

Senate Bill No. 1081

CHAPTER 873

An act to add Chapter 3 (commencing with Section 850) to Title 3 of Part 2 of Division 2 of the Civil Code, relating to hazardous materials.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1081, Calderon. Hazardous materials: mediation-arbitration.

Existing law requires any person who knows, or has probable cause to believe, that a significant disposal of hazardous waste has occurred on, under, or into the land which he or she owns or leases, or that the land is within a specified distance of a significant disposal of hazardous waste, and intends to allow specified construction on that land, to apply to the Department of Toxic Substances Control prior to construction for a determination as to whether the land should be designated a hazardous waste property or a border zone property. Existing law allows any person who knows or believes that land which he or she owns or leases is hazardous waste property or border zone property to apply to the department for such a determination.

This bill would establish the Environmental Responsibility Acceptance Act. The bill would, among other things, require the owner of a defined site who has actual awareness of a release of a hazardous material or hazardous materials that exceeds a notification threshold to take all reasonable steps to expeditiously identify the potentially responsible parties and, after obtaining actual awareness of the potentially responsible parties, send a notice of potential liability to the parties and the agency that the owner believes is the appropriate oversight agency, as specified. The bill would require a potentially responsible party who has actual awareness of a release that is likely to exceed the notification threshold to provide the owner with a release report, as specified, and either a commitment statement or a negative response. It would require, if the owner rejects the commitment statement, the owner and notice recipient to participate in a mediation process prior to the commencement of any litigation, except as specified. The bill would provide that the commitment statement, upon taking effect, is to have specified results and that, at any time after the commitment statement is accepted, either the owner or the notice recipient may file an action for material breach of rights and obligations associated with the statement.

The bill would further provide that neither the failure to issue a commitment statement nor its issuance is to be construed as an admission of liability under any federal, state, or local law, for the release that the party agrees to investigate or remediate.

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

SECTION 1. Chapter 3 (commencing with Section 850) is added to Title 3 of Part 2 of Division 2 of the Civil Code, to read:

CHAPTER 3. ENVIRONMENTAL RESPONSIBILITY ACCEPTANCE ACT

850. The definitions set forth in Section 25260 of the Health and Safety Code govern the construction of this chapter. In addition, the following definitions apply for purposes of this chapter only:

(a) “Actual awareness” means actual knowledge of a fact pertaining to an obligation under this chapter, including actual knowledge of a release exceeding the notification threshold. Only actual awareness possessed by those employees or representatives of an owner of a site who are responsible for monitoring, responding to or otherwise addressing the release shall be attributable to the owner. Only actual awareness possessed by those employees or representatives of a potentially responsible party who are responsible for monitoring, responding to, or otherwise addressing, the release shall be attributable to the potentially responsible party.

(b) “Commitment statement” means a written statement executed by the notice recipient which recites expressly the language specified in Section 854.

(c) “Mediation” means an informal process in which the disputing parties select a neutral third party to assist them in reaching a negotiated settlement in which the neutral third party has no power to impose a solution on the parties, but rather has the power only to assist the parties in shaping solutions to meet their interests and objectives.

(d) “Negative response” means a written response by the recipient of a notice of potential liability indicating that the recipient will not undertake any response action, or a deemed negative response pursuant to subdivision (c) of Section 851 in the event of the recipient’s failure to respond.

(e) “Neutral third party” means an experienced professional, such as an attorney, engineer, environmentalist, hydrologist, or retired judge, who has served as a mediator.

(f) “Notice of potential liability” means a notice, sent by the owner of the site, stating that a release that exceeds the notification threshold has occurred at the site and that the owner believes that the recipient of the notice is a responsible party with respect to the



release. The notice of potential liability shall describe the location of the site and the nature of the release.

(g) “Notice recipient” means any one of the following:

(1) A person who receives a notice of potential liability pursuant to subdivision (a) of Section 851.

(2) A person who provides a release report pursuant to subdivision (b) of Section 851.

(3) A person who offers a commitment statement to the owner of a site pursuant to subdivision (c) of Section 851.

(h) “Notification threshold” means any release of such a magnitude that:

(1) The release is the subject of a response action which has been ordered by, or is being performed by, an oversight agency; or

(2) The release is impeding the ability of the owner of the site to sell, lease, or otherwise use the site.

(i) “Operation and maintenance” means any activity as defined in subdivision (a) of Section 25318.5 of the Health and Safety Code.

(j) “Oversight agency” means any agency, as defined in subdivision (c) of Section 25260 of the Health and Safety Code, that has jurisdiction over a response action performed in connection with a release that is the subject of a notice of potential liability. Subject to any other limitation imposed by law, an oversight agency retains full discretion as to when it exercises jurisdiction over a site.

(k) “Reasonable steps,” as used in subdivision (a) of Section 851, means the least expensive means available to ascertain the potentially responsible parties. If the owner cannot otherwise identify any apparent, potentially responsible parties, then “reasonable steps” includes:

(1) Conducting a title search; and

(2) Reviewing all environmental reports in the owner’s possession of which the owner has actual awareness pertaining to the site.

(l) “Release” means the release, as defined in Sections 25320 and 25321 of the Health and Safety Code, of a hazardous material or hazardous materials.

(m) “Release report” means a notice sent by a responsible party to the owner of the site stating that a release has occurred on the site which is likely to exceed the notification threshold. The release report shall describe the location of the site and the nature of the release.

(n) “Remedial action” means any action as defined in Section 25322 of the Health and Safety Code.

(o) “Removal action” means any action as defined in subdivision (a) of Section 25323 of the Health and Safety Code.

(p) “Response action” means any removal actions, including, but not limited to, site investigations and remedial actions, including, but not limited to, operation and maintenance measures.



(q) “Responsible party” means any person who is liable under state or local law for taking action in response to a release.

(r) “Site” means any parcel of commercial, industrial, or agricultural real property where a hazardous materials release has occurred.

(s) “Written action” means any official action by any oversight agency where the oversight agency has expressly exercised its cleanup authority in writing, pursuant to the oversight agency’s procedures, directing a response action at the site.

851. (a) An owner of a site who has actual awareness of a release exceeding the notification threshold shall take all reasonable steps as defined in subdivision (j) of Section 850 to expeditiously identify the potentially responsible parties. The owner shall, as soon as reasonably possible after obtaining actual awareness of the potentially responsible parties, send a notice of potential liability to the identified potentially responsible parties and the agency, as defined in subdivision (c) of Section 25260 of the Health and Safety Code, that the owner believes to be the appropriate oversight agency. For any release exceeding the notification threshold of which the owner has actual awareness that occurred prior to, but within three years of, the effective date of this section, the notice shall be given on or before December 31, 1998.

(b) A potentially responsible party who has actual awareness of a release which is likely to exceed the notification threshold shall as soon as reasonably possible after obtaining actual awareness of the release provide the owner of the site where the release occurred with a release report. For any release exceeding the notification threshold of which the potentially responsible party has actual awareness that occurred prior to, but within three years of, the effective date of this section, the release report shall be given on or before December 31, 1998. A potentially responsible party may issue, at the potentially responsible party’s option, a commitment statement to the owner of the site within 120 days of the potentially responsible party’s issuance of a release report. The fact that a release report is issued shall not constitute an admission of liability and may not be admitted as evidence against a potentially responsible party in any litigation.

(c) When a notice of potential liability is issued, a notice recipient shall respond to the owner, in writing, and by certified mail, return receipt requested, within 120 days from the date that the notice of potential liability was mailed. The notice recipient’s response shall be either a commitment statement or a negative response. The notice recipient’s failure to submit the written response within the 120-day period, or failure to strictly comply with the form of the written response, as provided in Section 854, shall be deemed a negative response. The owner may agree in writing to extend the period during which the notice recipient may respond to the notice of potential liability. An extension of up to 120 days shall be provided if



the notice recipient commits to do a site investigation, the results of which shall be provided to the owner and the oversight agency.

(d) (1) The common law duty to mitigate damages shall apply to any failure of the owner of a site to give a timely notice of potential liability when the owner is required to give this notice pursuant to this chapter. Where an owner fails to mitigate damages by not giving a timely notice of potential liability, the owner's damage claim shall be reduced in accordance with common law principles by the amount that the potentially responsible party proves would have likely been mitigated had a timely notice of potential liability been given.

(2) Common law principles shall apply to the failure of the potentially responsible party to issue a timely release report. Where a potentially responsible party fails to give a timely release report, the potentially responsible party, in accordance with common law principles, shall be responsible to the owner of the site, for damages that the owner proves are likely caused by such failure to provide a release report.

(3) Any party who argues the applicability of this subdivision carries the burden of proof in that regard.

(4) Nothing in this section is intended to create a new cause of action or defense beyond that which already exists under common law.

(5) Subdivisions (a) and (b), and paragraphs (1) and (2) of this subdivision, shall not apply when the party to whom a notice of potential liability or release report is owed already possesses actual awareness of the information required to be transmitted in such notice of potential liability or release report.

(e) (1) Except as provided in paragraph (2), the requirements of this chapter shall not apply to a site listed pursuant to Section 25356 of the Health and Safety Code for response action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code or to a site where an oversight agency has issued an order or entered into an enforceable agreement pursuant to any authority, including, but not limited to, an order or enforceable agreement entered into by a local agency, the Department of Toxic Substance Control, the State Water Resources Control Board, or a regional water quality control board pursuant to Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), Chapter 6.8 (commencing with Section 25300), Chapter 6.85 (commencing with Section 25396), or Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code, or pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(2) The requirements of this chapter shall apply if either of the following applies:



(A) The order or enforceable agreement is issued or entered into after the owner accepts a commitment statement.

(B) The Department of Toxic Substance Control, State Water Resources Control Board, or regional water quality control board that issued the order or entered into an enforceable agreement consents in writing to the applicability of this chapter to the site.

(f) It is the intent of the Legislature for this chapter to resolve disputes between, and affect the rights of, private parties only. Nothing in this chapter shall affect the authority of the Department of Toxic Substance Control, the State Water Resources Control Board, a regional water quality control board, or any other oversight agency.

(g) Notwithstanding any other provision of this chapter, any time prior to accepting a commitment statement, the owner may provide the notice to the notice recipient that the provisions of subdivision (c), paragraph (2) of subdivision (e), and Sections 852 and 854, shall not apply to the site, in which case the provisions of subdivision (c), paragraph (2) of subdivision (e), and Sections 852 and 854 shall not apply to the site and the owner and notice recipient shall be entitled to pursue all other legal remedies and defenses authorized by law.

852. (a) Within 45 days after issuance of the commitment statement, the owner may transmit to the notice recipient by certified mail, return receipt requested, an executed copy of the commitment statement, indicating its acceptance. If the owner does not execute the commitment statement, the commitment statement shall be deemed to have been rejected upon expiration of the 45-day period. A notice recipient has no obligation with respect to the provisions of a rejected commitment statement.

(b) (1) Except as otherwise provided in this chapter, or unless the owner or the notice recipient has elected not to proceed with the mediation, if the owner rejects the commitment statement, the owner and notice recipient shall participate in a mediation process prior to the commencement of any litigation which pertains to a release covered by the commitment statement. The mediation process shall be supervised by a neutral third party mutually agreed upon by the owner and the notice recipient in order to mediate a mutually agreeable settlement between the owner and notice recipient of all issues related to the release.

(2) Either the notice recipient or the owner may elect not to proceed further with the mediation process at any time prior to completion of those proceedings.

(3) To the extent a mutually agreeable settlement is reached which allocates the liability and assigns the rights and obligations of the owner and notice recipient in a manner different from or inconsistent with this chapter, the settlement shall supersede the terms of this chapter pursuant to subdivision (f) of Section 853. If a settlement of all issues cannot be reached within 90 days after the



owner's rejection of the commitment statement, the neutral third party shall declare the mediation process unsuccessful and terminate the process. The owner and notice recipient may mutually agree to extend the mediation process but shall communicate any such extension in writing to the neutral third party. If the party issuing the commitment statement fails, for any reason, to participate in the mediation within 90 days of the rejection of the commitment statement, the owner may proceed with litigation.

(4) After the termination of an unsuccessful mediation process, the parties shall be free to litigate or otherwise resolve their respective claims. The parties may mutually agree to the terms of the commitment statement at any time after the termination of an unsuccessful mediation process, in which case this chapter shall govern the rights and obligations of the parties.

(5) Any applicable statute of limitations shall be tolled for 90 days following issuance of a notice of potential liability, a release report, or a commitment statement.

(6) Any applicable statute of limitations shall be tolled from the time the owner rejects a commitment statement until the termination of the mediation process. If mediation is not commenced within 90 days after the owner's rejection of the commitment statement, the tolling of the statute of limitations shall terminate unless otherwise agreed to by the parties.

(7) Unless the owner and notice recipient agree otherwise, the fees and costs of the neutral third party shall be borne equally by the notice recipient and the owner.

(c) Upon taking effect, the commitment statement shall have all of the following results:

(1) The commitment statement shall constitute a binding promise that the notice recipient will undertake any response action as required by an oversight agency through a written action, directed to the owner or notice recipient, in connection with the release that is the subject of the notice of potential liability or release report. The commitment statement shall not create any obligations with respect to releases occurring after the commitment statement is signed, or with respect to any other release that is not the subject of the notice of potential liability.

(2) The commitment statement shall constitute a binding promise that the owner shall provide reasonable site access to the notice recipient to take any action that is reasonably necessary or appropriate to conduct a response action. This grant of access shall not affect the rights of the owner if the notice recipient's activities onsite result in physical damage to the site which the notice recipient fails to repair within a reasonable period after completion of all onsite activities. Unless otherwise ordered by the oversight agency, the notice recipient shall take all reasonable steps to avoid interfering with the owner's use of the site.



(3) Except for civil actions seeking damages for personal injury or wrongful death, once a commitment statement has been accepted, the court shall stay any action brought by the owner of the site against the notice recipient that issued the commitment statement, including, but not limited to, actions in trespass, nuisance, negligence, and strict liability, which arise from or relate to a release for which a commitment statement has been issued. The stay shall be effective for a period of not more than two years from the date of acceptance of the commitment statement, but only so long as the site response action is proceeding to the satisfaction of an oversight agency. The stay shall not apply to any civil action that is based on fraud, failure to disclose, or misrepresentation related to any transaction between the owner of the site and the notice recipient, to any civil action for breach of the commitment statement, or to any civil action which is unrelated to the release. The owner and notice recipient may elect to extend the period of the stay by written agreement.

(4) In an action by an owner who has accepted a commitment statement against the notice recipient who issued the commitment statement, and which arises from or relates to a release for which a commitment statement has been issued, only the following damages shall be recoverable to the extent otherwise authorized by law:

(A) Damages for personal injuries or wrongful death caused by the release.

(B) Damages for breach of a commitment statement.

(C) Damages from the failure of a prospective purchaser to perform under a sales contract because of the release, where such failure to perform occurs prior to the issuance of the commitment statement.

(D) Damages for the lost use of the property prior to the issuance of a commitment statement caused by the release.

(E) Recovery of costs of investigating and responding to the release where such costs are incurred prior to the issuance of the commitment statement.

(F) Remedies for any breach of a preexisting contract entered into prior to the acceptance of a commitment statement.

(G) Damages for lost rents and any other damages recoverable under law associated with lost use of the site caused by any notice recipient during site response action activities.

(5) An owner may obtain rescission of a commitment statement if a notice recipient repudiates its obligations under the commitment statement, in which case Sections 852 and 854 shall no longer apply to the site.

(6) The notice recipient and owner shall copy each other with respect to all correspondence and proposed workplans to and from the oversight agency that relate to the site.



(d) Nothing in this chapter shall affect the authority of an oversight agency under the law to bring an administrative, criminal, or civil action against either a notice recipient or the owner, nor does it compel any action on the part of the oversight agency.

(e) At any time after the commitment statement is accepted, either the owner or the notice recipient may file an action against the other for material breach of rights and obligations associated with the commitment statement. Subject to the stay provided for in paragraph (3) of subdivision (c), the parties may litigate these claims in the same action as any other claims they may have in connection with the release that is the subject of the commitment statement.

(f) Whenever a notice recipient issues a commitment statement, the following notice shall be provided in 14 point boldface type if printed or in boldface capital letters if typed:

“THIS FORM WAS DEVELOPED AS PART OF A PROCESS ENACTED BY THE CALIFORNIA LEGISLATURE TO PROVIDE OWNERS OF PROPERTY AND POTENTIALLY RESPONSIBLE PARTIES AN ALTERNATIVE TO LITIGATING DISPUTES OVER CONTAMINATION. IT IS YOUR OPTION AS TO WHETHER YOU SIGN THIS FORM OR OTHERWISE PARTICIPATE IN THIS PROCESS. IF YOU CHOOSE NOT TO PARTICIPATE IN THE PROCESS, YOU SHOULD NOTIFY THE PARTY WHO SENT YOU THIS FORM. THIS FORM INVOLVES A TRADEOFF WHEREBY EACH PARTY ACQUIRES AND RELINQUISHES CERTAIN RIGHTS. UNDER THIS FORM, THE PROPERTY OWNER GETS THE ASSURANCE THAT THE POTENTIALLY RESPONSIBLE PARTY IS OBLIGATED TO PERFORM INVESTIGATORY AND CLEANUP ACTIONS IN THE EVENT THAT GOVERNMENT AUTHORITIES ELECT TO REQUIRE THESE ACTIONS. ON THE OTHER HAND, THE PROPERTY OWNER FOREGOES CERTAIN CLAIMS ASSOCIATED WITH RESIDUAL CONTAMINATION THAT GOVERNMENTAL AUTHORITIES ALLOW TO REMAIN IN PLACE ON THE PROPERTY. IF YOU ELECT NOT TO SIGN THIS FORM, THE PROCESS DEVELOPED BY THE LEGISLATURE CONTEMPLATES THAT YOU WILL ATTEMPT TO MEDIATE ANY DISPUTES REGARDING THE CONTAMINATION. HOWEVER, MEDIATION IS NEITHER MANDATORY NOR BINDING. IF YOU HAVE QUESTIONS ABOUT THE PROCESS, YOU MAY WISH TO CONSULT AN ATTORNEY.”

(g) Any applicable statute of limitations shall be tolled for two and one-half years from the date of acceptance of the commitment statement. If at the end of two years from the date of acceptance of the commitment statement an oversight agency has not issued a written action directed to the owner or notice recipient, the owner has 60 days in which he or she may terminate the commitment statement; and, in this event, it shall have no further force or effect.



In the event the owner terminates the commitment statement, subdivision (c) shall no longer apply to the site and shall no longer govern the rights and obligations of the owner or notice recipient.

853. (a) Neither the failure to issue a commitment statement nor its issuance shall be construed as an admission that the recipient of the notice of potential liability is liable under any federal, state, or local law, including common law, for the release that the party agrees to investigate or respond. Neither the failure to issue a commitment statement nor the contents of the commitment statement shall be admissible evidence in any proceeding, as defined in Section 901 of the Evidence Code, except that the contents of the commitment statement shall be admissible evidence in an action to enforce the commitment statement to the extent that such contents would be admissible under other applicable law.

(b) Nothing in this chapter shall subject a notice recipient to any damages, fines, or penalties for a failure to make a written response, either positive or negative, to a notice of potential liability.

(c) Nothing in this chapter shall subject the owner of a site to any damages, fines, or penalties for a failure to send a notice of potential liability pursuant to Section 851. Failure by the owner of a site to send a notice of potential liability of a release in a timely fashion shall not be deemed to create any liability for the owner under a theory of negligence per se.

(d) Nothing in this chapter imposes an affirmative duty on the owner of a site, or any potentially responsible party, to discover, or determine the nature or extent of, a hazardous materials release at the site. This chapter does not affect such an affirmative duty to the extent it is imposed by any other law.

(e) Subject to the defenses specified in Section 101(35) and 107(b) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Secs. 9601(35) and 9607(b)), a cause of action is hereby established whereby a notice recipient may recover from any responsible party any reasonable response costs for conducting a response action as may be approved or overseen by an oversight agency or as incurred pursuant to a commitment statement. Liability among responsible parties shall be allocated based upon the equitable factors specified in subdivision (c) of Section 25356.3 of the Health and Safety Code. No third-party beneficiary rights are created by a commitment statement, except as provided in subdivision (b) of Section 854. This cause of action applies to costs incurred prior to enactment of this subdivision. However, no recovery may be obtained under this subdivision for costs incurred more than three years prior to the filing of litigation to recover those costs. The cause of action established pursuant to this subdivision shall not apply against a current or former owner of a site unless that owner operated a business that caused a release being addressed by a response action at the site and



the costs incurred by the notice recipient were in response to a release caused by the owner.

(f) Nothing in this chapter shall affect or limit the rights of an owner under preexisting contract. Nothing in this chapter shall affect or limit the right of a notice recipient and owner to agree to an allocation of liability or to an assignment of rights and obligations that is different from or inconsistent with this chapter. Such agreements shall supersede the terms of this chapter.

(g) Nothing in this chapter shall make a notice recipient a responsible party, beyond the obligations the notice recipient undertakes pursuant to this chapter.

(h) Nothing in this chapter shall apply to causes of action for wrongful death or personal injury. However, the pleading of a cause of action for wrongful death or personal injury shall not affect the applicability of this chapter to other causes of action in the same civil action.

854. A commitment statement shall be executed in substantially the following form:

COUNTY OF _____ STATE OF CALIFORNIA	NOTICE OF ASSUMPTION OF GOVERNMENT IMPOSED SITE INVESTIGATION AND/OR REMEDIAL ACTION ORDERS (“COMMITMENT STATEMENT”)
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(a) The undersigned notice recipient is aware of, or has received a notice of potential liability pursuant to, Section 851 of the Civil Code (“notice of potential liability”) in connection with a release of hazardous materials at a parcel of property (“site”) having the following legal description: (Insert description here)

(b) The undersigned notice recipient and the undersigned owner of the site and the owner’s successors, heirs, and assigns agree, upon the proper and timely execution and delivery of this commitment statement, to abide by the requirements of Chapter 3 (commencing with Section 850) of Title 3 of Part 2 of Division 2 in connection with the release that is the subject of the notice of potential liability.

(c) The undersigned notice recipient hereby commits to undertake any response action as required by an oversight agency through a written action, directed to the owner or notice recipient, in connection with the release that is the subject of the notice of potential liability or release report. This commitment runs with the land and binds, in addition to the current owner of the site, all of the owner’s successors in interest, including current and future lenders having a security interest in the site.



(d) The owner of the site and the owner's successors, heirs, and assigns agree, upon the proper and timely execution and delivery of this commitment statement, to all of the following:

(1) The undersigned notice recipient or the party's designee shall be allowed such access to the site as may be required to perform its obligations under this commitment statement, provided that the undersigned notice recipient shall be liable for any physical damage it causes in conducting a response action, which the notice recipient fails to repair within a reasonable period after completion of all onsite activities.

(2) The parties, their successors, heirs, and assigns shall provide each other with copies of any communication or correspondence with an oversight agency in connection with the release of hazardous materials at the site.

(3) Provided that the undersigned notice recipient performs all of its obligations under this commitment statement, and except as otherwise provided in subdivisions (c) and (e) of Section 852 of the Civil Code, no claim for damages, accruing after the acceptance of the commitment statement, shall be brought against the undersigned notice recipient by the owner of the site or by the owner's successors, heirs, and assigns.

(e) The contents of this commitment statement shall be inadmissible evidence in any proceeding, as defined in Section 901 of the Evidence Code, except in an action to enforce this commitment statement to the extent that such contents would be admissible under other applicable law. This commitment statement may be enforced fully by the owner of the site and all parties identified in paragraph (b). There are no third-party beneficiary rights created by this commitment statement.

(f) The owner of the site shall provide a copy of this commitment statement to any prospective purchaser or lessee of the site until this commitment statement is terminated or until all response actions have been completed in accordance with the commitment statement.

(g) If the owner transfers the site, the owner shall notify the undersigned parties to this commitment statement, by mail, within 14 business days of the property transfer.

(h) As provided by law, this commitment statement shall become effective if the owner executes this commitment statement within 45 days from the date of issuance, in which case its terms shall go into effect upon receipt of that acceptance by the issuer of this commitment statement. If the owner rejects this commitment statement, the rejection shall be subject to the mediation provisions of subdivision (b) of Section 852.

(i) If at the end of two years from the date of acceptance of this commitment statement, an oversight agency has not issued a written action directed to the owner or notice recipient, the owner has 60



days in which he or she may terminate the commitment statement; and, in this event, it shall have no further force or effect.

_____	_____
Notice recipient	Date
(Notice recipient's name, address, and telephone number)	
(Notarial affidavit)	
_____	_____
Owner	Date
(Owner's name, address, and telephone number)	
(Notarial affidavit)	

855. The notification requirements of Section 851 shall not become effective until 180 days after the effective date of this chapter.

