

AMENDED IN ASSEMBLY MAY 17, 1995  
AMENDED IN ASSEMBLY MAY 3, 1995  
AMENDED IN ASSEMBLY APRIL 25, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 806**

---

---

**Introduced by Assembly Member Ducheny  
(Coauthor: Assembly Member Goldsmith)**

February 22, 1995

---

---

An act to amend Sections 2105 and 2106 of the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 806, as amended, Ducheny. Community property: disclosure: waiver.

Existing law requires each party to a proceeding for dissolution of the marriage or legal separation of the parties to serve on the other party a final declaration of disclosure and a current income and expense declaration.

This bill would permit the parties to stipulate to a mutual waiver, as specified, of the final declaration of disclosure, by the execution of a waiver in a marital settlement agreement *or stipulated judgment* or by stipulation in open court. *The bill would specify that the waiver shall not affect any fiduciary duties between the spouses and would specifically prohibit the use of the waiver in specified circumstances.* The bill would also authorize a court to issue an order for good cause exempting the parties from both the requirement of service

of the final declaration and the requirement of service of a current income and expense declaration. The bill would make conforming changes.

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 2105 of the Family Code is  
2 amended to read:

3 2105. (a) Except by court order for good cause or as  
4 provided in subdivision ~~(d)~~ (c), before or at the time the  
5 parties enter into an agreement for the resolution of  
6 property or support issues other than pendente lite  
7 support, or, in the event the case goes to trial, no later  
8 than 45 days before the first assigned trial date, each party  
9 shall serve on the other party a final declaration of  
10 disclosure and a current income and expense declaration,  
11 executed under penalty of perjury on a form prescribed  
12 by the Judicial Council. The commission of perjury on the  
13 final declaration of disclosure may be grounds for setting  
14 aside the judgment, or any part or parts thereof, pursuant  
15 to Chapter 10 (commencing with Section 2120), in  
16 addition to any and all other remedies, civil or criminal,  
17 that otherwise are available under law for the commission  
18 of perjury.

19 (b) The final declaration of disclosure shall include all  
20 of the following information:

21 (1) All material facts and information regarding the  
22 characterization of all assets and liabilities.

23 (2) All material facts and information regarding the  
24 valuation of all assets that are contended to be community  
25 or in which it is contended the community has an interest.

26 (3) All material facts and information regarding the  
27 amounts of all obligations that are contended to be  
28 community obligations or for which it is contended the  
29 community has liability.

30 (4) All material facts and information regarding the  
31 earnings, accumulations, and expenses of each party that



1 have been set forth in the income and expense  
2 declaration.

3 (c) The parties may stipulate to a mutual waiver of the  
4 requirements of subdivision (a) concerning the final  
5 declaration of disclosure by execution of a waiver in a  
6 marital settlement agreement *or stipulated judgment* or  
7 by stipulation in open court. The waiver shall include a  
8 representation that both parties have complied with  
9 Section 2104 and that the preliminary disclosure and the  
10 most recently served income and expense declaration are  
11 complete. *The waiver shall not affect any fiduciary duties*  
12 *between spouses, including the duties set forth in*  
13 *Sections 721, 1100, or 1102.*

14 (d) *A waiver of the final declaration of disclosure shall*  
15 *not be used (1) as a defense to a motion seeking relief*  
16 *from a judgment pursuant to Chapter 10 (commencing*  
17 *with Section 2120) of Division 6 or Section 473 of the Code*  
18 *of Civil Procedure; (2) as an act of “lack of care or*  
19 *attention” within the meaning of subdivision (a) of*  
20 *Section 2122; (3) as a “neglect of a legal duty” within the*  
21 *meaning of Section 1577 of the Civil Code; or (4) as an act*  
22 *constituting the basis for the denial of relief pursuant to*  
23 *Section 473 of the Code of Civil Procedure.*

24 SEC. 2. Section 2106 of the Family Code is amended  
25 to read:

26 2106. Except as provided in subdivision (d) of Section  
27 2105, absent good cause, no judgment shall be entered  
28 with respect to the parties’ property rights without each  
29 party having executed and served a copy of the final  
30 declaration of disclosure and current income and expense  
31 declaration. Each party shall execute and file with the  
32 court a declaration signed under penalty of perjury  
33 stating that service of the final declaration of disclosure  
34 and current income and expense declaration was made  
35 on the other party or that service of the final declaration  
36 of disclosure has been waived pursuant to subdivision (d)  
37 of Section 2105.

O

