

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1672

**Introduced by Committee on Judiciary (Kuehl (Chair),
Ackerman (Vice Chair), Aroner, Baugh, Corbett,
Hertzberg, House, Jackson, Knox, Shelley, and Steinberg)**

March 15, 1999

~~An act to amend Sections 2934a and 3144 of the Civil Code, to amend Sections 415.46, 703.140, 704.090, and 904.2 of the Code of Civil Procedure, to amend Section 952 of the Evidence Code, to amend Sections 6103.9, 53069.4, and 69845.5 of the Government Code, to amend Section 1345 of the Health and Safety Code, to repeal Section 101 of the Labor Code, and to amend Sections 40230 and 40256 of the Vehicle Code, An act to amend Section 998 of the Code of Civil Procedure, relating to civil actions.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1672, as amended, Committee on Judiciary. Civil actions: *costs*.

Existing law provides that if a settlement 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 other costs.

This bill would instead authorize, in those circumstances, the payment by defendant of reasonable costs actually incurred by plaintiff for the services of expert witnesses, as specified, and reasonably necessary in preparation, trial, or arbitration by the plaintiff, in addition to plaintiff's other costs.

~~Existing law governs the procedure for a trustee's sale of real property.~~

~~The bill would revise the provisions governing the substitution of a trustee.~~

~~Existing law specifies the method of serving a summons and complaint in an unlawful detainer action, as well as for serving a prejudgment claim of right to possession.~~

~~This bill would specify that a summons and complaint in an unlawful detainer action, and a prejudgment claim of right to possession, may be served by posting upon a specified showing in court.~~

~~Existing law provides that no mechanics' lien binds any property for a period longer than 90 days after the recording of a claim of lien, except as specified; and if the claimant fails to commence an action to foreclose the lien within this period, the lien automatically is null and void. Existing law authorizes, after the expiration of this time period, the owner of the property or the owner of any interest therein to petition the proper court for a decree to release the property from the lien. Existing law also provides that, as against certain purchasers or encumbrancers for value and in good faith, no extension of the lien or of the time to enforce the same shall be effective unless the notice or agreement was recorded, as specified.~~

~~The bill would authorize a claimant who already has recorded a mechanics' lien to record an additional or successive claim of lien, as specified. This bill would provide that, subject to any stay issued by a bankruptcy court, a null and void lien shall not constitute notice nor impose a duty of inquiry, as specified.~~

~~Existing law sets forth the property exempt from bankruptcy.~~



~~This bill would add thereto a payment under an individual retirement account.~~

~~Existing law defines “confidential communication between client and lawyer” for purposes of the lawyer-client privilege.~~

~~This bill would revise that definition, as specified.~~

~~Existing law specifies when an appeal may be taken from a limited civil case to the appellate department of the superior court.~~

~~This bill would expand when an appeal may be taken from a limited civil case to the appellate department of the superior court, as specified.~~

~~Existing law provides that specified funds of a judgment debtor confined in a state prison or facility or other local correctional facility held in trust for, or to the credit of, the judgment debtor are exempt from judgment in the amount of \$1,000 unless the judgment is for a specified restitution fine or order, in which case the exemption is in the amount of \$300.~~

~~This bill would provide that the exemption shall not be applicable to any portion of an order for the reimbursement of court-appointed attorney fees and would make a related change.~~

~~Under existing law, the district attorney is exempt from any fees, including fees for the service of process, in an action to establish or enforce a support obligation.~~

~~This bill would instead impose a state-mandated local program by imposing a new duty on sheriffs and marshals by providing that a district attorney may negotiate the cost of service of process in such actions with the sheriff or marshal.~~

~~Existing law generally authorizes the preservation of trial court records, as defined, in any form of communication or representation, as specified. Existing law also authorizes the clerk of the superior court to maintain a register of actions, as specified, or, alternatively, preserve all the court records filed, lodged, or maintained in the case.~~

~~This bill would provide that as an alternative to maintaining a register of actions, the clerk of the superior court may preserve the court records filed, lodged, or maintained in a case by any means authorized pursuant to the general provisions authorizing the preservation of trial court records.~~



~~Existing law specifically exempts the Division of Labor Standards Enforcement of the Department of Industrial Relations from all court costs of any nature in any civil action to which the division is a party, including the costs of service of a summons or levy under writ of attachment or execution, as specified. Existing law generally provides that neither the state nor any county, city, district, or other political subdivision, nor any public officer or body, acting in his or her official capacity on behalf of the state, or any county, city, district or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, for the performance of any official service, or for the filing of any stipulation or agreement that may constitute an appearance in any court by any other party to the stipulation or agreement, as specified.~~

~~This bill would repeal the provision exempting the Division of Labor Standards Enforcement of the Department of Industrial Relations from all court costs of any nature in a civil action.~~

~~Under existing law, a contestant of a final administrative decision regarding a parking violation or a toll evasion violation is authorized to seek a review of the administrative decision by filing an appeal to be heard by the municipal court where the appeal shall be heard de novo, except as specified. In *Lagos v. City of Oakland*, 41 Cal. App. 4th Supp. 10, the court concluded that the de novo review by the municipal court of the administrative decision regarding a parking violation ends that adjudicative process and that the superior court is without jurisdiction to consider appeals on the matter.~~

~~This bill would provide that further appeals may not be taken from a decision of a municipal court involving all the proceedings described above. The bill would specify that these appeals to the municipal court are informal with the purpose of dispensing of justice promptly, fairly, and inexpensively.~~

~~The bill would also provide that no party to these appeals has a right to a trial by a court or jury and that a statement of decision by the municipal court is not required.~~

~~The bill would make conforming and technical changes.~~



~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

1 ~~SECTION 1. Section 2934a of the Civil Code is~~
2 ~~SECTION 1. Section 998 of the Code of Civil~~
3 ~~Procedure is amended to read:~~
4 998. (a) The costs allowed under Sections 1031 and
5 1032 shall be withheld or augmented as provided in this
6 section.
7 (b) Not less than 10 days prior to commencement of
8 trial or arbitration (as provided in Section 1281 or 1295)
9 of a dispute to be resolved by arbitration, any party may
10 serve an offer in writing upon any other party to the
11 action to allow judgment to be taken or an award to be
12 entered in accordance with the terms and conditions
13 stated at that time.
14 (1) If the offer is accepted, the offer with proof of
15 acceptance shall be filed and the clerk or the judge shall
16 enter judgment accordingly. In the case of an arbitration,
17 the offer with proof of acceptance shall be filed with the
18 arbitrator or arbitrators who shall promptly render an
19 award accordingly.
20 (2) If the offer is not accepted prior to trial or
21 arbitration, within 30 days after it is made, whichever
22 occurs first, it shall be deemed withdrawn, and cannot be
23 given in evidence upon the trial or arbitration.



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

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

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

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

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

37 (e) If an offer made by a defendant is not accepted and
38 the plaintiff fails to obtain a more favorable judgment or
39 award, the costs under this section, from the time of the
40 offer, shall be deducted from any damages awarded in



1 favor of the plaintiff. If the costs awarded under this
2 section exceed the amount of the damages awarded to the
3 plaintiff the net amount shall be awarded to the
4 defendant and judgment or award shall be entered
5 accordingly.

6 (f) Police officers shall be deemed to be expert
7 witnesses for the purposes of this section; plaintiff
8 includes a cross-complainant and defendant includes a
9 cross-defendant. Any judgment or award entered
10 pursuant to this section shall be deemed to be a
11 compromise settlement.

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

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

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

22 ~~amended to read:~~

23 ~~2934a. (a) (1) The trustee under a trust deed upon~~
24 ~~real property or an estate for years therein given to secure~~
25 ~~an obligation to pay money and conferring no other~~
26 ~~duties upon the trustee than those which are incidental~~
27 ~~to the exercise of the power of sale therein conferred, may~~
28 ~~be substituted by the recording in the county in which the~~
29 ~~property is located of a substitution executed and~~
30 ~~acknowledged by: (A) all of the beneficiaries under the~~
31 ~~trust deed, or their successors in interest, and the~~
32 ~~substitution shall be effective notwithstanding any~~
33 ~~contrary provision in any trust deed executed on or after~~
34 ~~January 1, 1968; or (B) the holders of more than 50~~
35 ~~percent of the record beneficial interest of a series of~~
36 ~~notes secured by the same real property or of undivided~~
37 ~~interests in a note secured by real property equivalent to~~
38 ~~a series transaction, exclusive of any notes or interests of~~
39 ~~a licensed real estate broker that is the issuer or servicer~~



1 of the notes or interests or of any affiliate of that licensed
2 real estate broker.

3 (2) A substitution executed pursuant to subparagraph
4 (B) of paragraph (1) is not effective unless all the parties
5 signing the substitution sign, under penalty of perjury, a
6 separate written document stating the following:

7 (A) The substitution has been signed pursuant to
8 subparagraph (B) of paragraph (1):

9 (B) None of the undersigned is a licensed real estate
10 broker or an affiliate of the broker that is the issuer or
11 servicer of the obligation secured by the deed of trust.

12 (C) The undersigned together hold more than 50
13 percent of the record beneficial interest of a series of
14 notes secured by the same real property or of undivided
15 interests in a note secured by real property equivalent to
16 a series transaction.

17 (D) Notice of the substitution was sent by certified
18 mail, postage prepaid, with return receipt requested to
19 each holder of an interest in the obligation secured by the
20 deed of trust who has not joined in the execution of the
21 substitution or the separate document.

22 The separate document shall be attached to the
23 substitution and be recorded in the office of the county
24 recorder of each county in which the real property
25 described in the deed of trust is located. Once the
26 document required by this paragraph is recorded, it shall
27 constitute conclusive evidence of compliance with the
28 requirements of this paragraph in favor of substituted
29 trustees acting pursuant to this section, subsequent
30 assignees of the obligation secured by the deed of trust
31 and subsequent bona fide purchasers or encumbrancers
32 for value of the real property described therein.

33 (3) For purposes of this section, “affiliate of the
34 licensed real estate broker” includes any person as
35 defined in Section 25013 of the Corporations Code that is
36 controlled by, or is under common control with, or who
37 controls, a licensed real estate broker. “Control” means
38 the possession, direct or indirect, of the power to direct
39 or cause the direction of management and policies.



1 ~~(4) The substitution shall contain the date of~~
2 ~~recordation of the trust deed, the name of the trustor, the~~
3 ~~book and page or instrument number where the trust~~
4 ~~deed is recorded, and the name of the new trustee. From~~
5 ~~the time the substitution is filed for record, the new~~
6 ~~trustee shall succeed to all the powers, duties, authority,~~
7 ~~and title granted and delegated to the trustee named in~~
8 ~~the deed of trust. A substitution may be accomplished,~~
9 ~~with respect to multiple deeds of trust which are~~
10 ~~recorded in the same county in which the substitution is~~
11 ~~being recorded and which all have the same trustee and~~
12 ~~beneficiary or beneficiaries, by recording a single~~
13 ~~document, complying with the requirements of this~~
14 ~~section, substituting trustees for all those deeds of trust.~~

15 ~~(b) Except where the trustee is identified in the~~
16 ~~notice of default, if the substitution is recorded after a~~
17 ~~notice of default has been recorded but prior to the~~
18 ~~recording of the notice of sale, the beneficiary or~~
19 ~~beneficiaries shall cause a copy of the substitution to be~~
20 ~~mailed, prior to the recording thereof, in the manner~~
21 ~~provided in Section 2924b, to the trustee then of record~~
22 ~~and to all persons to whom a copy of the notice of default~~
23 ~~would be required to be mailed by the provisions of~~
24 ~~Section 2924b. An affidavit shall be attached to the~~
25 ~~substitution that notice has been given to those persons~~
26 ~~and in the manner required by this subdivision.~~

27 ~~(c) Notwithstanding any provision of this section or~~
28 ~~any provision in any deed of trust, unless a new notice of~~
29 ~~sale containing the name, street address, and telephone~~
30 ~~number of the substituted trustee is given pursuant to~~
31 ~~Section 2924f, any sale conducted by the substituted~~
32 ~~trustee shall be void.~~

33 ~~SEC. 2. Section 3144 of the Civil Code is amended to~~
34 ~~read:~~

35 ~~3144. (a) No lien provided for in this chapter binds~~
36 ~~any property for a longer period of time than 90 days after~~
37 ~~the recording of the claim of lien, unless within that time~~
38 ~~an action to foreclose the lien is commenced in a proper~~
39 ~~court, except that, if credit is given and notice of the fact~~
40 ~~and terms of that credit is recorded in the office of the~~



1 county recorder subsequent to the recording of this claim
2 of lien and prior to the expiration of the 90 day period,
3 then this lien continues in force until 90 days after the
4 expiration of the credit, but in no case longer than one
5 year from the time of completion of the work of
6 improvement.

7 (b) A lien claimant who has already recorded a
8 mechanics' lien may record an additional claim of lien or
9 successive claim of lien if the period for filing a claim of
10 lien described in Section 3115, 3116, or 3117 has not
11 elapsed. This claim of lien shall be subject to subdivision
12 (a).

13 (c) No extension of the lien rights pursuant to
14 subdivision (a) or additional or successive claim of lien
15 under subdivision (b) shall be valid, unless and until a
16 notice of extension signed by the property owner or
17 notice of an additional or successive claim of lien is
18 recorded in the office of the county recorder.

19 (d) Subject to any stay issued by a bankruptcy court,
20 if the claimant fails to commence an action to foreclose
21 the lien within the time limitation provided in subdivision
22 (a), that lien automatically shall be null and void for all
23 time and of no further force and effect for any purpose
24 whatsoever.

25 (e) A lien that is null and void shall not constitute
26 actual or constructive notice of any matters contained
27 therein, or relating to the lien, nor shall it impose any duty
28 of inquiry upon any person thereafter dealing with the
29 property described therein.

30 (f) It is the intent of the Legislature that this section
31 shall provide for the absolute and complete free
32 transferability of real property after the expiration of the
33 lien, including any recorded extensions thereof or
34 additional or successive claims of lien, unless and until
35 recordation of a notice as provided in Section 3146.

36 SEC. 3. Section 415.46 of the Code of Civil Procedure
37 is amended to read:

38 415.46. (a) In addition to the service of a summons
39 and complaint in an action for unlawful detainer upon a
40 tenant and subtenant, if any, as prescribed by this article,



1 a ~~prejudgment claim of right to possession may also be~~
2 ~~served on any person who appears to be or who may claim~~
3 ~~to have occupied the premises at the time of the filing of~~
4 ~~the action. Service upon occupants shall be made~~
5 ~~pursuant to subdivision (e) by serving a copy of a~~
6 ~~prejudgment claim of right to possession, as specified in~~
7 ~~subdivision (f), attached to a copy of the summons and~~
8 ~~complaint at the same time service is made upon the~~
9 ~~tenant and subtenant, if any.~~

10 (b) ~~Service of the prejudgment claim of right to~~
11 ~~possession in this manner shall be effected by a marshal,~~
12 ~~sheriff, or registered process server.~~

13 (c) ~~When serving the summons and complaint upon a~~
14 ~~tenant and subtenant, if any, the marshal, sheriff, or~~
15 ~~registered process server shall make a reasonably diligent~~
16 ~~effort to ascertain whether there are other adult~~
17 ~~occupants of the premises who are not named in the~~
18 ~~summons and complaint by inquiring of the person or~~
19 ~~persons who are being personally served, or any person~~
20 ~~of suitable age and discretion who appears to reside upon~~
21 ~~the premises, whether there are other occupants of the~~
22 ~~premises.~~

23 ~~If the identity of such an occupant is disclosed to the~~
24 ~~officer or process server and the occupant is present at~~
25 ~~the premises, the officer or process server shall serve that~~
26 ~~occupant with a copy of the prejudgment claim of right~~
27 ~~to possession attached to a copy of the summons and~~
28 ~~complaint. If personal service cannot be made upon that~~
29 ~~occupant at that time, service may be effected by (1)~~
30 ~~leaving a copy of a prejudgment claim of right to~~
31 ~~possession attached to a copy of the summons and~~
32 ~~complaint addressed to that occupant with a person of~~
33 ~~suitable age and discretion at the premises, (2) affixing~~
34 ~~the same so that it is not readily removable in a~~
35 ~~conspicuous place on the premises in a manner most~~
36 ~~likely to give actual notice to that occupant, and (3)~~
37 ~~sending the same addressed to that occupant by first-class~~
38 ~~mail.~~

39 ~~In addition to the service on an identified occupant, or~~
40 ~~if no occupant is disclosed to the officer or process server,~~



1 ~~or if substituted service is made upon the tenant and~~
2 ~~subtenant, if any, the officer or process server shall serve~~
3 ~~a prejudgment claim of right to possession for all other~~
4 ~~persons who may claim to occupy the premises at the~~
5 ~~time of the filing of the action by (1) leaving a copy of a~~
6 ~~prejudgment claim of right to possession attached to a~~
7 ~~copy of the summons and complaint at the premises at the~~
8 ~~same time service is made upon the tenant and subtenant,~~
9 ~~if any, (2) affixing the same so that it is not readily~~
10 ~~removable in a conspicuous place on the premises so that~~
11 ~~it is likely to give actual notice to an occupant, and (3)~~
12 ~~sending the same addressed to “all occupants in care of~~
13 ~~the named tenant” to the premises by first class mail.~~

14 ~~The person serving process shall state the date of~~
15 ~~service on the prejudgment claim of right to possession~~
16 ~~form. However, the absence of the date of service on the~~
17 ~~prejudgment claim of right to possession does not~~
18 ~~invalidate the claim.~~

19 ~~(d) Proof of service under this section shall be filed~~
20 ~~with the court and shall include a statement that service~~
21 ~~was made pursuant to this section. Service on occupants~~
22 ~~in accordance with this section shall not alter or affect~~
23 ~~service upon the tenant or subtenant, if any.~~

24 ~~(e) If an owner or his or her agent has directed and~~
25 ~~obtained service of a prejudgment claim of right to~~
26 ~~possession in accordance with this section, no occupant of~~
27 ~~the premises, whether or not such occupant is named in~~
28 ~~the judgment for possession, may object to the~~
29 ~~enforcement of that judgment as prescribed in Section~~
30 ~~4174.3.~~

31 ~~(f) A summons and complaint, along with a~~
32 ~~prejudgment claim of right to possession, may be served~~
33 ~~by posting in the same manner as provided in Section~~
34 ~~415.45.~~

35 ~~(g) The prejudgment claim of right to possession shall~~
36 ~~be made on the following form:~~



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~~NOTE TO PRINTING OFFICE: INSERT
CAMERA READY COPY HERE~~

~~for Prejudgment Claim of Right to Possession form
as printed on pages 4 to 7 of Chapter 57, 1991 Statutes.~~



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1 ~~SEC. 4. Section 703.140 of the Code of Civil Procedure~~
2 ~~is amended to read:~~

3 ~~703.140. (a) In a case under Title 11 of the United~~
4 ~~States Code, all of the exemptions provided by this~~
5 ~~chapter including the homestead exemption, other than~~
6 ~~the provisions of subdivision (b) are applicable regardless~~
7 ~~of whether there is a money judgment against the debtor~~
8 ~~or whether a money judgment is being enforced by~~
9 ~~execution sale or any other procedure, but the~~
10 ~~exemptions provided by subdivision (b) may be elected~~
11 ~~in lieu of all other exemptions provided by this chapter,~~
12 ~~as follows:~~

13 ~~(1) If a husband and wife are joined in the petition,~~
14 ~~they jointly may elect to utilize the applicable exemption~~
15 ~~provisions of this chapter other than the provisions of~~
16 ~~subdivision (b), or to utilize the applicable exemptions~~
17 ~~set forth in subdivision (b), but not both.~~

18 ~~(2) If the petition is filed individually, and not jointly,~~
19 ~~for a husband or a wife, the exemptions provided by this~~
20 ~~chapter other than the provisions of subdivision (b) are~~
21 ~~applicable, except that, if both the husband and the wife~~
22 ~~effectively waive in writing the right to claim, during the~~
23 ~~period the case commenced by filing the petition is~~
24 ~~pending, the exemptions provided by the applicable~~
25 ~~exemption provisions of this chapter, other than~~
26 ~~subdivision (b), in any case commenced by filing a~~
27 ~~petition for either of them under Title 11 of the United~~
28 ~~States Code, then they may elect to instead utilize the~~
29 ~~applicable exemptions set forth in subdivision (b).~~

30 ~~(3) If the petition is filed for an unmarried person, that~~
31 ~~person may elect to utilize the applicable exemption~~
32 ~~provisions of this chapter other than subdivision (b), or~~
33 ~~to utilize the applicable exemptions set forth in~~
34 ~~subdivision (b), but not both.~~

35 ~~(b) The following exemptions may be elected as~~
36 ~~provided in subdivision (a):~~

37 ~~(1) The debtor's aggregate interest, not to exceed~~
38 ~~fifteen thousand dollars (\$15,000) in value, in real~~
39 ~~property or personal property that the debtor or a~~
40 ~~dependent of the debtor uses as a residence, in a~~



1 cooperative that owns property that the debtor or a
2 dependent of the debtor uses as a residence, or in a burial
3 plot for the debtor or a dependent of the debtor.

4 (2) The debtor's interest, not to exceed two thousand
5 four hundred dollars (\$2,400) in value, in one motor
6 vehicle.

7 (3) The debtor's interest, not to exceed four hundred
8 dollars (\$400) in value in any particular item, in
9 household furnishings, household goods, wearing
10 apparel, appliances, books, animals, crops, or musical
11 instruments, that are held primarily for the personal,
12 family, or household use of the debtor or a dependent of
13 the debtor.

14 (4) The debtor's aggregate interest, not to exceed one
15 thousand dollars (\$1,000) in value, in jewelry held
16 primarily for the personal, family, or household use of the
17 debtor or a dependent of the debtor.

18 (5) The debtor's aggregate interest, not to exceed in
19 value eight hundred dollars (\$800) plus any unused
20 amount of the exemption provided under paragraph (1),
21 in any property.

22 (6) The debtor's aggregate interest, not to exceed one
23 thousand five hundred dollars (\$1,500) in value, in any
24 implements, professional books, or tools of the trade of the
25 debtor or the trade of a dependent of the debtor.

26 (7) Any unmatured life insurance contract owned by
27 the debtor, other than a credit life insurance contract.

28 (8) The debtor's aggregate interest, not to exceed in
29 value eight thousand dollars (\$8,000) in any accrued
30 dividend or interest under, or loan value of, any
31 unmatured life insurance contract owned by the debtor
32 under which the insured is the debtor or an individual of
33 whom the debtor is a dependent.

34 (9) Professionally prescribed health aids for the debtor
35 or a dependent of the debtor.

36 (10) The debtor's right to receive any of the following:

37 (A) A social security benefit, unemployment
38 compensation, or a local public assistance benefit.

39 (B) A veterans' benefit.

40 (C) A disability, illness, or unemployment benefit.



1 ~~(D) Alimony, support, or separate maintenance, to the~~
2 ~~extent reasonably necessary for the support of the debtor~~
3 ~~and any dependent of the debtor.~~

4 ~~(E) A payment under a stock bonus, pension,~~
5 ~~profitsharing, annuity, individual retirement account, or~~
6 ~~similar plan or contract on account of illness, disability,~~
7 ~~death, age, or length of service, to the extent reasonably~~
8 ~~necessary for the support of the debtor and any~~
9 ~~dependent of the debtor, unless all of the following apply:~~

10 ~~(i) That plan or contract was established by or under~~
11 ~~the auspices of an insider that employed the debtor at the~~
12 ~~time the debtor's rights under the plan or contract arose.~~

13 ~~(ii) The payment is on account of age or length of~~
14 ~~service.~~

15 ~~(iii) That plan or contract does not qualify under~~
16 ~~Section 401(a), 403(a), 403(b), or 408 of the Internal~~
17 ~~Revenue Code of 1986.~~

18 ~~(H) The debtor's right to receive, or property that is~~
19 ~~traceable to, any of the following:~~

20 ~~(A) An award under a crime victim's reparation law.~~

21 ~~(B) A payment on account of the wrongful death of an~~
22 ~~individual of whom the debtor was a dependent, to the~~
23 ~~extent reasonably necessary for the support of the debtor~~
24 ~~and any dependent of the debtor.~~

25 ~~(C) A payment under a life insurance contract that~~
26 ~~insured the life of an individual of whom the debtor was~~
27 ~~a dependent on the date of that individual's death, to the~~
28 ~~extent reasonably necessary for the support of the debtor~~
29 ~~and any dependent of the debtor.~~

30 ~~(D) A payment, not to exceed fifteen thousand dollars~~
31 ~~(\$15,000), on account of personal bodily injury, not~~
32 ~~including pain and suffering or compensation for actual~~
33 ~~pecuniary loss, of the debtor or an individual of whom the~~
34 ~~debtor is a dependent.~~

35 ~~(E) A payment in compensation of loss of future~~
36 ~~earnings of the debtor or an individual of whom the~~
37 ~~debtor is or was a dependent, to the extent reasonably~~
38 ~~necessary for the support of the debtor and any~~
39 ~~dependent of the debtor.~~



1 ~~SEC. 5. Section 704.090 of the Code of Civil Procedure~~
2 ~~is amended to read:~~

3 ~~704.090. (a) The funds of a judgment debtor confined~~
4 ~~in a prison or facility under the jurisdiction of the~~
5 ~~Department of Corrections or the Department of the~~
6 ~~Youth Authority or confined in any county or city jail,~~
7 ~~road camp, industrial farm, or other local correctional~~
8 ~~facility, held in trust for or to the credit of the judgment~~
9 ~~debtor, in an inmate's trust account or similar account by~~
10 ~~the state, county, or city, or any agency thereof, are~~
11 ~~exempt without making a claim in the amount of one~~
12 ~~thousand dollars (\$1,000). If the judgment debtor is~~
13 ~~married, each spouse is entitled to a separate exemption~~
14 ~~under this section or the spouses may combine their~~
15 ~~exemptions. The separate exemption for the noneconfined~~
16 ~~spouse may not be reduced by any amount for the~~
17 ~~reimbursement of court-appointed attorney fees.~~

18 ~~(b) Notwithstanding subdivision (a), if the judgment~~
19 ~~is for a restitution fine or order imposed pursuant to~~
20 ~~subdivision (a) of Section 13967 of the Government Code,~~
21 ~~as operative on or before September 28, 1994, or Section~~
22 ~~1203.04 of the Penal Code, as operative on or before~~
23 ~~August 2, 1995, or Section 1202.4 of the Penal Code, the~~
24 ~~funds held in trust for, or to the credit of, a judgment~~
25 ~~debtor described in subdivision (a) are exempt in the~~
26 ~~amount of three hundred dollars (\$300) without making~~
27 ~~a claim.~~

28 ~~(c) The exemption provided to a confined judgment~~
29 ~~debtor pursuant to this section shall not be applicable to~~
30 ~~any portion of an order for the reimbursement of~~
31 ~~court-appointed attorney fees.~~

32 ~~SEC. 6. Section 904.2 of the Code of Civil Procedure~~
33 ~~is amended to read:~~

34 ~~904.2. An appeal in a limited civil case is to the~~
35 ~~appellate division of the superior court. An appeal in a~~
36 ~~limited civil case may be taken from any of the following:~~

37 ~~(a) From a judgment, except any of the following:~~

38 ~~(1) An interlocutory judgment.~~

39 ~~(2) A judgment of contempt which is made final and~~
40 ~~conclusive by Section 1222.~~

1 ~~(3) The decision of a court pursuant to Section 53069.4~~
2 ~~of the Government Code.~~

3 ~~(4) The decision of a court pursuant to Section 40230~~
4 ~~of the Vehicle Code.~~

5 ~~(5) The decision of a court pursuant to Section 40256~~
6 ~~of the Vehicle Code.~~

7 ~~(b) From an order made after a judgment made~~
8 ~~appealable by subdivision (a).~~

9 ~~(c) From an order changing or refusing to change the~~
10 ~~place of trial.~~

11 ~~(d) From an order granting a motion to quash service~~
12 ~~of summons or granting a motion to stay or dismiss the~~
13 ~~action on the ground of inconvenient forum.~~

14 ~~(e) From an order granting a new trial or denying a~~
15 ~~motion for judgment notwithstanding the verdict.~~

16 ~~(f) From an order discharging or refusing to discharge~~
17 ~~an attachment or granting a right to attach order.~~

18 ~~(g) From an order granting or dissolving an~~
19 ~~injunction, or refusing to grant or dissolve an injunction.~~

20 ~~(h) From an order appointing a receiver.~~

21 ~~(i) From a judgment of the small claims court.~~

22 ~~SEC. 7. Section 952 of the Evidence Code is amended~~
23 ~~to read:~~

24 ~~952. As used in this article, “confidential~~
25 ~~communication between client and lawyer” means~~
26 ~~information transmitted between a client and his or her~~
27 ~~lawyer in the course of that relationship and in~~
28 ~~confidence by a means which, so far as the client is aware,~~
29 ~~discloses the information to no third persons other than~~
30 ~~those who are present to further the interest of the client~~
31 ~~in the consultation or those to whom disclosure is~~
32 ~~reasonably necessary for the transmission of the~~
33 ~~information or the accomplishment of the purpose for~~
34 ~~which the lawyer is consulted, and includes a legal~~
35 ~~opinion formed and the advice given by the lawyer in the~~
36 ~~course of that relationship. A communication between a~~
37 ~~client and his or her lawyer is not deemed lacking in~~
38 ~~confidentiality solely because the communication is~~
39 ~~transmitted between the client and his or her lawyer by~~



1 facsimile, cellular telephone, Internet, electronic mail, or
2 computer network, or other electronic means.

3 SEC. 8. Section 6103.9 of the Government Code is
4 amended to read:

5 6103.9. (a) Notwithstanding any other provision of
6 law, except as provided in this section, the district
7 attorney shall be exempt from the payment of any fees,
8 including filing fees, in any action or proceeding brought
9 for the establishment of a child support obligation or the
10 enforcement of a child or spousal support obligation.
11 Costs associated with those activities shall be subject to
12 reimbursement by the district attorney only as provided
13 for in this section. The district attorney may negotiate the
14 cost for service of process with the marshal or sheriff.

15 (b) The district attorney may reimburse a county for
16 those direct costs related to the establishment of a child
17 support obligation or the enforcement of a child or
18 spousal support obligation which have been agreed to
19 pursuant to a plan of cooperation. Any reimbursement
20 pursuant to a plan of cooperation shall not include any
21 amount which is payable as a filing fee.

22 (c) For purposes of this section, a “plan of
23 cooperation” means an agreement entered into by the
24 district attorney and the county clerk of his or her county
25 which is approved by the State Department of Social
26 Services and which provides that the district attorney will
27 reimburse the county for the cost of providing clerical
28 and administrative support furnished by the county clerk.

29 SEC. 9. Section 53069.4 of the Government Code is
30 amended to read:

31 53069.4. (a) (1) The legislative body of a local
32 agency, as the term “local agency” is defined in Section
33 54951, may by ordinance make any violation of any
34 ordinance enacted by the local agency subject to an
35 administrative fine or penalty. The local agency shall set
36 forth by ordinance the administrative procedures that
37 shall govern the imposition, enforcement, collection, and
38 administrative review by the local agency of those
39 administrative fines or penalties. Where the violation
40 would otherwise be an infraction, the administrative fine



1 or penalty shall not exceed the maximum fine or penalty
2 amounts for infractions set forth in subdivision (b) of
3 Section 25132 and subdivision (b) of Section 36900.

4 (2) The administrative procedures set forth by
5 ordinance adopted by the local agency pursuant to
6 paragraph (1) shall provide for a reasonable period of
7 time, as specified in the ordinance, for a person
8 responsible for a continuing violation to correct or
9 otherwise remedy the violation prior to the imposition of
10 administrative fines or penalties, when the violation
11 pertains to building, plumbing, electrical, or other similar
12 structural or zoning issues, that do not create an
13 immediate danger to health or safety.

14 (b) (1) Notwithstanding the provisions of Section
15 1094.5 or 1094.6 of the Code of Civil Procedure within 20
16 days after service of the final administrative order or
17 decision of the local agency is made pursuant to an
18 ordinance enacted in accordance with this section
19 regarding the imposition, enforcement or collection of
20 the administrative fines or penalties, a person contesting
21 that final administrative order or decision may seek
22 review by filing an appeal to be heard by the municipal
23 court or by the superior court in a county in which there
24 is no municipal court, where the same shall be heard de
25 novo, except that the contents of the local agency's file in
26 the case shall be received in evidence. A proceeding
27 under this subdivision is a limited civil case. A copy of the
28 document or instrument of the local agency providing
29 notice of the violation and imposition of the
30 administrative fine or penalty shall be admitted into
31 evidence as prima facie evidence of the facts stated
32 therein. A copy of the notice of appeal shall be served in
33 person or by first class mail upon the local agency by the
34 contestant.

35 (2) The fee for filing the notice of appeal shall be
36 twenty-five dollars (\$25). The court shall request that the
37 local agency's file on the case be forwarded to the court,
38 to be received within 15 days of the request. The court
39 shall retain the twenty-five dollar (\$25) fee regardless of
40 the outcome of the appeal. If the court finds in favor of the



1 ~~contestant, the amount of the fee shall be reimbursed to~~
2 ~~the contestant by the local agency. Any deposit of the fine~~
3 ~~or penalty shall be refunded by the local agency in~~
4 ~~accordance with the judgment of the court.~~

5 ~~(3) The conduct of the appeal under this section is a~~
6 ~~subordinate judicial duty that may be performed by~~
7 ~~traffic trial commissioners and other subordinate judicial~~
8 ~~officials at the direction of the presiding judge of the~~
9 ~~court.~~

10 ~~(4) The appeal is informal with the purpose of~~
11 ~~dispensing justice promptly, fairly, and inexpensively. No~~
12 ~~party to an appeal has a right to a trial by a court or jury~~
13 ~~and a statement of decision by the court is not required.~~

14 ~~(c) If no notice of appeal of the local agency's final~~
15 ~~administrative order or decision is filed within the period~~
16 ~~set forth in this section, the order or decision shall be~~
17 ~~deemed confirmed.~~

18 ~~(d) If the fine or penalty has not been deposited and~~
19 ~~the decision of the court is against the contestant, the local~~
20 ~~agency may proceed to collect the penalty pursuant to~~
21 ~~the procedures set forth in its ordinance.~~

22 ~~SEC. 10. Section 69845.5 of the Government Code is~~
23 ~~amended to read:~~

24 ~~69845.5. In lieu of maintaining a register of actions as~~
25 ~~described in Section 69845, the clerk of the superior court~~
26 ~~may maintain a register of actions by preserving all the~~
27 ~~court records filed, lodged, or maintained in connection~~
28 ~~with the case by any means authorized pursuant to~~
29 ~~Section 68150.~~

30 ~~SEC. 11. Section 1345 of the Health and Safety Code~~
31 ~~is amended to read:~~

32 ~~1345. As used in this chapter:~~

33 ~~(a) "Advertisement" means any written or printed~~
34 ~~communication or any communication by means of~~
35 ~~recorded telephone messages or by radio, television, or~~
36 ~~similar communications media, which is published in~~
37 ~~connection with the offer or sale of plan contracts.~~

38 ~~(b) "Basic health care services" means all of the~~
39 ~~following:~~



1 ~~(1) Physician services, including consultation and~~
2 ~~referral.~~

3 ~~(2) Hospital inpatient services and ambulatory care~~
4 ~~services.~~

5 ~~(3) Diagnostic laboratory and diagnostic and~~
6 ~~therapeutic radiologic services.~~

7 ~~(4) Home health services.~~

8 ~~(5) Preventive health services.~~

9 ~~(6) Emergency health care services, including~~
10 ~~ambulance and ambulance transport services and~~
11 ~~out-of-area coverage.~~

12 ~~(7) Ambulance and ambulance transport services~~
13 ~~provided through the “911” emergency response system.~~

14 ~~(c) “Enrollee” means a person who is enrolled in a~~
15 ~~plan and who is a recipient of services from the plan.~~

16 ~~(d) “Evidence of coverage” means any certificate,~~
17 ~~agreement, contract, brochure, or letter of entitlement~~
18 ~~issued to a subscriber or enrollee setting forth the~~
19 ~~coverage to which the subscriber or enrollee is entitled.~~

20 ~~(e) “Group contract” means a contract which by its~~
21 ~~terms limits the eligibility of subscribers and enrollees to~~
22 ~~a specified group.~~

23 ~~(f) “Health care service plan” or “specialized health~~
24 ~~care service plan” means either of the following:~~

25 ~~(1) Any person who undertakes to arrange for the~~
26 ~~provision of health care services to subscribers or~~
27 ~~enrollees, or to pay for or to reimburse any part of the cost~~
28 ~~for those services, in return for a prepaid or periodic~~
29 ~~charge paid by or on behalf of the subscribers or enrollees.~~

30 ~~(2) Any person, whether located within or outside of~~
31 ~~this state, who solicits or contracts with a subscriber or~~
32 ~~enrollee in this state to pay for or reimburse any part of~~
33 ~~the cost of, or who undertakes to arrange or arranges for,~~
34 ~~the provision of health care services that are to be~~
35 ~~provided wholly or in part in a foreign country in return~~
36 ~~for a prepaid or periodic charge paid by or on behalf of~~
37 ~~the subscriber or enrollee.~~

38 ~~(g) “License” means, and “licensed” refers to, a~~
39 ~~license as a plan pursuant to Section 1353.~~



1 (h) ~~“Out-of-area coverage,” for purposes of paragraph~~
2 ~~(6) of subdivision (b), means coverage while an enrollee~~
3 ~~is anywhere outside the service area of the plan, and shall~~
4 ~~also include coverage for urgently needed services to~~
5 ~~prevent serious deterioration of an enrollee’s health~~
6 ~~resulting from unforeseen illness or injury for which~~
7 ~~treatment cannot be delayed until the enrollee returns to~~
8 ~~the plan’s service area.~~

9 (i) ~~“Provider” means any professional person,~~
10 ~~organization, health facility, or other person or institution~~
11 ~~licensed by the state to deliver or furnish health care~~
12 ~~services.~~

13 (j) ~~“Person” means any person, individual, firm,~~
14 ~~association, organization, partnership, business trust,~~
15 ~~foundation, labor organization, corporation, limited~~
16 ~~liability company, public agency, or political subdivision~~
17 ~~of the state.~~

18 (k) ~~“Service area” means a geographical area~~
19 ~~designated by the plan within which a plan shall provide~~
20 ~~health care services.~~

21 (l) ~~“Solicitation” means any presentation or~~
22 ~~advertising conducted by, or on behalf of, a plan, where~~
23 ~~information regarding the plan, or services offered and~~
24 ~~charges therefor, is disseminated for the purpose of~~
25 ~~inducing persons to subscribe to, or enroll in, the plan.~~

26 (m) ~~“Solicitor” means any person who engages in the~~
27 ~~acts defined in subdivision (1) of this section.~~

28 (n) ~~“Solicitor firm” means any person, other than a~~
29 ~~plan, who through one or more solicitors engages in the~~
30 ~~acts defined in subdivision (1) of this section.~~

31 (o) ~~“Specialized health care service plan contract”~~
32 ~~means a contract for health care services in a single~~
33 ~~specialized area of health care, including dental care, for~~
34 ~~subscribers or enrollees, or which pays for or which~~
35 ~~reimburses any part of the cost for those services, in~~
36 ~~return for a prepaid or periodic charge paid by or on~~
37 ~~behalf of the subscribers or enrollees.~~

38 (p) ~~“Subscriber” means the person who is responsible~~
39 ~~for payment to a plan or whose employment or other~~



1 status, except for family dependency, is the basis for
2 eligibility for membership in the plan.

3 (q) Unless the context indicates otherwise, “plan”
4 refers to health care service plans and specialized health
5 care service plans.

6 (r) “Plan contract” means a contract between a plan
7 and its subscribers or enrollees or a person contracting on
8 their behalf pursuant to which health care services,
9 including basic health care services, are furnished; and
10 unless the context otherwise indicates it includes
11 specialized health care service plan contracts; and unless
12 the context otherwise indicates it includes group
13 contracts.

14 (s) All references in this chapter to financial
15 statements, assets, liabilities, and other accounting items
16 mean those financial statements and accounting items
17 prepared or determined in accordance with generally
18 accepted accounting principles, and fairly presenting the
19 matters which they purport to present, subject to any
20 specific requirement imposed by this chapter or by the
21 commissioner.

22 SEC. 12. Section 101 of the Labor Code is repealed.

23 SEC. 13. Section 40230 of the Vehicle Code is
24 amended to read:

25 40230. (a) Within 30 calendar days after the mailing
26 or personal delivery of the final decision described in
27 subdivision (b) of Section 40215, the contestant may seek
28 review by filing an appeal to be heard by the municipal
29 court, or by the superior court in a county in which there
30 is no municipal court, where the same shall be heard de
31 novo, except that the contents of the processing agency’s
32 file in the case shall be received in evidence. A copy of the
33 notice of parking violation or, if the citation was issued
34 electronically, a true and correct abstract containing the
35 information set forth in the notice of parking violation
36 shall be admitted into evidence as prima facie evidence
37 of the facts stated therein. A copy of the notice of appeal
38 shall be served in person or by first class mail upon the
39 processing agency by the contestant. For purposes of
40 computing the 30-calendar day period, Section 1013 of



1 the Code of Civil Procedure shall be applicable. A
2 proceeding under this subdivision is a limited civil case.

3 (b) The fee for filing the notice of appeal is twenty-five
4 dollars (\$25). The court shall request that the processing
5 agency's file on the case be forwarded to the court, to be
6 received within 15 calendar days of the request. The court
7 shall notify the contestant of the appearance date by mail
8 or personal delivery. The court shall retain the
9 twenty five dollar (\$25) fee regardless of the outcome of
10 the appeal. If the court finds in favor of the contestant, the
11 amount of the fee shall be reimbursed to the contestant
12 by the processing agency. Any deposit of parking penalty
13 shall be refunded by the processing agency in accordance
14 with the judgment of the court.

15 (c) The conduct of the appeal under this section is a
16 subordinate judicial duty that may be performed by
17 traffic trial commissioners and other subordinate judicial
18 officials at the direction of the presiding judge of the
19 court.

20 (d) The appeal is informal with the purpose of
21 dispensing justice promptly, fairly, and inexpensively. No
22 party to an appeal has a right to a trial by a court or jury
23 and a statement of decision by the court is not required.

24 (e) If no notice of appeal of the processing agency's
25 decision is filed within the period set forth in subdivision
26 (a), the decision shall be deemed final.

27 (f) If the parking penalty has not been deposited and
28 the decision is against the contestant, the processing
29 agency shall, after the decision becomes final, proceed to
30 collect the penalty pursuant to Section 40220.

31 SEC. 14. Section 40256 of the Vehicle Code is
32 amended to read:

33 40256. (a) Within 20 days after the mailing of the
34 final decision described in subdivision (b) of Section
35 40255, the contestant may seek review by filing an appeal
36 to the municipal court, or to the superior court in a county
37 in which there is no municipal court, where the same shall
38 be heard de novo, except that the contents of the
39 processing agency's file in the case on appeal shall be
40 received in evidence. A copy of the notice of toll evasion



1 violation shall be admitted into evidence as prima facie
2 evidence of the facts stated therein. A copy of the notice
3 of appeal shall be served in person or by first-class mail
4 upon the processing agency by the contestant. For
5 purposes of computing the 20-day period, Section 1013 of
6 the Code of Civil Procedure shall be applicable. A
7 proceeding under this subdivision is a limited civil case.

8 (b) The fee for filing the notice of appeal shall be
9 twenty five dollars (\$25). If the appellant prevails, this
10 fee, together with any deposit of toll evasion penalty, shall
11 be promptly refunded by the processing agency in
12 accordance with the judgment of the court.

13 (c) The conduct of the hearing on appeal under this
14 section is a subordinate judicial duty which may be
15 performed by commissioners and other subordinate
16 judicial officials at the direction of the presiding judge of
17 the court.

18 (d) The appeal is informal with the purpose of
19 dispensing justice promptly, fairly, and inexpensively. No
20 party to an appeal has a right to a trial by a court or jury
21 and a statement of decision by the court is not required.

22 (e) If no notice of appeal of the processing agency's
23 decision is filed within the period set forth in subdivision
24 (a), the decision shall be deemed final.

25 (f) If the toll evasion penalty has not been deposited
26 and the decision is adverse to the contestant, the
27 processing agency may, promptly after the decision
28 becomes final, proceed to collect the penalty under
29 Section 40267.

30 SEC. 15. Notwithstanding Section 17610 of the
31 Government Code, if the Commission on State Mandates
32 determines that this act contains costs mandated by the
33 state, reimbursement to local agencies and school
34 districts for those costs shall be made pursuant to Part 7
35 (commencing with Section 17500) of Division 4 of Title
36 2 of the Government Code. If the statewide cost of the
37 claim for reimbursement does not exceed one million



1 ~~dollars (\$1,000,000), reimbursement shall be made from~~
2 ~~the State Mandates Claims Fund.~~

O

