine of not more  
40 than two thousand five hundred dollars (\$2,500), or by

1 imprisonment in the county jail for not more than three months,  
2 or by both that fine and imprisonment.

3 (k) (1) A person operating or in charge of a storage facility  
4 where vehicles are stored pursuant to this section shall accept a  
5 valid bank credit card or cash for payment of towing and storage  
6 by a registered owner, the legal owner, or the owner's agent  
7 claiming the vehicle. A credit card shall be in the name of the  
8 person presenting the card. "Credit card" means "credit card" as  
9 defined in subdivision (a) of Section 1747.02 of the Civil Code,  
10 except, for the purposes of this section, credit card does not include  
11 a credit card issued by a retail seller.

12 (2) A person described in paragraph (1) shall conspicuously  
13 display, in that portion of the storage facility office where business  
14 is conducted with the public, a notice advising that all valid credit  
15 cards and cash are acceptable means of payment.

16 (3) A person operating or in charge of a storage facility who  
17 refuses to accept a valid credit card or who fails to post the required  
18 notice under paragraph (2) is guilty of a misdemeanor, punishable  
19 by a fine of not more than two thousand five hundred dollars  
20 (\$2,500), or by imprisonment in the county jail for not more than  
21 three months, or by both that fine and imprisonment.

22 (4) A person described in paragraph (1) who violates paragraph  
23 (1) or (2) is civilly liable to the registered owner of the vehicle or  
24 the person who tendered the fees for four times the amount of the  
25 towing and storage charges.

26 (5) A person operating or in charge of the storage facility shall  
27 have sufficient moneys on the premises of the primary storage  
28 facility during normal business hours to accommodate, and make  
29 change in, a reasonable monetary transaction.

30 (6) Credit charges for towing and storage services shall comply  
31 with Section 1748.1 of the Civil Code. Law enforcement agencies  
32 may include the costs of providing for payment by credit when  
33 making agreements with towing companies as described in  
34 subdivision (i).

35 (l) (1) (A) A towing company shall not remove or commence  
36 the removal of a vehicle from private property without first  
37 obtaining the written authorization from the property owner or  
38 lessee, including an association of a common interest development,  
39 or an employee or agent thereof, who shall be present at the time  
40 of removal and verify the alleged violation, except that presence

1 and verification is not required if the person authorizing the tow  
2 is the property owner, or the owner's agent who is not a tow  
3 operator, of a residential rental property of 15 or fewer units that  
4 does not have an onsite owner, owner's agent or employee, and  
5 the tenant has verified the violation, requested the tow from that  
6 tenant's assigned parking space, and provided a signed request or  
7 electronic mail, or has called and provides a signed request or  
8 electronic mail within 24 hours, to the property owner or owner's  
9 agent, which the owner or agent shall provide to the towing  
10 company within 48 hours of authorizing the tow. The signed  
11 request or electronic mail shall contain the name and address of  
12 the tenant, and the date and time the tenant requested the tow. A  
13 towing company shall obtain, within 48 hours of receiving the  
14 written authorization to tow, a copy of a tenant request required  
15 pursuant to this subparagraph. For the purpose of this subparagraph,  
16 a person providing the written authorization who is required to be  
17 present on the private property at the time of the tow does not have  
18 to be physically present at the specified location of where the  
19 vehicle to be removed is located on the private property.

20 (B) The written authorization under subparagraph (A) shall  
21 include all of the following:

22 (i) The make, model, vehicle identification number, and license  
23 plate number of the removed vehicle.

24 (ii) The name, signature, job title, residential or business ~~address~~  
25 *address*, and working telephone number of the person, described  
26 in subparagraph (A), authorizing the removal of the vehicle.

27 (iii) The grounds for the removal of the vehicle.

28 (iv) The time when the vehicle was first observed parked at the  
29 private property.

30 (v) The time that authorization to tow the vehicle was given.

31 (C) (i) When the vehicle owner or his or her agent claims the  
32 vehicle, the towing company prior to payment of a towing or  
33 storage charge shall provide a photocopy of the written  
34 authorization to the vehicle owner or the agent.

35 (ii) If the vehicle was towed from a residential property, the  
36 towing company shall redact the information specified in clause  
37 (ii) of subparagraph (B) in the photocopy of the written  
38 authorization provided to the vehicle owner or the agent pursuant  
39 to clause (i).

1 (iii) The towing company shall also provide to the vehicle owner  
2 or the agent a separate notice that provides the telephone number  
3 of the appropriate local law enforcement or prosecuting agency  
4 by stating “If you believe that you have been wrongfully towed,  
5 please contact the local law enforcement or prosecuting agency at  
6 [insert appropriate telephone number].” The notice shall be in  
7 English and in the most populous language, other than English,  
8 that is spoken in the jurisdiction.

9 (D) A towing company shall not remove or commence the  
10 removal of a vehicle from private property described in subdivision  
11 (a) of Section 22953 unless the towing company has made a good  
12 faith inquiry to determine that the owner or the property owner’s  
13 agent complied with Section 22953.

14 (E) (i) General authorization to remove or commence removal  
15 of a vehicle at the towing company’s discretion shall not be  
16 delegated to a towing company or its affiliates except in the case  
17 of a vehicle unlawfully parked within 15 feet of a fire hydrant or  
18 in a fire lane, or in a manner which interferes with an entrance to,  
19 or exit from, the private property.

20 (ii) In those cases in which general authorization is granted to  
21 a towing company or its affiliate to undertake the removal or  
22 commence the removal of a vehicle that is unlawfully parked within  
23 15 feet of a fire hydrant or in a fire lane, or that interferes with an  
24 entrance to, or exit from, private property, the towing company  
25 and the property owner, or owner’s agent, or person in lawful  
26 possession of the private property shall have a written agreement  
27 granting that general authorization.

28 (2) If a towing company removes a vehicle under a general  
29 authorization described in subparagraph (E) of paragraph (1) and  
30 that vehicle is unlawfully parked within 15 feet of a fire hydrant  
31 or in a fire lane, or in a manner that interferes with an entrance to,  
32 or exit from, the private property, the towing company shall take,  
33 prior to the removal of that vehicle, a photograph of the vehicle  
34 that clearly indicates that parking violation. Prior to accepting  
35 payment, the towing company shall keep one copy of the  
36 photograph taken pursuant to this paragraph, and shall present that  
37 photograph and provide, without charge, a photocopy to the owner  
38 or an agent of the owner, when that person claims the vehicle.

39 (3) A towing company shall maintain the original written  
40 authorization, or the general authorization described in

1 subparagraph (E) of paragraph (1) and the photograph of the  
2 violation, required pursuant to this section, and any written requests  
3 from a tenant to the property owner or owner's agent required by  
4 subparagraph (A) of paragraph (1), for a period of three years and  
5 shall make them available for inspection and copying within 24  
6 hours of a request without a warrant to law enforcement, the  
7 Attorney General, district attorney, or city attorney.

8 (4) A person who violates this subdivision is guilty of a  
9 misdemeanor, punishable by a fine of not more than two thousand  
10 five hundred dollars (\$2,500), or by imprisonment in the county  
11 jail for not more than three months, or by both that fine and  
12 imprisonment.

13 (5) A person who violates this subdivision is civilly liable to  
14 the owner of the vehicle or his or her agent for four times the  
15 amount of the towing and storage charges.

16 (m) (1) A towing company that removes a vehicle from private  
17 property under this section shall notify the local law enforcement  
18 agency of that tow after the vehicle is removed from the private  
19 property and is in transit.

20 (2) A towing company is guilty of a misdemeanor if the towing  
21 company fails to provide the notification required under paragraph  
22 (1) within 60 minutes after the vehicle is removed from the private  
23 property and is in transit or 15 minutes after arriving at the storage  
24 facility, whichever time is less.

25 (3) A towing company that does not provide the notification  
26 under paragraph (1) within 30 minutes after the vehicle is removed  
27 from the private property and is in transit is civilly liable to the  
28 registered owner of the vehicle, or the person who tenders the fees,  
29 for three times the amount of the towing and storage charges.

30 (4) If notification is impracticable, the times for notification, as  
31 required pursuant to paragraphs (2) and (3), shall be tolled for the  
32 time period that notification is impracticable. This paragraph is an  
33 affirmative defense.

34 (n) A vehicle removed from private property pursuant to this  
35 section shall be stored in a facility that meets all of the following  
36 requirements:

37 (1) (A) Is located within a 10-mile radius of the property from  
38 where the vehicle was removed.

39 (B) The 10-mile radius requirement of subparagraph (A) does  
40 not apply if a towing company has prior general written approval

1 from the law enforcement agency that exercises primary  
2 jurisdiction in the city in which is located the private property from  
3 which the vehicle was removed, or if the private property is not  
4 located within a city, then the law enforcement agency that  
5 exercises primary jurisdiction in the county in which is located the  
6 private property.

7 (2) (A) Remains open during normal business hours and releases  
8 vehicles after normal business hours.

9 (B) A gate fee may be charged for releasing a vehicle after  
10 normal business hours, weekends, and state holidays. However,  
11 the maximum hourly charge for releasing a vehicle after normal  
12 business hours shall be one-half of the hourly tow rate charged for  
13 initially towing the vehicle, or less.

14 (C) Notwithstanding any other provision of law and for purposes  
15 of this paragraph, “normal business hours” are Monday to Friday,  
16 inclusive, from 8 a.m. to 5 p.m., inclusive, except state holidays.

17 (3) Has a public pay telephone in the office area that is open  
18 and accessible to the public.

19 (o) (1) It is the intent of the Legislature in the adoption of  
20 subdivision (k) to assist vehicle owners or their agents by, among  
21 other things, allowing payment by credit cards for towing and  
22 storage services, thereby expediting the recovery of towed vehicles  
23 and concurrently promoting the safety and welfare of the public.

24 (2) It is the intent of the Legislature in the adoption of  
25 subdivision (l) to further the safety of the general public by  
26 ensuring that a private property owner or lessee has provided his  
27 or her authorization for the removal of a vehicle from his or her  
28 property, thereby promoting the safety of those persons involved  
29 in ordering the removal of the vehicle as well as those persons  
30 removing, towing, and storing the vehicle.

31 (3) It is the intent of the Legislature in the adoption of  
32 subdivision (g) to promote the safety of the general public by  
33 requiring towing companies to unconditionally release a vehicle  
34 that is not lawfully in their possession, thereby avoiding the  
35 likelihood of dangerous and violent confrontation and physical  
36 injury to vehicle owners and towing operators, the stranding of  
37 vehicle owners and their passengers at a dangerous time and  
38 location, and impeding expedited vehicle recovery, without wasting  
39 law enforcement’s limited resources.

1 (p) The remedies, sanctions, restrictions, and procedures  
2 provided in this section are not exclusive and are in addition to  
3 other remedies, sanctions, restrictions, or procedures that may be  
4 provided in other provisions of law, including, but not limited to,  
5 those that are provided in Sections 12110 and 34660.

6 (q) A vehicle removed and stored pursuant to this section shall  
7 be released by the law enforcement agency, impounding agency,  
8 or person in possession of the vehicle, or any person acting on  
9 behalf of them, to the legal owner or the legal owner's agent upon  
10 presentation of the assignment, as defined in subdivision (b) of  
11 Section 7500.1 of the Business and Professions Code; a release  
12 from the one responsible governmental agency, only if required  
13 by the agency; a government-issued photographic identification  
14 card; and any one of the following as determined by the legal  
15 owner or the legal owner's agent: a certificate of repossession for  
16 the vehicle, a security agreement for the vehicle, or title, whether  
17 paper or electronic, showing proof of legal ownership for the  
18 vehicle. Any documents presented may be originals, photocopies,  
19 or facsimile copies, or may be transmitted electronically. The  
20 storage facility shall not require any documents to be notarized.  
21 The storage facility may require the agent of the legal owner to  
22 produce a photocopy or facsimile copy of its repossession agency  
23 license or registration issued pursuant to Chapter 11 (commencing  
24 with Section 7500) of Division 3 of the Business and Professions  
25 Code, or to demonstrate, to the satisfaction of the storage facility,  
26 that the agent is exempt from licensure pursuant to Section 7500.2  
27 or 7500.3 of the Business and Professions Code.

28 SEC. 84. Section 13553 of the Water Code is amended to read:

29 13553. (a) The Legislature hereby finds and declares that the  
30 use of potable domestic water for toilet and urinal flushing in  
31 structures is a waste or an unreasonable use of water within the  
32 meaning of Section 2 of Article X of the California Constitution  
33 if recycled water, for these uses, is available to the user and meets  
34 the requirements set forth in Section 13550, as determined by the  
35 state board after notice and a hearing.

36 (b) The state board may require a public agency or person  
37 subject to this section to furnish any information that may be  
38 relevant to making the determination required in subdivision (a).

39 (c) For purposes of this section and Section 13554, "structure"  
40 or "structures" means commercial, retail, and office buildings,

1 theaters, auditoriums, condominium projects, schools, hotels,  
2 apartments, barracks, dormitories, jails, prisons, and reformatories,  
3 and other structures as determined by the State Department of  
4 Public Health.

5 (d) Recycled water may be used in condominium projects, as  
6 defined in Section 4125 of the Civil Code, subject to all of the  
7 following conditions:

8 (1) Prior to the indoor use of recycled water in any condominium  
9 project, the agency delivering the recycled water to the  
10 condominium project shall file a report with, and receive written  
11 approval of the report from, the State Department of Public Health.  
12 The report shall be consistent with the provisions of Title 22 of  
13 the California Code of Regulations generally applicable to  
14 dual-plumbed structures and shall include all the following:

15 (A) That potable water service to each condominium project  
16 will be provided with a backflow protection device approved by  
17 the State Department of Public Health to protect the agency's  
18 public water system, as defined in Section 116275 of the Health  
19 and Safety Code. The backflow protection device approved by the  
20 State Department of Public Health shall be inspected and tested  
21 annually by a person certified in the inspection of backflow  
22 prevention devices.

23 (B) That any plumbing modifications in the condominium unit  
24 or any physical alteration of the structure will be done in  
25 compliance with state and local plumbing codes.

26 (C) That each condominium project will be tested by the  
27 recycled water agency or the responsible local agency at least once  
28 every four years to ensure that there are no indications of a possible  
29 cross connection between the condominium's potable and  
30 nonpotable systems.

31 (D) That recycled water lines will be color coded consistent  
32 with current statutes and regulations.

33 (2) The recycled water agency or the responsible local agency  
34 shall maintain records of all tests and annual inspections conducted.

35 (3) The condominium's declaration, as defined in Section 4135  
36 of the Civil Code, shall provide that the laws and regulations  
37 governing recycled water apply, shall not permit any exceptions  
38 to those laws and regulations, shall incorporate the report described  
39 in paragraph (1), and shall contain the following statement:

40

1 “NOTICE OF USE OF RECYCLED WATER

2  
3 This property is approved by the State Department of Public  
4 Health for the use of recycled water for toilet and urinal  
5 flushing. This water is not potable, is not suitable for indoor  
6 purposes other than toilet and urinal flushing purposes, and  
7 requires dual plumbing. Alterations and modifications to the  
8 plumbing system require a permit and are prohibited without  
9 first consulting with the appropriate local building code  
10 enforcement agency and your property management company  
11 or homeowners’ association to ensure that the recycled water  
12 is not mixed with the drinking water.”

13  
14 (e) The State Department of Public Health may adopt regulations  
15 as necessary to assist in the implementation of this section.

16 (f) This section shall only apply to condominium projects that  
17 are created, within the meaning of Section 4030 of the Civil Code,  
18 on or after January 1, 2008.

19 (g) This section and Section 13554 do not apply to a pilot  
20 program adopted pursuant to Section 13553.1.

21 SEC. 85. Any section of any act enacted by the Legislature  
22 during the 2012 calendar year, other than a section of the annual  
23 maintenance of the codes bill or another bill with a subordination  
24 clause, that takes effect on or before January 1, 2013, and that  
25 amends, amends and renumbers, amends and repeals, adds, repeals  
26 and adds, or repeals a section that is amended, amended and  
27 renumbered, amended and repealed, added, repealed and added,  
28 or repealed by this act, shall prevail over this act, whether that act  
29 is chaptered before or after this act.

30 SEC. 86. This act shall become operative on January 1, 2014,  
31 but only if ~~\_\_\_\_\_~~ *Assembly Bill 805 of the 2011-12 Regular Session*  
32 becomes operative on or before January 1, ~~2013~~. 2014.

O