

Senate Bill No. 73

CHAPTER 892

An act to amend Sections 998 and 2101 of the Code of Civil Procedure, to amend Sections 9402, 9403, 9404, 9405, 9406, and 9407 of, and to repeal Section 5114 of, the Commercial Code, to amend Section 721 of the Evidence Code, and to amend Sections 12583 and 68616 of the Government Code, relating to civil law.

[Approved by Governor October 11, 1997. Filed
with Secretary of State October 12, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 73, Kopp. Civil procedure: cross-examination of experts: settlement offers: financing statements.

(1) Existing law provides that if a settlement offer made by a defendant is not accepted and the plaintiff fails to obtain a more favorable judgment, the plaintiff shall not recover his or her costs and shall pay the defendant's costs from the time of the offer. Furthermore, costs incurred by the defendant are required to be deducted from any damages awarded the plaintiff; and if those costs exceed the damages awarded the plaintiff, a judgment for the net amount shall be awarded to the defendant; and, for these purposes, a plaintiff in a cause of action not based on tort is not deemed to have obtained a more favorable judgment unless the judgment obtained by the plaintiff, exclusive of attorney's fees and costs, exceeds the settlement offer made by the defendant.

This bill would, among other things, eliminate the latter provision described above relating to causes of action not based on tort and would exclude postoffer costs from the calculation of whether a plaintiff obtains a more favorable judgment. This bill would also make these provisions applicable to settlement offers made in disputes to be resolved by arbitration, except as specified.

(2) Existing law specifies that the proper place to file a financing statement in order to perfect a security interest is the office of the Secretary of State, with certain exceptions.

This bill would make various changes to provisions relating to the effect of the filing of security interests and financing statements.

(3) Existing provisions of the Commercial Code govern letters of credit. Chapter 176 of the Statutes of 1996 repealed and replaced those provisions.

This bill would make additional conforming changes, and would repeal an obsolete provision relating to letters of credit.

(4) Existing law does not permit cross-examination of an expert witness on the contents of texts, treatises, journals, or similar

publications unless the witness has referred to, considered, or relied upon the publication in forming his or her opinion, or the publication has already been admitted in evidence.

This bill would permit cross-examination of expert witnesses on the contents of a publication if it has been established as a reliable authority.

(5) Existing law prohibits trial court delay reduction rules from requiring shorter deadlines than those specified and permits exceptions for longer periods of time, as specified.

This bill would revise the provision requiring that longer periods of time be granted for service of the complaint in specified circumstances.

(6) Existing law, the Uniform Supervision of Trustees for Charitable Purposes Act, applies to all charitable corporations and trustees holding property for charitable purposes over which the state or the Attorney General has enforcement or supervisory powers, but does not apply to the United States, any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions, to any religious corporation or officer, director, or trustee of a religious organization that holds property for religious purposes, to a cemetery corporation, to a committee, as defined, or to a charitable corporation organized and operated primarily as a religious organization, educational institution, hospital, or a health care service plan.

This bill would provide that the filing, registration, and reporting provisions of the Uniform Supervision of Trustees for Charitable Purposes Act do not apply to the entities specified above.

This bill would incorporate additional changes in Section 68616 of the Government Code proposed by SB 19, to be operative if SB 19 and this bill are both enacted and become effective on or before January 1, 1998, and this bill is enacted last.

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

SECTION 1. Section 998 of the Code of Civil Procedure is amended to read:

998. (a) The costs allowed under Sections 1031 and 1032 shall be withheld or augmented as provided in this section.

(b) Not less than 10 days prior to commencement of trial or arbitration (as provided in Section 1281 or 1295) of a dispute to be resolved by arbitration, any party may serve an offer in writing upon any other party to the action to allow judgment to be taken or an award to be entered in accordance with the terms and conditions stated at that time.

(1) If the offer is accepted, the offer with proof of acceptance shall be filed and the clerk or the judge shall enter judgment accordingly.



In the case of an arbitration, the offer with proof of acceptance shall be filed with the arbitrator or arbitrators who shall promptly render an award accordingly.

(2) If the offer is not accepted prior to trial or arbitration, within 30 days after it is made, whichever occurs first, it shall be deemed withdrawn, and cannot be given in evidence upon the trial or arbitration.

(3) For purposes of this subdivision, a trial or arbitration shall be deemed to be actually commenced at the beginning of the opening statement of the plaintiff or counsel, and if there is no opening statement, then at the time of the administering of the oath or affirmation to the first witness, or the introduction of any evidence.

(c) (1) If an offer made by a defendant is not accepted and the plaintiff fails to obtain a more favorable judgment or award, the plaintiff shall not recover his or her postoffer costs and shall pay the defendant's costs from the time of the offer. In addition, in any action or proceeding other than an eminent domain action, the court or arbitrator, in its discretion, may require the plaintiff to pay a reasonable sum to cover costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in preparation for trial or arbitration of the case by the defendant.

(2) (A) In determining whether the plaintiff obtains a more favorable judgment, the court or arbitrator shall exclude the postoffer costs.

(B) It is the intent of the Legislature in enacting subparagraph (A) to supersede the holding in *Encinitas Plaza Real v. Knight*, 209 Cal. App. 3d 996, that attorney's fees awarded to the prevailing party were not costs for purposes of this section but were part of the judgment.

(d) If an offer made by a plaintiff is not accepted and the defendant fails to obtain a more favorable judgment or award in any action or proceeding other than an eminent domain action, the court or arbitrator, in its discretion, may require the defendant to pay a reasonable sum to cover costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in preparation for trial or arbitration of the case by the plaintiff, in addition to plaintiff's costs.

(e) If an offer made by a defendant is not accepted and the plaintiff fails to obtain a more favorable judgment or award, the costs under this section, from the time of the offer, shall be deducted from any damages awarded in favor of the plaintiff. If the costs awarded under this section exceed the amount of the damages awarded to the plaintiff the net amount shall be awarded to the defendant and judgment or award shall be entered accordingly.

(f) Police officers shall be deemed to be expert witnesses for the purposes of this section; plaintiff includes a cross-complainant and



defendant includes a cross-defendant. Any judgment or award entered pursuant to this section shall be deemed to be a compromise settlement.

(g) This chapter does not apply to an offer which is made by a plaintiff in an eminent domain action.

(h) The costs for services of expert witnesses for trial under subdivisions (c) and (d) shall not exceed those specified in Section 68092.5 of the Government Code.

(i) This section shall not apply to labor arbitrations filed pursuant to memoranda of understanding under the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code).

SEC. 2. Section 2101 of the Code of Civil Procedure is amended to read:

2101. (a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this title.

(b) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed for record in the office of the recorder of the county in which the real property subject to the liens is situated.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(1) If the person against whose interest the lien applies is a corporation, a limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State.

(2) If the person against whose interest the lien applies is a trust that is not covered by paragraph (1), in the office of the Secretary of State.

(3) If the person against whose interest the lien applies is the estate of a decedent, in the office of the Secretary of State.

(4) In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

SEC. 3. Section 5114 of the Commercial Code, as amended by Chapter 497 of the Statutes of 1996, is repealed.

SEC. 4. Section 9402 of the Commercial Code is amended to read:

9402. (1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor, and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.



When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subdivision (5) of Section 9103, or when the financing statement is filed as a fixture filing (Section 9313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subdivision (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A certified copy of a financing statement or security agreement is sufficient as a financing statement if the original thereof was filed in this state.

(2) A financing statement which otherwise complies with subdivision (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in or as a fixture filing covering any of the following:

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state or when the debtor's location is changed to this state. The financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances.

(b) Proceeds under Section 9306, if the security interest in the original collateral was perfected. The financing statement must describe the original collateral.

(c) Collateral as to which the filing has lapsed.

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subdivision (7)).

(3) A form substantially as follows is sufficient to comply with subdivision (1):

Name of debtor (or assigner) _____

Address _____

Name of secured party (or assignee) _____

Address _____

Debtor's trade name or style, if any _____

1. This financing statement covers the following types (or items) of property: (Describe) _____

2. (If collateral is crops) The above-described crops are growing or are to be grown on: (Describe real estate) _____

3. (If applicable) The above goods are or are to become fixtures on* (Describe real estate) _____



and this financing statement is to be recorded in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is _____

4. (If products of collateral are claimed) Products of the collateral are also covered.

| | |
|-------------|--|
| (Use | |
| whichever | Signature of debtor (or assigner) |
| is | |
| applicable) | Signature of secured party (or assignee) |

*Where appropriate substitute either “The above timber is standing on” or “The above mineral or the like (including oil and gas or accounts will be financed at the wellhead or minehead of the well or mine located on”

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party, or by the secured party alone in the case of an amendment pursuant to subdivision (7). An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this division, unless the context otherwise requires, the term “financing statement” means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subdivision (5) of Section 9103, or a financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be recorded in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner. A financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility must also recite either that it is filed as a fixture filing or that it covers goods which are or are to become fixtures.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if all of the following conditions are met:

- (a) The goods are described in the mortgage by item or type.
- (b) The goods are or are to become fixtures related to the real estate described in the mortgage.



(c) The mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records.

(d) The mortgage is duly recorded.

No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or names of partners. Where the debtor so changes his or her name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement or an appropriate amendment to the filed financing statement is filed before the acquisition of the collateral by the debtor. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. A financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility is not effective if it does not recite that it is to be recorded in the real estate records and either that it is filed as a fixture filing or that it covers goods which are or are to become fixtures.

(9) A financing statement substantially complying with the requirements of this section creates a security interest only to the extent of the interest of the debtor.

(10) No person or entity acting for or on behalf of the parties to a financing statement shall incur any liability for the consequences of recording a financing statement in the real estate records, and no action may be brought or maintained against that person or entity as a result of the recordation.

SEC. 5. Section 9403 of the Commercial Code, as amended by Section 5 of Chapter 656 of the Statutes of 1995, is amended to read:

9403. (1) Presentation for filing of a financing statement, tender of the filing fee and acceptance of the statement by the filing officer constitutes filing under this division.

(2) Except as provided in subdivision (6), a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such five-year period unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest



becomes unperfected unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse. Upon lapse of a fixture filing, it is deemed to have been ineffective as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party of record within six months prior to the expiration of the five-year period specified in subdivision (2). Any such continuation statement must be signed by the secured party of record, identify the original statement by file number thereof and state that the original statement is continued. A continuation statement filed to continue the effectiveness of a financing statement filed as a fixture filing (Section 9313) is not effective unless the following requirements are met:

(a) If the debtor did not have an interest of record in the real estate as of the date of the filing of the original statement, the continuation statement shall contain the name of a record owner of the real estate as of the date of the filing of the original statement.

(b) The continuation statement shall contain substantially the following statement: "This continuation statement is filed to continue the effectiveness of a financing statement filed as a fixture filing"; provided, that such statement shall clearly indicate the intent to continue the effectiveness of a financing statement as a fixture filing.

Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subdivision (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove a lapsed financing statement and related filings from the files and destroy them immediately if he or she has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he or she physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subdivision (6) shall be retained. The filing officer shall not destroy a financing statement and related filings as to which he or she has received written notice that there is an action pending relative thereto.

(4) Except as provided in subdivision (7) a filing officer shall mark each financing statement with a consecutive file number and with the date and time of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition



the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in this statement. The filing officer shall mark each continuation statement with the date and time of filing and shall index the same under the file number of the original financing statement.

(5) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for an original financing statement, an amendment or a continuation statement shall be twenty dollars (\$20) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be thirty dollars (\$30).

(6) If the debtor is a transmitting utility (subdivision (5) of Section 9401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subdivision (6) of Section 9402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) A financing or continuation statement covering collateral described in paragraph (b) of subdivision (1) of Section 9401 or filed as a fixture filing shall be recorded and indexed by the filing officer in the real property index of grantors under the name of the debtor and any owner of record shown on the financing statement. A financing or continuation statement so recorded and indexed and containing a description of real property affected thereby shall constitute constructive notice from the time of its acceptance for recording to any purchaser or encumbrancer of the real property of the security interest in such collateral.

(8) The amendments to subdivision (3) of this section, as enacted by the Legislature at the 1997–98 Regular Session, shall become operative June 1, 1998.

(9) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

SEC. 6. Section 9403 of the Commercial Code, as added by Section 5.5 of Chapter 656 of the Statutes of 1995, is amended to read:

9403. (1) Presentation for filing of a financing statement, tender of the filing fee and acceptance of the statement by the filing officer constitutes filing under this division.

(2) Except as provided in subdivision (6), a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such five-year period unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser



or lien creditor before lapse. Upon lapse of a fixture filing, it is deemed to have been ineffective as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party of record within six months prior to the expiration of the five-year period specified in subdivision (2). Any such continuation statement must be signed by the secured party of record, identify the original statement by file number thereof and state that the original statement is continued. A continuation statement filed to continue the effectiveness of a financing statement filed as a fixture filing (Section 9313) is not effective unless the following requirements are met:

(a) If the debtor did not have an interest of record in the real estate as of the date of the filing of the original statement, the continuation statement shall contain the name of a record owner of the real estate as of the date of the filing of the original statement.

(b) The continuation statement shall contain substantially the following statement: "This continuation statement is filed to continue the effectiveness of a financing statement filed as a fixture filing"; provided, that such statement shall clearly indicate the intent to continue the effectiveness of a financing statement as a fixture filing.

Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subdivision (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove a lapsed financing statement and related filings from the files and destroy them immediately if he or she has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he or she physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subdivision (6) shall be retained. The filing officer shall not destroy a financing statement and related filings as to which he or she has received written notice that there is an action pending relative thereto.

(4) Except as provided in subdivision (7) a filing officer shall mark each financing statement with a consecutive file number and with the date and time of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in this statement. The filing officer shall mark



each continuation statement with the date and time of filing and shall index the same under the file number of the original financing statement.

(5) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for an original financing statement, an amendment or a continuation statement shall be five dollars (\$5) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be ten dollars (\$10).

(6) If the debtor is a transmitting utility (subdivision (5) of Section 9401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subdivision (6) of Section 9402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) A financing or continuation statement covering collateral described in paragraph (b) of subdivision (1) of Section 9401 or filed as a fixture filing shall be recorded and indexed by the filing officer in the real property index of grantors under the name of the debtor and any owner of record shown on the financing statement. A financing or continuation statement so recorded and indexed and containing a description of real property affected thereby shall constitute constructive notice from the time of its acceptance for recording to any purchaser or encumbrancer of the real property of the security interest in such collateral.

(8) This section shall become operative on January 1, 2000.

SEC. 7. Section 9404 of the Commercial Code, as amended by Section 6 of Chapter 656 of the Statutes of 1995, is amended to read:

9404. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party of record must on written demand by the debtor send the debtor a statement that he or she no longer claims a security interest under the financing statement, which shall be identified by file number. If the affected secured party of record fails to send such a termination statement within 10 days after proper demand therefor he or she shall be liable to the debtor for all actual damages suffered by the debtor by reason of such failure, and if the failure is in bad faith for a penalty of one hundred dollars (\$100).

(2) The filing officer shall mark each such termination statement with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement. If the filing officer has a microfilm or other photographic record of the financing statement and related filings, the filing officer may remove the originals from the files at any time after receipt of the termination statement and destroy them, or if he or she has no such record, he or she may remove them from his or her



files at any time after one year after receipt of the termination statement and destroy them.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a termination statement shall be twenty dollars (\$20) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be thirty dollars (\$30).

(4) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

SEC. 7.5. Section 9404 of the Commercial Code, as added by Section 6.5 of Chapter 656 of the Statutes of 1995, is amended to read:

9404. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party of record must on written demand by the debtor send the debtor a statement that he or she no longer claims a security interest under the financing statement, which shall be identified by file number. If the affected secured party of record fails to send such a termination statement within 10 days after proper demand therefor he or she shall be liable to the debtor for all actual damages suffered by the debtor by reason of such failure, and if the failure is in bad faith for a penalty of one hundred dollars (\$100).

(2) The filing officer shall mark each such termination statement with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement. If the filing officer has a microfilm or other photographic record of the financing statement and related filings, the filing officer may remove the originals from the files at any time after receipt of the termination statement and destroy them, or if he or she has no such record, he or she may remove them from his or her files at any time after one year after receipt of the termination statement and destroy them.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a termination statement shall be five dollars (\$5) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be ten dollars (\$10).

(4) This section shall become operative on January 1, 2000.

SEC. 8. Section 9405 of the Commercial Code, as amended by Section 7 of Chapter 656 of the Statutes of 1995, is amended to read:

9405. (1) A secured party of record may by a writing release his or her security interest in all or a part of the collateral covered by a filed financing statement. A statement of release is sufficient if it is signed by the secured party of record, contains a statement describing the collateral being released, the name of the debtor, and the file number of the original financing statement.



(2) The filing officer shall mark each such statement with the date and time of filing and index the same under the name of the debtor and under the file number of the original financing statement.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a statement of release on a form conforming to standards prescribed by the Secretary of State shall be twenty dollars (\$20) or, if such a statement otherwise conforms to the requirements of this section, thirty dollars (\$30).

(4) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

SEC. 8.5. Section 9405 of the Commercial Code, as added by Section 7.5 of Chapter 656 of the Statutes of 1995, is amended to read:

9405. (1) A secured party of record may by a writing release his or her security interest in all or a part of the collateral covered by a filed financing statement. A statement of release is sufficient if it is signed by the secured party of record, contains a statement describing the collateral being released, the name of the debtor, and the file number of the original financing statement.

(2) The filing officer shall mark each such statement with the date and time of filing and index the same under the name of the debtor and under the file number of the original financing statement.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a statement of release on a form conforming to standards prescribed by the Secretary of State shall be five dollars (\$5) or, if such a statement otherwise conforms to the requirements of this section, ten dollars (\$10).

(4) This section shall become operative on January 1, 2000.

SEC. 9. Section 9406 of the Commercial Code, as amended by Section 8 of Chapter 656 of the Statutes of 1995, is amended to read:

9406. (1) If a secured party assigns all or part of his or her security interest in all or part of collateral covered by a filed financing statement, a statement of assignment may be filed. The statement shall be signed by the secured party and shall give the name and mailing address of the assignee, the names of the assignor secured party and the debtor, the file number of the original financing statement, and, if the assignment is less than a full assignment of all of the security interest in all of the collateral covered by the filed financing statement, a description of the collateral affected by the assignment.

(2) The filing officer shall mark each such statement of assignment with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement.

(3) A statement of assignment may be filed at the time of the filing of the financing statement, in which event the filing officer shall first file the financing statement and index the assignment under the



name of the debtor and under the file number given the financing statement. An assignment endorsed on the financing statement before it is filed with the filing officer need not be indexed by the filing officer.

(4) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a separate statement of assignment on a form conforming to standards prescribed by the Secretary of State shall be twenty dollars (\$20) or, if such a statement otherwise conforms to the requirements of this section, thirty dollars (\$30).

(5) Whenever a continuation statement, an amendment to a financing statement, a termination statement, a statement of release or a statement of assignment signed by one other than the secured party of record is presented for filing it must be accompanied by a statement of assignment signed by the secured party of record covering the collateral to which such continuation statement, amendment, termination statement, release, or assignment applies.

(6) Wherever in this code reference is made to the secured party of record it means the secured party named in the original financing statement or, if a statement of assignment has been filed, or an assignee has been named in the financing statement before it is filed, the assignee of the security interest in the collateral affected. Any continuation statement, amendment to a financing statement, termination statement, statement of release or statement of assignment signed by one other than the secured party of record as to the collateral affected thereby shall be ineffective for any purpose except as between the parties thereto.

(7) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

SEC. 9.5. Section 9406 of the Commercial Code, as added by Section 8.5 of Chapter 656 of the Statutes of 1995, is amended to read:

9406. (1) If a secured party assigns all or part of his or her security interest in all or part of collateral covered by a filed financing statement, a statement of assignment may be filed. The statement shall be signed by the secured party and shall give the name and mailing address of the assignee, the names of the assignor secured party and the debtor, the file number of the original financing statement, and, if the assignment is less than a full assignment of all of the security interest in all of the collateral covered by the filed financing statement, a description of the collateral affected by the assignment.

(2) The filing officer shall mark each such statement of assignment with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement.



(3) A statement of assignment may be filed at the time of the filing of the financing statement, in which event the filing officer shall first file the financing statement and index the assignment under the name of the debtor and under the file number given the financing statement. An assignment endorsed on the financing statement before it is filed with the filing officer need not be indexed by the filing officer.

(4) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a separate statement of assignment on a form conforming to standards prescribed by the Secretary of State shall be five dollars (\$5) or, if such a statement otherwise conforms to the requirements of this section, ten dollars (\$10).

(5) Whenever a continuation statement, an amendment to a financing statement, a termination statement, a statement of release or a statement of assignment signed by one other than the secured party of record is presented for filing it must be accompanied by a statement of assignment signed by the secured party of record covering the collateral to which such continuation statement, amendment, termination statement, release, or assignment applies.

(6) Wherever in this code reference is made to the secured party of record it means the secured party named in the original financing statement or, if a statement of assignment has been filed, or an assignee has been named in the financing statement before it is filed, the assignee of the security interest in the collateral affected. Any continuation statement, amendment to a financing statement, termination statement, statement of release or statement of assignment signed by one other than the secured party of record as to the collateral affected thereby shall be ineffective for any purpose except as between the parties thereto.

(7) This section shall become operative on January 1, 2000.

SEC. 10. Section 9407 of the Commercial Code is amended to read:

9407. (1) If the person filing any financing statement, amendment, termination statement, statement of assignment, continuation statement, or statement of release, furnishes the filing officer with a copy thereof, the filing officer shall upon request note upon the copy of a financing statement the file number and upon the copy of any of these statements the date and time of the filing of the original and deliver or send the copy to the filing person.

(2) Upon request of any person, the filing officer shall issue his or her certificate showing whether there is on file on the date and time stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and time of filing of each statement and the names and addresses of each secured party therein. Upon request, the filing officer shall furnish a copy of any filed financing statement



or related filings. If the filing officer is a county recorder, the fee for a certificate for each name searched shall be set by the filing officer in an amount that covers actual costs, but that, in no event, exceeds fifteen dollars (\$15), and the fee for copies shall be in accordance with Section 27366 of the Government Code. If the filing officer is the Secretary of State, the certificate shall be issued as part of a combined certificate pursuant to Section 9409 of the Commercial Code, and the fee for the certificate and copies shall be in accordance with that section.

(3) Fees to be charged by the Secretary of State for daily or less frequent summaries or compilations of filings, which he or she may furnish, shall be sufficient to pay at least the actual cost of that service. Fees shall be determined by the Secretary of State with the approval of the Department of Finance. These summaries or compilations may be in the form of microfilm copies or any other form as may be provided for the required information.

(4) The amendments to subdivision (2) of this section, as enacted by the Legislature at the 1997–98 Regular Session, shall become operative June 1, 1998.

SEC. 11. Section 721 of the Evidence Code is amended to read:

721. (a) Subject to subdivision (b), a witness testifying as an expert may be cross-examined to the same extent as any other witness and, in addition, may be fully cross-examined as to (1) his or her qualifications, (2) the subject to which his or her expert testimony relates, and (3) the matter upon which his or her opinion is based and the reasons for his or her opinion.

(b) If a witness testifying as an expert testifies in the form of an opinion, he or she may not be cross-examined in regard to the content or tenor of any scientific, technical, or professional text, treatise, journal, or similar publication unless any of the following occurs:

(1) The witness referred to, considered, or relied upon such publication in arriving at or forming his or her opinion.

(2) The publication has been admitted in evidence.

(3) The publication has been established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.

If admitted, relevant portions of the publication may be read into evidence but may not be received as exhibits.

SEC. 12. Section 12583 of the Government Code is amended to read:

12583. The filing, registration, and reporting provisions of this article do not apply to the United States, any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions, to any religious corporation sole or other religious corporation or organization that holds property for religious purposes, or to any officer, director, or trustee thereof who holds



property for like purposes, to a cemetery corporation regulated under Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, or to any committee as defined in Section 82013 that is required to and does file any statement pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of Title 9, or to a charitable corporation organized and operated primarily as a religious organization, educational institution, hospital, or a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code.

SEC. 13. Section 68616 of the Government Code, as amended by Section 16 of Chapter 1159 of the Statutes of 1996, is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) An order referring an action to arbitration or mediation may be made at any status conference held in accordance with subdivision (e), provided that any arbitration ordered may not commence prior to 210 days after the filing of the complaint, exclusive of the stipulated



period provided in subdivision (d). Any mediation ordered pursuant to Section 1775.3 of the Code of Civil Procedure may be commenced prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 13.5. Section 68616 of the Government Code, as amended by Section 16 of Chapter 1159 of the Statutes of 1996, is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.



(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 90 days after the filing of the complaint.

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) An order referring an action to arbitration or mediation may be made at any status conference held in accordance with subdivision (e), provided that any arbitration ordered may not commence prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). Any mediation ordered pursuant to Section 1775.3 of the Code of Civil Procedure may be commenced prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 14. Section 68616 of the Government Code, as amended by Section 17 of Chapter 1159 of the Statutes of 1996, is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.



(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) No case may be referred to arbitration prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided for in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall become operative on January 1, 1999.

SEC. 14.5. Section 68616 of the Government Code, as amended by Section 17 of Chapter 1159 of the Statutes of 1996, is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.



(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 90 days after the filing of the complaint.

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) No case may be referred to arbitration prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided for in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall become operative on January 1, 1999.

SEC. 15. Section 13.5 of this bill incorporates amendments to Section 68616 of the Government Code, as amended by Section 16 of Chapter 1159 of the Statutes of 1996, proposed by both this bill and SB 19. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 68616 of the Government Code, as amended by Section 16 of Chapter 1159 of the Statutes of 1996, and (3) this bill is enacted after SB 19, in which case Section 13 of this bill shall not become operative.

SEC. 16. Section 14.5 of this bill incorporates amendments to Section 68616 of the Government Code, as amended by Section 17 of Chapter 1159 of the Statutes of 1996, proposed by both this bill and SB 19. It shall only become operative if (1) both bills are enacted and



become effective on or before January 1, 1998, (2) each bill amends Section 68616 of the Government Code, as amended by Section 17 of Chapter 1159 of the Statutes of 1996, and (3) this bill is enacted after SB 19, in which case Section 14 of this bill shall not become operative.

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